

Mayor and Councillors
COUNCIL

18 AUGUST 2016

Meeting Status: **Public**

Purpose of Report: For Decision

**APPLICATION FOR EXEMPTION UNDER SECTION 6 OF THE
FENCING OF SWIMMING POOLS ACT 1987 - 23 ARA KUAKA,
WAIKANAЕ**

PURPOSE OF THE REPORT

- 1 The purpose of this report is to consider an application by Kevin and Wendy Bryant for an exemption under Section 6 of the Fencing of Swimming Pools Act 1987 (the Act) in respect of a portable spa pool at 23 Ara Kuaka, Waikanae.

DELEGATION

- 2 The Kāpiti Coast District Council (the Council) has the authority to make this decision.

BACKGROUND

- 3 The specific exemption requested is for “portable spa pool”. This application (Appendix 1) is the result of an inspection by the Council’s monitoring staff and a request by the property owner to seek an exemption from some of the requirements of the Act.

ISSUES AND OPTIONS

Issues

- 4 The spa pool is currently empty and is an “Exempt Pool” under Section 5(b) of the Act.
- 5 Section 4 of the Act states that all pools are required to comply with the Act at any time when the pool is filled or partly filled with water. The applicants have indicated that they would like to fill the spa pool, which is the reason for this application.
- 6 The spa pool has been inspected by a Council officer who has confirmed the applicant meets all the criteria for an exemption as set down in the agreed “Application for Special Exemption for Portable Spa Pool”, as adopted by this Committee on 27 April 2006, with the exception of the warning sticker which Council will supply and the requirement for the applicant to move the spa pool more than 760mm from any climbable objects. The application also meets the requirements of proposed “New Zealand Standard 8500:2006 Safety Barriers and Fences Around Swimming Pools, Spas and Hot Tubs”. The applicant has also signed the “Statement of Undertaking”. The property meets restricted access requirements.

- 7 It is the opinion of the reporting officer that this application could be approved subject to the conditions listed in the “Recommendations” being met because the applicant’s proposal would not significantly increase danger to young children. The application is similar to others that the Council has previously considered and granted, subject to similar conditions.

CONSIDERATIONS

Legal considerations

- 8 The Council is required to address the matters as set out in the Act and if it were to grant an exemption the Committee must be satisfied, having regard to the particular characteristics of the property, the pool and any other relevant circumstances, that such an exemption would not significantly increase the danger to young children.
- 9 If the Council 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.
- 10 Any exemption granted or condition imposed under this section may be amended or revoked by a territorial authority, by resolution.

Financial considerations

- 11 There are no financial considerations.

Tāngata whenua considerations

- 12 There are no tāngata whenua considerations.

SIGNIFICANCE AND ENGAGEMENT

Degree of significance

- 13 This matter is not significant under Council policy.

Engagement planning

- 14 An engagement plan is not needed to implement this decision.

RECOMMENDATIONS

- 15 That the Council approve the application for exemption under Section 6 of the Fencing of Swimming Pools Act 1987 and not require a fence to be placed around a portable pool at 23 Ara Kuaka, Waikanae, subject to the following conditions being complied with:
- The pool has a height of 760mm or greater above ground or deck level and no objects are positioned so as to allow a young child to climb onto the cover; and
 - The property has suitable barriers in place to prevent a child up to the age of six years gaining access from outside the property, and the lockable spa cover meets the set criteria as stated below:

- the cover is lockable and able to be kept locked when the pool is not being used or supervised;
- the locks cannot be opened or released by a child up to the age of six years;
- the cover cannot be lifted more than 100mm above the top of the spa, when locked in place;
- the cover must be made of material that can withstand the weight of at least 60 kgs to ensure that it would withstand the weight of a child up to six years;
- the cover must be constructed of a suitable material and not allow water to pond on top of it;
- the cover and locks must be maintained in a good state of repair; and
- suitable warning stickers/signs be placed on the cover to advise that it must be locked in place when the pool is not being used or supervised.

