

Chairperson and Committee Members  
**REGULATORY MANAGEMENT COMMITTEE**

**16 JUNE 2011**

Meeting Status : Public

Purpose of Report: For Decision

**APPLICATION FOR EXEMPTION UNDER SECTION 6 OF THE  
FENCING OF SWIMMING POOLS ACT 1987 -36 WOOD LEIGH  
PARAPARAUMU.**

**PURPOSE OF REPORT**

- 1 The purpose of this report is to consider an application lodged by Paul Whittleston, for an exemption under Section 6 of the Fencing of Swimming Pools Act 1987 (the Act) in respect to clause 11 of the Act (Doors in Walls of buildings), for a swimming pool at 36 Wood Leigh, Paraparaumu.

**SIGNIFICANCE OF DECISION**

- 2 The recommendations in this report do not trigger the Council's significance policy.

**BACKGROUND**

- 3 This application is the result of an inspection by a Compliance Officer on 20<sup>th</sup> April 2011 in relation to pool fencing at 36 Wood Leigh, Paraparaumu and compliance with the Fencing of Swimming Pools Act 1987. The inspection revealed that the pool fencing was non-compliant as there are two sets of sliding doors that fail to open outwards from the swimming pool area.
- 4 The specific exemption requested is for "*two sets of sliding doors opening into the immediate swimming pool area*".
- 5 This application is similar to other applications this Committee has considered relating to either French Doors, Sliding Doors (Ranch Sliders) and Sliding / Folding Doors (Bi-fold doors).
- 6 The following sections outline details of the application and relevant sections of the Act.

**CONSIDERATIONS**

Issues

- 7 This is not an "Exempted Pool" under Section 5(b) of the Act. Pursuant to Section 4 of the Act the pool is required to comply with the Act at any time when the pool is filled or partly filled with water.
- 8 The relevant parts of the Act are:

*Doors in walls of buildings: Schedule, Clause 11*

*Where any building forms part of a fence and the pool is not contained within the building, any door that gives access to the immediate pool area need not comply with the requirements for gates or doors set out in clauses 8 to 10 of this Schedule to the*

*extent (if any) that the territorial authority is satisfied that such compliance is impossible, unreasonable, or in breach of any other Act, regulation, or bylaw, and the door is fitted with a locking device that, when properly operated, prevents the door from being readily opened by children under the age of 6 years”.*

***Fence: Section 2:***

*Means a fence that complies with the requirements of the Building Code in force under the Building Act 2004 in respect of swimming pools subject to this Act; and includes any part of a building and any gates or doors forming part of the fence; and ‘fenced’ has a corresponding meaning.*

***Immediate pool area: Section 2***

*Means the land in or on which the pool is situated and so much of the surrounding area as is used for activities or purposes carried on in conjunction with the use of the pool.*

- 9 Clause F4.3.5 of the Building Code requires that barriers to swimming pools shall have “*all gates and doors fitted with latching devices not readily operated by children, and constructed to automatically close and latch*”.
- 10 The two sets of sliding doors fail to comply with the Act as they do not open away from the immediate pool area.
- 11 The following is a summary of the key points made by the applicants in support of their application:
  - Self-closing, self-latching devices have been installed on both ranch sliders.
  - Self-latching devices have been installed at a height of 1.6 metres above floor level.
  - Additional high level bolts have been fitted to both doors
  - No hold open devices have been fitted to the doors
- 12 It is the opinion of the reporting officer that this application could be approved, subject to the above conditions being met, as what is proposed will not significantly increase danger to young children. The application is similar to others that the Committee has previously considered and granted, subject to conditions.

### **Financial Considerations**

- 13 There are no financial considerations.

### **Legal Considerations**

- 14 The Committee is required to address the matters as set out in the Act. If it were to grant an exemption the Committee must be satisfied, having regard to the particular characteristics of the property and the pool and any other relevant circumstances, that such an exemption would not significantly increase the danger to young children.
- 15 If the Committee was to grant an exemption under section 6(1) of the Act then it may impose such other conditions relating to the property or the pool as are reasonable in the circumstances.
- 16 Any exemption granted or condition imposed under this section may be amended or revoked by a Territorial Authority, by resolution.

