

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 - 14 REGENT DRIVE, PARAPARAUMU.

PURPOSE OF REPORT

- 1 The purpose of this report is to consider an application lodged by Leanne and Paul Grout, 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 14 Regent Drive, 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 following an application for a building consent being lodged with Council on 21 April 2011. The application is for the installation of an in-ground swimming pool at the property. At the time of writing this report the pool had not been installed. The inspection has revealed that there are 2 hinged doors that will be opening in to the pool area. The building consent plans show a pool fence being erected between the swimming pool and the 2 hinged doors. The applicant has applied for a Special Exemption to allow the doors to open in towards the swimming pool. Clause 8 of the Schedule to the Fencing of Swimming Pools Act 1987 specifically request that gates or doors "cannot open inwards towards the immediate pool area".

If the Exemption is granted by the Committee the pool fence between the bedroom doors and swimming pool will not need to be erected.

The specific exemption requested is for "*one set of double hinged doors from the bedroom opening inwards to the immediate swimming pool area*".

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).

The following sections outline details of the application and relevant sections of the Act.

CONSIDERATIONS

Issues

- 4 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.

- 5 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”.

Gates and doors: Schedule, Clause 8

Every gate or door shall be so constructed as to comply with the relevant requirements of clauses 1 to 7 of this Schedule, and shall be so mounted that—

(a) It cannot open inwards towards the immediate pool area.

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.

- 6 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*”.
- 7 The double hinged doors fail to comply with the Act as they do not open away from the immediate pool area.
- 8 The following is a summary of the key points made by the applicants in support of their application:
- A self-closing, self-latching device has been installed to the latching doors;
 - The self-latching device has been installed at a height of 1.5 metres above floor level;
 - An additional high level bolt has been fitted to doors;
 - The non-latching door has been permanently secured.
- 9 It is the opinion of the reporting officer that this application could be approved, subject to the conditions listed in the “Recommendations” 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

- 10 There are no financial considerations.

Legal Considerations

- 11 The Committee 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, such an exemption would not significantly increase the danger to young children.
- 12 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.
- 13 Any exemption granted or condition imposed under this section may be amended or revoked by a Territorial Authority, by resolution.

Delegation

- 14 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”.

Other Considerations

- 15 There are no consultation, policy or publicity implications.

RECOMMENDATIONS

- 16 That the Committee approve the application for exemption under Section 6 of the Fencing of Swimming Pools Act 1987 for a Swimming Pool at 14 Regent Drive Paraparaumu, in respect to clause 11 of the Schedule to the Act, subject to the following conditions being met and remaining compliant to the satisfaction of Council staff:
 - (a) That a self-closing, self-latching device be installed on the latching door (door with handle);
 - (b) The non-latching door (door without handle) is to be permanently secured;
 - (c) No hold open devices to be fitted to the door;
 - (d) The self-latching device in (a) be installed at a minimum height of 1.5 metres above floor level.

Report prepared by:

Approved for submission by:

Peter Ropata
COMPLIANCE OFFICER

Tamsin Evans
GROUP MANAGER
COMMUNITY SERVICES

ATTACHMENTS:

1. **The application**
2. **Site plan**
3. **Photo**

Attachment 1:

**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)

To have outward opening door and windows from master bedroom

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.

Small back section with limited space

By successfully achieving an exemption as stated above, it enables us to create seating in the pool area. This will better assist with pool supervision.

We have 2 children who have attended swimming lessons and are both confident swimmers. Ages 11yrs and 7 years.

- 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 X Groux

DATE 10/04/11

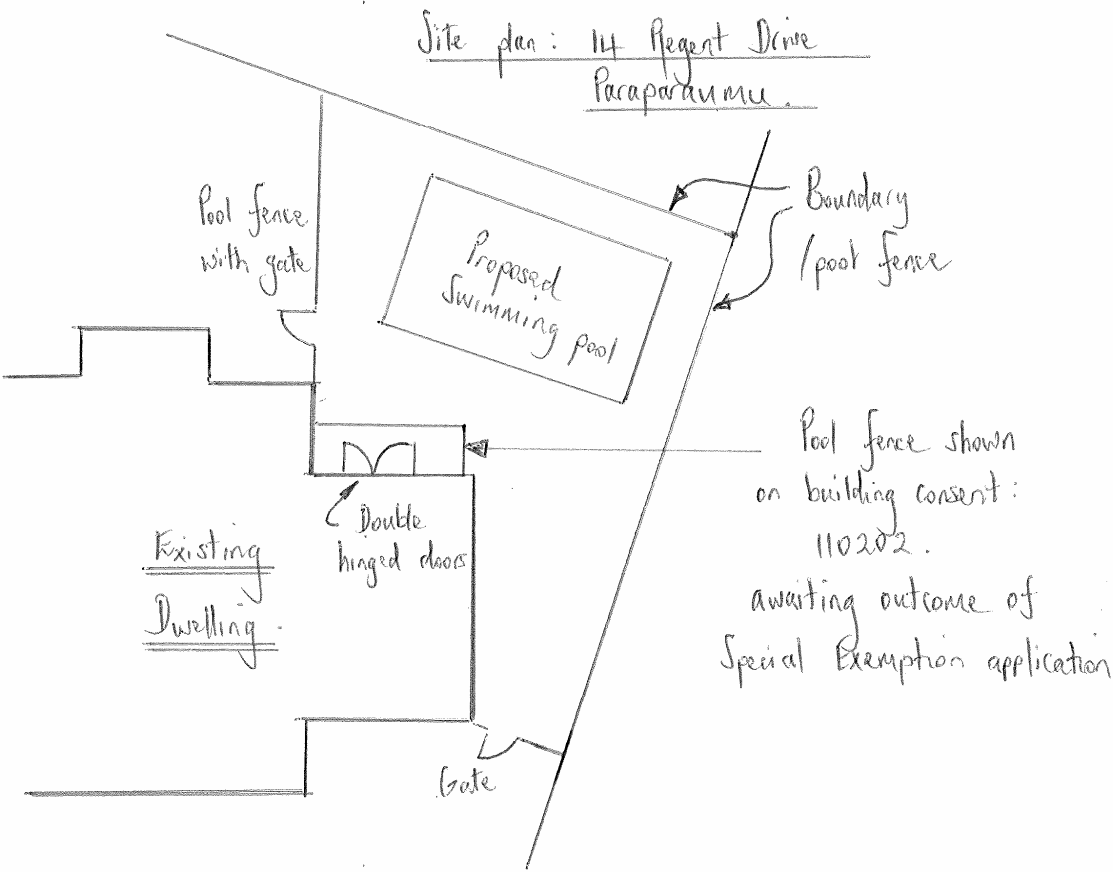
Please PRINT your name and address:

NAME: Leanne and Paul Groux

ADDRESS: 14 Regent Drive
Paraparaumu

POOL ADDRESS (if different): ala.

Attachment 2:



Attachment 3

Photo of double hinged doors



Self-closing device



Opening door - release bolt at 1.5 metres above floor



Non-opening door permanently fixed shut with screw