Report prepared by

Approved for submission

Approved for submission

Peter Ropata
Compliance Officer

Kevin Currie
**Group Manager
Regulatory Services**

Crispin Mylne
**Acting Group Manager
Community Services**

ATTACHMENTS

- Appendix 1 The application**
- Appendix 2 Empty spa pool letter**
- Appendix 3 Photo**



**APPLICATION FORM
SPECIAL EXEMPTION FOR PORTABLE SPA POOL
UNDER SECTION 6 OF THE FENCING OF SWIMMING POOLS ACT 1987**

Application for an exemption for spa pool is made in accordance with the details set out below:

1. Physical address of property where spa pool is sited: 23 Ara Kuaka, WAIKANAĒ BEACH
2. Full name and address of property owner: Kevin + Wendy Bryant
23 Ara Kuaka, WAIKANAĒ BEACH
3. The property is occupied by: owner tenant
4. Contact details of owner
Day time phone contact number: 027 461 0499 (021 369 961 Kevin)
After hours phone contact number: 027 461 0499
Fax number: _____
Email address: Kevin.Wendy.bryant@xtre.co.nz
5. This application for exemption relates to a portable spa pool (see overleaf)
6. I believe my portable spa pool meets all the conditions specified by Council: Yes No
7. If no, specify any points that you believe may not comply:

Application is made by: [Signature] 14.06.2016
(signature of owner) (date)

All the relevant information on this form is required to be provided under the Fencing of Swimming Pools Act for Kapiti Coast District Council to process your application. Under this Act, this information has to be made available to members of the public including business organisations. The information contained in this application may be available to other departments of Council. You have the right to access the personnel information held about you by the Council which can be readily retrieved. You can also request that the Council correct any personal information it holds about you.

This application must be accompanied by:

- **Application Fee**
- A site plan showing the subject of this application (if considered necessary)
- Photographs showing the spa pool relating to this application

FOR OFFICE USE ONLY GL Code

Date Received: 14-06-2016 Hearing Date: 28 July 2016
Receipt Number: 538060 Exemption: Granted Declined
Applicant Notified: _____
Pool Register updated: _____


edoc: 674902


Special Exemption for Spa Pool under Section 6 of the Fencing of Swimming Pools Act 1987 can be considered for portable spa pools, where:

- The pool has a height of 760mm or greater above ground or deck level and no objects are positioned so as to allow a young child to climb onto the cover.
- The property has suitable barriers in place to prevent a child up to the age of six years gaining access from outside the property; and the lockable spa cover meets the set criteria as stated below:
 - The cover is lockable and able to be kept locked when the pool is not being used or supervised.
 - The locks cannot be opened or released by a child up to the age of six years.
 - The cover cannot be lifted more than 100mm above the top of the spa, when locked in place.
 - The cover must be made of material that can withstand the weight of at least 60kgs to ensure that it will more than take the weight of a child up to six years.
 - The cover must be constructed of suitable material so the water will not pond on top of it.
 - The cover and locks must be maintained in a good state of repair.
 - That suitable warning stickers/signs be placed on the cover to advise that it must be locked in place when the pool is not being used or supervised.
 - That the property owner/tenant sign a statement of undertaking, taking full responsibility to ensure the above requirements are adhered to.

Statement of Undertaking

I (insert name) WENDY BRYANT being the owner/tenant of the property detailed in the above application do hereby give my undertaking accepting full responsibility to ensure that the condition attached to my application for exemption under the Fencing of Swimming Pools Act 1987 will be adhered to at all times that the spa pool is filled.

Signed: 
Date: 14.06.2016

Witnessed by Name: JOSHUA MCLARON
Signature: 
Date: 14/6/16



14 June 2016

Christopher Kevin & Wendy Lorraine Bryant
23 Ara Kuaka
Waikanae Beach
WAIKANAE 5036

Dear Sir/Madam,

POOL FENCING - 23 ARA KUAKA, WAIKANAE

An inspection of the above property on 14 June 2016 for the purposes of determining compliance with the Fencing of Swimming Pools Act 1987 (the Act), revealed the following:

1. The maximum depth of water in the spa pool does not exceed 400mm (fully empty at time of inspection).

Therefore the spa pool is considered exempt under section 5(b) of the Act.

Please remember that your pool meets section 5(b) only when it contains less than 400mm of water. If you wish to refill your pool you are required to comply with the provisions of the Act. In this event, you will need to contact Council to arrange for your pool to be re-inspected.

Yours sincerely


Peter Ropata
COMPLIANCE OFFICER



The top of the spa pool is 900mm above the ground.