



WAIMAKARIRI
DISTRICT COUNCIL

INSPECTION
NOTES

SW

02133

Property Address:

55 Mandeville Park Drive

Property ID:

26240

Valuation No:

2175068109

R. 17-7-15 letter sent

2-2-16 - spa full - unfenced,
re send info.

Exemption Granted 10 May 2016.

18-7-16

stickers attached.

Our Reference: SW02133 / 160719069803
Valuation No. 2175068109

20 July 2016

Mr D McNicholl
55 Mandeville Park Drive
R.D 2
KAIAPOI 7692

Dear Mr McNicholl

FENCING OF SWIMMING POOLS ACT 1987
SPA POOL AT 55 Mandeville Park Drive, Mandeville

An inspection of the above property on 18 July 2016 revealed that the fencing of the pool **complied** with the conditions set out in the **exemption** granted under section 6 of the above Act.

You are reminded that the Act places the continuing responsibility on the owner of the pool and any person in control of the pool to ensure that the pool, pool fencing, gates and any other openings to the pool area are maintained in compliance with the Act, or exemptions from the Act, at all times.

A copy of this letter will be placed on the property file and the Council's pool register will be updated accordingly. It is Council's intention that all pools are re-inspected at three-yearly intervals to ensure continuing compliance.

Yours faithfully



Stephanie O'Hara
BUILDING OFFICER – SWIMMING POOLS

* Fee
informed

WAIMAKARIRI DISTRICT COUNCIL

REPORT

FILE NO: SW02133 / 2175068109 / 160414033501
REPORT TO: Hearings Committee
DATE OF MEETING: Tuesday 10 May 2016
FROM: Stephanie O'Hara, Building Officer - Swimming Pools
SUBJECT: Douglas McNicholl, 55 Mandeville Park Drive, Mandeville.

SIGNED BY:
(for Reports to Council or
Committees)


Departmental Manager

Chief Executive

1 SUMMARY

- 1.1 The Hearing Committee has been convened to approve an application from Douglas McNicholl, 55 Mandeville Park Drive, Mandeville for an exemption pursuant to Section 6 of the Fencing of Swimming Pools Act 1987 (FOSPA) for all of the requirements that would require the fencing of a spa pool.
- 1.2 Application is sought for an exemption from the FOSPA for a spa pool that has a lockable lid.

Attachments:

Attached to this report are the council files and photographs relating to this application to assist the Committee in their decision making process.

- i. Exemption Application
- ii. Correspondence
- iii. Photos of the spa pool area.

2 RECOMMENDATION

THAT the Hearings Committee:

- (a) **Receives** report N° 160414033501
- (b) **Approves** the application for exemption from the provisions of the Fencing of Swimming Pools Act 1987 (section 6) by Douglas McNicholl, 55 Mandeville Park Drive, Mandeville.

3 BACKGROUND and INFORMATION

- 3.1 Douglas McNicholl was unaware of the need to register or fence his spa until I visited.
- 3.2 My visit was prompted by information from a Building Inspector.
- 3.3 The spa with lockable lid is installed on a paved patio area outside the master bedroom.

4 ISSUES AND OPTIONS

- 4.1 FOSPA only permits exemptions to be granted by elected members of the Council which means that a hearing must be convened and the case for exemption considered. The key matter for the Committee to assess is that it must be satisfied that its decision granting an exemption will not significantly increase danger to young children.
- 4.2 The Committee can only approve or decline an exemption application. It can grant an exemption with conditions. If the application is declined, the applicant can apply to the Department of Building and Housing for a Determination in relation to matters concerning The Building Act (but not because an exemption has been denied).

5 FINANCIAL IMPLICATIONS

- 5.1 This is a statutory process the Council must carry out. Applicants for exemption pay an application fee.

