

**Chairperson and Committee Members**  
REGULATORY MANAGEMENT COMMITTEE

23 JULY 2015

Meeting Status: **Public**

Purpose of Report: For Decision

**APPLICATION FOR EXEMPTION UNDER SECTION 6 OF THE  
FENCING OF SWIMMING POOLS ACT 1987 - 64 SIMS ROAD,  
TE HORO**

**PURPOSE OF THE REPORT**

- 1 The purpose of this report is to consider an application by Charlotte Von Dadelszen and Elaine Bickell for an exemption under Section 6 of the Fencing of Swimming Pools Act 1987 (the Act) in respect of a portable spa pool at 64 Sims Road, Te Horo.

**DELEGATION**

- 2 Under the Governance Structure and Delegations 2013-2016 Triennium, the Regulatory Management Committee has the delegated authority under Section B.2 7.4(c) to:

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

**BACKGROUND**

- 3 The specific exemption requested is for “portable spa pool”. This application (Attachment 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 Regulatory Management Committee 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 64 Sims Road, Te Horo, 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**

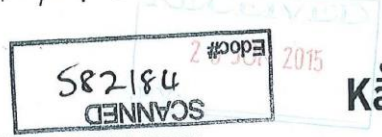
Sharon Foss  
**Acting Group Manager  
Community Services**

## **ATTACHMENTS**

1. **The application**
2. **Empty spa pool letter**
3. **Photo**
4. **Site Plan**

**Attachment 1:**

EP/05/02/10/02



**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:

- Physical address of property where spa pool is sited: 64 SIMS ROAD, TE HORO
- Full name and address of property owner: CHARLOTTE VON DADELSZEN + ELAINE BICKELL, 36 CEDARWOOD STREET, WOODRIDGE, WELLINGTON
- The property is occupied by:  owner  tenant
- Contact details of owner  
 Day time phone contact number: 021 915 737  
 After hours phone contact number: as above or 04 478 4947  
 Fax number: 462 0509  
 Email address: charlottevond@yahoo.com
- This application for exemption relates to a portable spa pool (see overleaf) Yes
- I believe my portable spa pool meets all the conditions specified by Council:  Yes  No
- If no, specify any points that you believe may not comply:  
 \_\_\_\_\_  
 \_\_\_\_\_

Application is made by: [Signature] 12-6-15  
(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: 23.6.15 Hearing Date: \_\_\_\_\_  
 Receipt Number: 50900 Exemption:  Granted  Declined  
 Applicant Notified: \_\_\_\_\_  
 Pool Register updated: \_\_\_\_\_

File: SW1882

**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. *will do*
  - 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) Charlotte von Dadelshen 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: [Signature]  
Date: 12-6-15

Witnessed by Name: Yvonne Hobbs  
Signature: [Signature]  
Date: 12-6-15

**Attachment 2:**

File: SW1882

29 June 2015

Charlotte Von Dadelszen  
Elaine Bickell  
36 Cedarwood Street  
Woodridge  
**WELLINGTON 6037**

Dear Sir/Madam

**FENCING OF SWIMMING POOLS ACT 1987 - 64 SIMS ROAD, TE HORO**

An inspection of the above property on 24 June 2015 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.

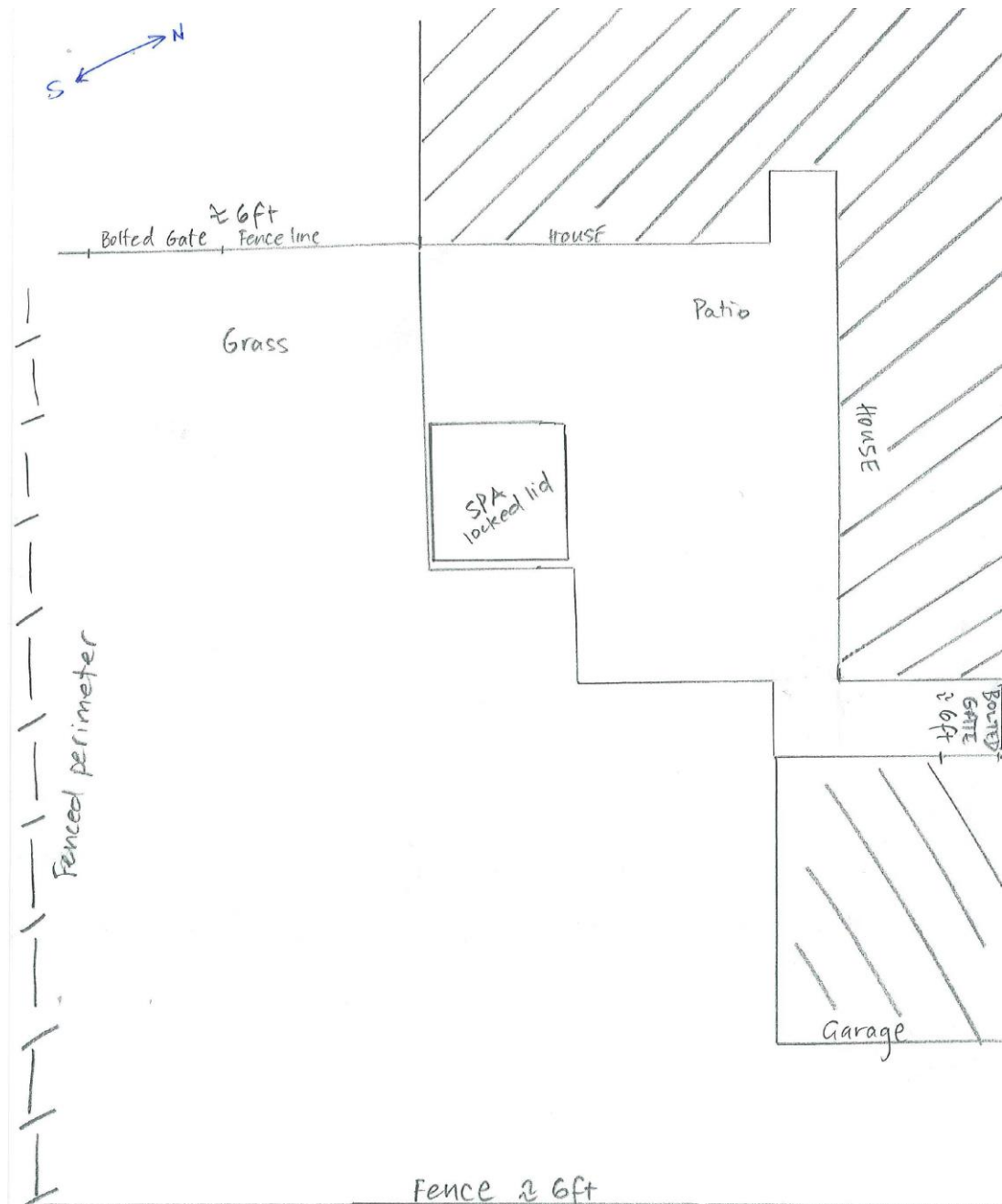
Yours sincerely



Peter Ropata  
**COMPLIANCE OFFICER**

**Attachment 3:**



**Attachment 4:**

- Spa is kept locked at all times
- It is currently empty
- Cannot be accessed by public re back of house - surrounded by fence + house boundary - in self contained area.