

R E P O R T	TO	HEARINGS COMMITTEE
	FROM	MONITORING OFFICER-GLENN EAST
	FILE REF	445903 – SWIM-03254
	DATE	6 NOVEMBER 2008
	SUBJECT	WAIVER APPLICATION FENCING OF SWIMMING POOLS ACT 1987 D & S SHIRLEY

APPLICANT: Dennis & Sharon Shirley

ADDRESS: 43 Hubbard Road, Paeroa

LOCATION OF POOL: 43 Hubbard Road, Paeroa

TYPE OF POOL: Spa pool

The applicants are seeking an exemption from all the fencing requirements of the Fencing of Swimming Pools Act 1987. The alternative is the erection of a compliant swimming pool fence. In the interim, until a decision is made, the spa pool is to remain empty of water.

The applicant has fitted a lockable cover to the Spa for added security and protection and the top meets the NZS8500-2006 standards for this situation.

Construction of the Hardcover

The spa has a hard cover that is lockable. The Spa Pool is compliant with the NZS 8500: 2006 Standard 3.10, please find attached a copy of the standard with emphasis on 3.10 (a).

Council has granted an exemption for similar spa pool covers on other properties within the Hauraki District.

Section 6 of the Fencing of Swimming Pools Act under which exemptions may be granted by Council states:-

Special exemptions-

- 1) A territorial authority may by resolution, grant an exemption for some or all of the requirements of this Act in the case of a particular pool where it is satisfied, having regard to the particular characteristics of the property and the pool, any other relevant circumstances, and any conditions it imposes under subsection (2) of this section, that such exemption would not significantly increase danger to young children.
- 2) In granting an exemption under subsection (1) of this section, the territorial authority may impose such other conditions relating to the property or the pool as are reasonable in the circumstances.
- 3) Any exemption may be amended or revoked by resolution.

Conclusion

The cover as proposed by the applicants will not significantly increase danger to children less than six years of age as long as it is locked in place and only removed while under adult supervision.

Recommendation

That the application from Dennis & Sharon Shirley for a special exemption from the requirements of the Fencing of Swimming Pools Act 1987 for a lockable cover to be fitted and used in strict accordance with the conditions in place, be granted, subject to the following conditions.

- a) That a lockable cover be fitted and used in strict accordance with the specifications as stated in the NZS8500:2006.
- b) That the cover is locked in place when the Spa Pool is not under adult supervision or when the property is vacant.
- c) That the lockable cover is maintained to a standard acceptable under the NZS8500:2006
- d) That in every other respect the pool and fencing complies with the Fencing of Swimming Pools Act 1987.
- e) That the decision of Council be entered on the title of the land for the information of a future owner.

Granting the application for exemption will not significantly increase the danger to young children on the basis that the conditions of the waiver are met at all times.

Glenn East
Monitoring Officer