6 RISKS

- 6.1 It is likely there is increased risk of danger to young children when there is direct access from a house to a pool area.
- 6.2 Parliament introduced the Fencing of Swimming Pools Act 1987 in the interests of public safety. The Act applies to this pool and section 10 of the Act imposes an obligation on Council to implement the provisions of the Act and a risk may arise if the council does not comply with section 10.

s10 Obligation of territorial authorities:

Every territorial authority shall take all reasonable steps to ensure that this Act is complied with within its district.

- 6.3 In considering this exemption, it is the role of the Committee to assess the risk and determine whether, that in granting an exemption:
- there would not be a significant increase in danger to young children,
 - that all reasonable steps have been taken to ensure the safety of young children

7 CONTEXT

7.1 **Links to Community Outcomes**

The community has told the Council that a priority is “a safe environment for all.” The Council’s administration of acts and regulations for health and safety, such as the Fencing of Swimming Pools Act 1987, is a significant means the Council has to assist the community gain that outcome.

7.2 **Statute**

Fencing of Swimming Pools Act 1987

Definition

Swimming pool and pool mean an excavation, structure, or product that is used or is capable of being used for the purpose of swimming, wading, paddling, or bathing; and includes any such excavation, structure, or product, that is a spa pool:

Special Exemptions (Section 6) Fencing of Swimming Pools Act 1987

6 *Special exemptions*

- (1) *A territorial authority may, by resolution, grant an exemption from some or all of the requirements of this Act in the case of any particular pool where the territorial authority 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 an 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 granted or condition imposed under this section may be amended or revoked by a territorial authority, by resolution.*

"Fencing of Swimming Pools Act 1987 Section 8

8 *Obligations of owner and persons in control of pool*

- (1) *Every owner of a pool to which this Act applies shall ensure that, except as provided in any exemption granted under section 6 of this Act, the pool, or some or all of the immediate pool area including all of the pool, is fenced by 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 at all times when this Act applies in respect of the pool.*
- (2) *Every owner of a pool to which this Act applies shall comply or ensure that there is compliance with every condition imposed under section 6(2) of this Act.*
- (3) *Every person who has possession of the property on which any pool to which this Act applies is situated shall ensure that the pool is not filled or partly filled with water at any time when the person knows or could reasonably be expected to know that any obligation imposed by this section on that or any other person is not being complied with.*
- (4) *The fact that a person complies with any obligation imposed by this section shall not excuse that person from any other duty imposed by law."*

8 **DELEGATION**

8.1 The Hearing Committee has delegated authority under S-DM 1028 for:

Fencing of Swimming Pools

Authority to: Hear and decide applications for exemption to the requirements of the Fencing of Swimming Pools Act 1987.

Stephanie O'Hara

Building Officer - Swimming Pools.

Prop ID 26240

VNZ 2175068109



LC 122095



Mc Nicholl Douglas Harvey.
55 Mandeville Park Drive, RD 2, Karapiro 7692.



WAIMAKARIRI
DISTRICT COUNCIL

Private Bag 1005, Rangiora 7440
Ph 03 311 8900, 03 327 6834 Fax 03 313 4432
www.waimakariri.govt.nz

APPLICATION TO BE EXEMPTED

Section 6, Fencing of Swimming Pools Act 1987

SW No. 02133

THIS APPLICATION MUST BE ACCOMPANIED BY A NON-REFUNDABLE FEE OF ~~\$470.00~~ \$200

Spa Pool with Lockable Lid ONLY

OWNER

1. Name: Douglas McNicholl
2. Postal Address: 55 Mandeville
Park Drive

3. Phone Number: 021562983
4. Fax Number:
5. Email: doug.mcnicholl@tollgroup.com

LOCATION + LEGAL DESCRIPTION

6. Street Address: 55 Mandeville
Park Drive
7. Valuation No: ~~2175069109~~ 2175069109

8. Lot Number: LOT 27
9. DP Number: 448155
10. Lot Area m²: 5470

POOL TYPE

Spa Pool ☒ Swimming Pool Pond/Lake

I WISH TO BE EXEMPTED FROM THE ABOVE ACT AS I CONSIDER IT IMPOSSIBLE OR UNREASONABLE TO MEET WITH THE REQUIREMENTS.

