

Mayor and Councillors
KĀPITI COAST DISTRICT COUNCIL

17 APRIL 2014

Meeting Status: **Public**

Purpose of Report: For Decision

APPLICATION FOR EXEMPTION UNDER SECTION 6 OF THE FENCING OF SWIMMING POOLS ACT 1987 - 62 WOOD LEIGH, PARAPARAUMU

PURPOSE OF REPORT

- 1 The purpose of this report is to consider an application by Sharon and Stephen Walker for an exemption under Section 6 of the Fencing of Swimming Pools Act 1987 (**the Act**), in respect of a portable spa pool at 62 Wood Leigh, Paraparaumu.

SIGNIFICANCE OF DECISION

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

BACKGROUND

- 3 The specific exemption requested is for a "*portable spa pool*". This application (**Attachment 1**) is the result of a recent 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. The following sections outline details of the application and relevant sections of the Act.

CONSIDERATIONS

Issues

- 4 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.
- 5 An inspection on 20th March 2014 revealed that the spa pool is empty and as such there is no requirement to comply with the Act. While empty the spa pool is an Exempt pool under section 5(b) of the Act.
- 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 the Regulatory Management Committee on 27 April 2006 with the exception of the warning sticker which Council will supply. The application also meets the requirements of "*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 Regulatory Management Committee has previously considered and granted, subject to similar conditions.

Financial Considerations

- 8 There are no financial considerations.

Legal Considerations

- 9 The Council is required to address the matters as set out in the Act and if it were to grant an exemption the Council 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.
- 10 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.
- 11 Any exemption granted or condition imposed under this section may be amended or revoked by a territorial authority, by resolution.

Delegation

- 12 The Council has the authority to make this decision.

RECOMMENDATIONS

- 13 That the Council approves 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 spa pool at 62 Wood Leigh, Paraparaumu, 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 by:

**Peter Ropata
COMPLIANCE OFFICER**

**Tamsin Evans
GROUP MANAGER
COMMUNITY SERVICES**

Approved for submission by:

**Wayne Maxwell
GROUP MANAGER
CORPORATE SERVICES**

ATTACHMENTS:

- 1. The application**
- 2. Copy of Exempt Pool letter**
- 3. Photo**

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

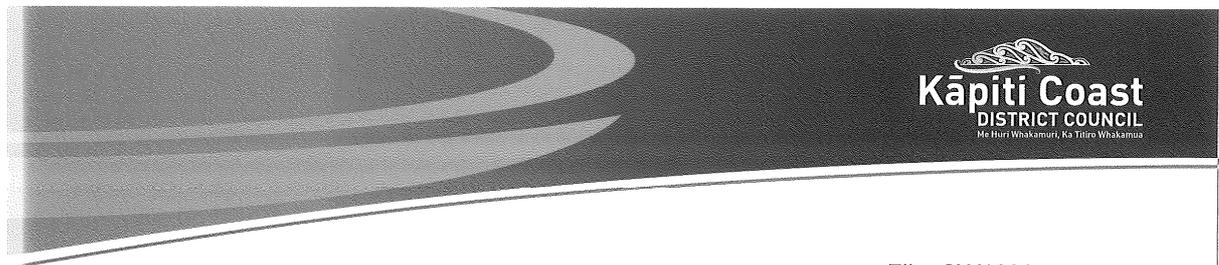
- The pool has a height of 760mm or greater above ground or deck level and no objects are positioned so as to allow a young child to climb onto the cover.
- The property has suitable barriers in place to prevent a child up to the age of six years gaining access from outside the property, and the lockable 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) Sharon Walker 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: S Walker
 Date: 17.2.2014

Witnessed by Name: Jeff Cochrane
 Signature: J M Cochrane
 Date: 21-2-14

Attachment 2:

File: SW1823

20 March 2014

Stephen & Sharon Walker
62 Wood Leigh
PARAPARAUMU 5032

Dear Sir / Madam

POOL FENCING - 62 WOOD LEIGH, PARAPARAUMU

An inspection of the above property was carried out on 20 March 2014 for the purposes of determining compliance with the Fencing of Swimming Pools Act 1987 (the Act).

The inspection revealed that the spa pool was empty and as such there is no requirement to comply with the provisions of the Act. While empty the pool is an Exempt pool 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 Fencing of Swimming Pools Act 1987. In this event, you will need to contact Council to arrange for your pool to be re-inspected.

The Council will, as resources allow, return to inspect the pool and confirm it remains an exempted pool under section 5(b) of the Fencing of Swimming Pools Act 1987 or that it otherwise complies with the other requirements of that Act.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Peter Ropata', is written over a faint circular stamp.

Peter Ropata
COMPLIANCE OFFICER

Attachment 3:



The spa pool is measured at a height of 900mm above ground level. It is sited 900mm away from the concrete wall and 700mm from the trellis wall.

(Note that the overhead ropes are a temporary measure, providing support for a tarpaulin cover while construction work is being undertaken).