### Delegation

- 17 Under the Governance Structure 2010–2013 Triennium, the Regulatory Management Committee has the delegated authority under Section B.2 7.4.3 to:

*“exercise all of the Council’s functions, duties and powers under the Fencing of Swimming Pools Act 1987”.*

### Consultation

- 18 There are no consultation implications.

### Policy Implications

- 19 There are no policy implications.

### Publicity Considerations

- 20 There are no publicity considerations.

## RECOMMENDATIONS

- 21 That the Committee approve the application for exemption under Section 6 of the Fencing of Swimming Pools Act 1987 for a Swimming Pool at 36 Wood Leigh, Paraparaumu in respect to clause 11 of the Schedule to the Act, subject to remaining compliant with the following conditions, to the satisfaction of Council staff:

- (a) That self-closing, self-latching devices be installed on the sliding doors,
- (b) No hold open devices to be fitted to the door;
- (d) Additional high level bolt to be fitted to both doors;
- (e) The self-latching device in (a) be installed at a minimum height of 1.5 metres above floor level.

- 22 That the Committee notes that the items as listed in the “Recommendations” above have already been complied with to the satisfaction of Council Officers.

**Report prepared by:**

**Approved for submission by:**

**Bryan Edwards**

**Tamsin Evans**

**SENIOR COMPLIANCE OFFICER**

**GROUP MANAGER  
COMMUNITY SERVICES**

**ATTACHMENTS:**

1. The application
2. Site plan
3. Copy of the non-compliance letter
4. Photo sliding door 1
5. Photo sliding door 2

APPLICATION FOR EXEMPTION UNDER SECTION 6 OF THE FENCING OF SWIMMING POOLS ACT 1987

The Regulatory Manager, Kapiti Coast District Council Private Bag 601 PARAPARAUMU

Dear Sir

I hereby apply to have my spa/swimming pool exempted from the following requirements of the Fencing of Swimming Pools Act 1987, for the stated reasons.

EXEMPTION REQUESTED: (cite sections of the Act)

SECTION 6 FOR TWO RANCH SLIDERS OPENING INTO POOL AREA

REASON: \*Hint\* Provide supporting statements which establishes that any exemption to any requirement of the Act will not significantly increase danger to young children; be sure to discuss specific property characteristics or relevant circumstances that the Committee should consider.

(1) SELF CLOSING SELF LATCHING DEVICES HAVE BEEN INSTALLED TO BOTH RANCH SLIDERS

(2) ADDITIONAL HIGH LEVEL BOLTS HAVE BEEN FITTED TO BOTH DOORS

(3) SELF LATCHING DEVICES ARE INSTALLED AT 1.6 METRES ABOVE FLOOR LEVEL

(4) NO HOLD OPEN DEVICES ARE FITTED TO DOORS

- Please attach plans (or use the back of this page to draw a diagram) showing features of the fencing and/or pool area that relate to this application. Application will need to be accompanied by the application fee of \$225 If you would like information to help you complete this application, please phone the Compliance Monitoring Team, Ph (04) 2964-700.

SIGNED [Signature]