This exemption application relates to (tick):

Size and/or contents of immediate pool area

- ☒ Gate(s) and/or door(s) that do not open away from the pool area
☒ Gate(s) and/or door(s) that do not self close and self latch
☒ Other (please specify below):

I am unable to comply with The Fencing of Swimming Pools Act for the following reasons (feel free to attach cover letter):

I don't want to spend thousands of dollars to fence off my spa pool when the law is about to change in the very near future. I think asking me to do so is very unfair.

Do you wish to be present at the hearing?

Yes No

OFFICE USE ONLY

Further information required? Yes No

Application accepted? Yes No

Date of acceptance:

Further information provided? Yes No

Officer:

Non-Refundable Fee Paid on Application

\$

Receipt:

Date:

Officer:

SITE PLAN AND DETAILS

If completing this form electronically, attach a picture to the email along with this PDF form, that fits the criteria stated below.

Please draw whole site plan and show all buildings; the pool; the immediate pool area; details of the height, construction, position of rails, size of openings of all fences and gates; and all doors, windows and gates giving access to the immediate pool area including type, details of hardware (feel free to attach additional pages).

Please see Stephanie O'Hara whom has photo's of my site, and where the spa pool is in relationship to my property.

Note: I have taken extra steps with putting more tie down straps on the spa with having 6 locks to take the spa lid off.

Many thanks for your consideration to this matter

OWNER'S SIGNATURE - Hard Copy

Signed by or on behalf of the Owner:

Name:

Douglas McNichell

Date:

16.02.16

OWNER'S SIGNATURE - Electronic

By typing your name in the box below you are giving your authority for the application to proceed and accept the associated charges.

Signed by (please type your name):

Date:

I wish to receive my approved documentation in the following format:

Hard copy ☒

Email ☐

All the relevant information on this form is required to be provided under the Building Act and/or Resource Management Act for the Waimakariri District Council to assess your application. Under these Acts this information has to be made available to members of the public. The information contained in this application may be made available to other units of the Council. You have the right to access the personal 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.

SITE PLAN AND DETAILS

If completing this form electronically, attach a picture to the email along with this PDF form, that fits the criteria stated below.

Please draw whole site plan and show all buildings; the pool; the immediate pool area; details of the height, construction, position of rails, size of openings of all fences and gates; and all doors, windows and gates giving access to the immediate pool area including type, details of hardware (feel free to attach additional pages).

Please see Stephanie O'Hara whom has photo's of my site, and where the spa pool is in relationship to my property.

Note: I have taken extra steps with putting more tie down straps on the spa with having 8 locks to take the spa lid off.

Many thanks for your consideration to this matter

OWNER'S SIGNATURE - Hard Copy

Signed by or on behalf of the Owner:

Name:

Douglas McNicholl

Date:

16.02.16

OWNER'S SIGNATURE - Electronic

By typing your name in the box below you are giving your authority for the application to proceed and accept the associated charges.

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WAIMAKARIRI

DISTRICT COUNCIL

Our Reference: BLD-08 / 150717110248

Valuation No: 2175068109

17 July 2015

D H McNicholl
55 Mandeville Park Drive
RD2
Kaiapoi 7692

Dear Sir/Madam

**FENCING OF SWIMMING POOLS ACT 1987
SPA POOL AT 55 Mandeville Park Drive**

It has been brought to our attention that an external spa pool is on the above property.

The Fencing of Swimming Pools Act 1987 requires you to advise the territorial authority of the existence of the pool and fence the spa pool.

Please arrange for an inspection for registration and compliance purposes. You can do this by completing the enclosed application form and returning it within 14 days from the date of this letter, together with the \$100.00 fee. Under the Act the Council has an obligation to ensure compliance.

Please see our "Guide to Pool Fencing" on the Council website.

As an alternative to fencing, the spa could be raised so the side walls are a minimum of 1.2m with no climbing aids within 1.2m of the spa. Example photo enclosed.