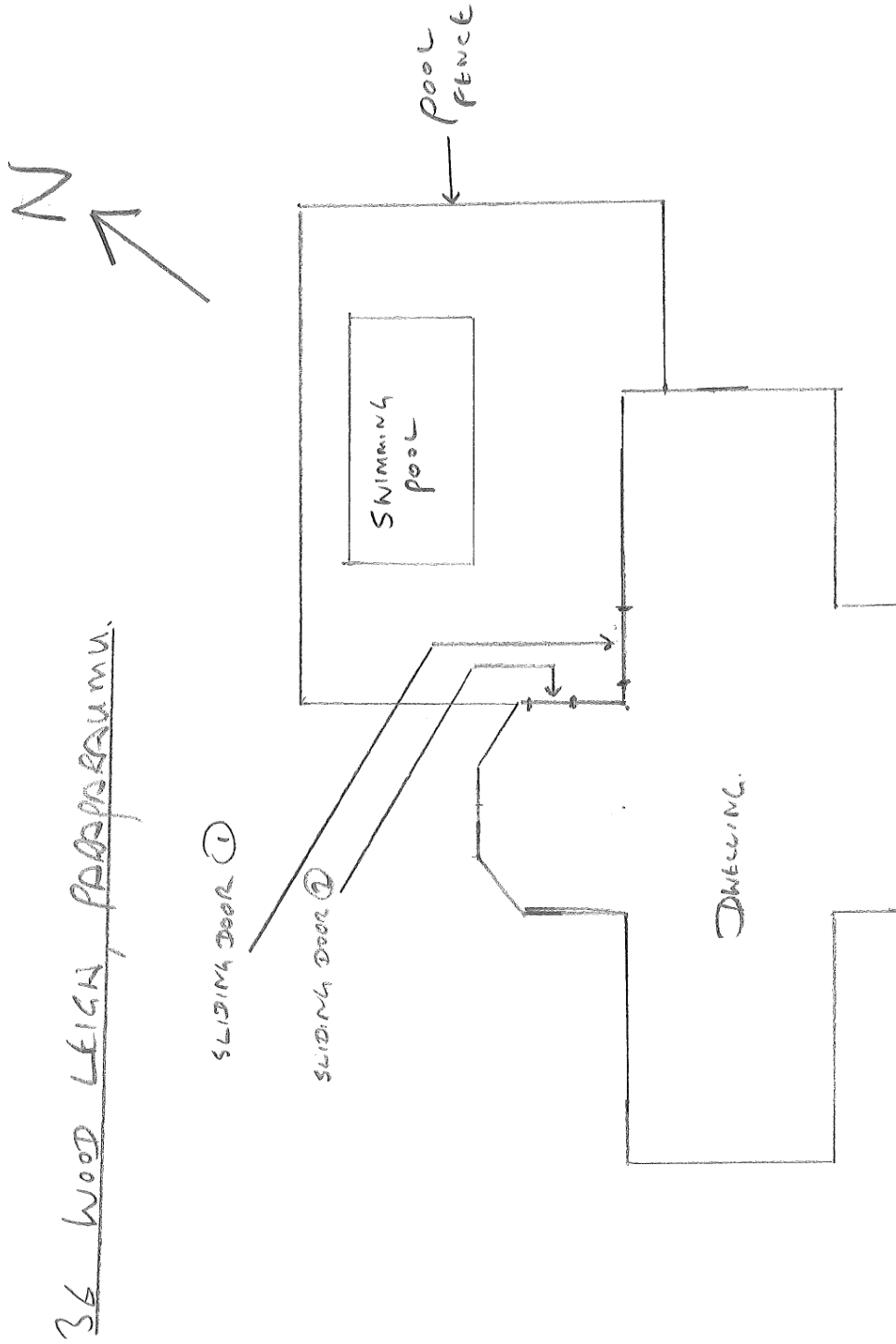
DATE 4/5/11

Please PRINT your name and address:

NAME: PAUL WHITTESTON

ADDRESS: 36 WOOD LEIGH PARAPARAUMU

POOL ADDRESS (if different):



36 WOOD LEIGH, PASADENA, CA.

File: SW0903

29 April 2011

P & S Whittleston  
36 Wood Leigh,  
PARAPARAUMU

COPY

Dear Mr & Mrs Whittleston

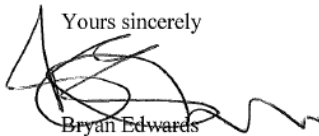
**POOL FENCING AT 36 WOOD LEIGH, PARAPARAUMU**

Following a site inspection on 20<sup>th</sup> April 2011, I was unable to establish if the pool fencing on your property complies with the Fencing of Swimming Pools Act 1987 (the Act).

The two ranch sliders opening out onto the swimming pool area may not comply with the Act but I would be grateful in the first instance if you could contact me on 04 2964864 to discuss or alternatively I could meet with you on site.

Your assistance in resolving this matter is appreciated.

Yours sincerely



Bryan Edwards  
**COMPLIANCE OFFICER**

COPY



**Sliding Door 2**

**Attachment 5**