An exemption for a spa with a lockable lid could be applied for. The Application form is attached.

The Act requires that the pool is not filled or partly filled with water until such time as the pool or the immediate pool area complies with the Act and compliance has been confirmed by a visit from a Council officer. (Note: An empty pool does not breach the Act.)

If you have any questions regarding this letter, or if this information is incorrect, please contact me.

Yours faithfully

Stephanie O'Hara
GENERAL INSPECTOR

Encl





NOTICE OF INSPECTION

Section 90 Building Act 2004

78992

Owners Name: McNicholl

Local Auth. ^{SW} Consent No. 02133

Site Address: 55 Mandeville Pl Dr.

Officer: S. O'Hara

To the Owner / Agent / Occupier / Contractor

How Notified

☒ Notified Direct ☐ Left on Site ☐ Faxed

Please take note that on the 2 / 2 / 16 at 3:50 am/pm this site was inspected pursuant to Building Act 2004

Inspection Type: Pool Fence LBP Number: —

Project Description: The Fencing of Swimming Pools Act 1987.

Inspection Notes: unfenced spa. - full.

Owner given - raised spa info
- exemption info.
- Back flow info.

All work as per consent documents ☐ Yes ☐ No

Amendments required ☐ Yes ☐ No

Reinspection Required ☒ Yes ☐ No

Contractors Signature _____

Signature S. O'Hara

Our Reference: SW02133 / 160205009269
Valuation No: 2175068109

5 February 2016

D H McNicholl
55 Mandeville Park Drive
RD2
Kaiapoi 7692

Dear Sir

**THE FENCING OF SWIMMING POOLS ACT 1987 / THE BUILDING ACT 2004
SPA POOL AT 55 Mandeville Park Drive, Mandeville**

This letter confirms my inspection of the above property on 2 February 2016 for the purpose of determining compliance with the Fencing of Swimming Pools Act.

As discussed the unfenced spa needs to either be fenced, raised, exempted or emptied. Information has been given on raising the spa and the exemption application. A back flow preventor will also need to be fitted.

Please let me know how you wish to proceed. The spa also needs to be registered with this Council.

Please see our "Guide to Pool Fencing" on the Council website www.waimakariri.govt.nz

You are advised that the Act requires that the owner of the pool and any person in control of the pool must ensure that the pool is **not** filled or partly filled with water until such time as the pool or the immediate pool area complies with the requirements of this Act and compliance has been confirmed by a further visit by a Council Officer.

To comply with the Fencing of Swimming Pools Act you are required to complete the above work within 28 days.

If you have any questions regarding this letter please feel free to contact me for further assistance.

Yours faithfully



Stephanie O'Hara
BUILDING OFFICER – SWIMMING POOLS

Enc



LEGEND

Water - SUPPLY

-  HYDRANT
-  VALVE
-  TOBY
-  WATER MAIN
-  ABANDONED WATER MAIN

Water - WASTE

-  STANDARD MH
-  VENTED MH
-  FLUSH TANK
-  LAMP HOLE
-  UNKNOWN
-  VALVE
-  PUMP
-  WASTE MAIN
-  ABANDONED WASTE MAIN

Water - STORM

-  MANHOLE
-  VALVE
-  SUMP
-  PUMP
-  STORM MAIN
-  ABANDONED STORM MAIN
-  SWALE
-  CHANNEL
-  WDC
-  CHANNEL
-  OTHER



Date Created: Wednesday, 20 April 2016 Notes:

DISCLAIMER
The user of the information has the responsibility to pothole and confirm the exact location of the service. When excavating in the vicinity of any Council service the contractor will be held responsible for all damage to Council property. The accuracy of the plan is not guaranteed. Measurements shown are subject to reasonable tolerance and have been provided from the Council records. Photocopying will alter scale measurements. The Council does not guarantee the existence of service laterals to vacant lots, regardless of whether a lateral is shown on this plan.
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55 Mandeville Park Drive



03/07/2015 14: