



**NOTICE OF MEETING**

**DISTRICT PLAN AND REGULATORY COMMITTEE**

**TO:** Penny Webster - Mayor  
Crs Gaye Harding (Chairperson)  
Michael Goudie  
Dave Parker QSM  
Grahame Powell  
Suzanne Weld  
Pat Delich (Alternate)  
June Turner (Alternate)  
Wayne Walker (Alternate)

The District Plan and Regulatory Committee will meet in the Committee Room, Centreway Road, Orewa on Wednesday, 23 June 2010 commencing at 9.00 a.m.

for: CHIEF EXECUTIVE  
Rodger Kerr-Newell

OREWA  
16 June 2010

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### **CONFIDENTIAL**

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ITEM NO: 1

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**APOLOGIES**

ITEM NO: 2

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**REPORT**



**TO** District Plan and Regulatory Committee

**ON** 23 June 2010

**FROM** Laura Christian – Planner

**APPROVED BY:** Rob Goldsbury – Chief Legal Officer

**SIGNATURE**

A handwritten signature in black ink, appearing to be "Rob Goldsbury", with a horizontal line underneath.

**SUBJECT** NOTIFICATION OF NEW APPEAL(S)

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In the event that there are matters to report on, these will be distributed as supplementary items prior to the meeting.

ITEM NO: 3

REPORT



**TO** District Plan and Regulatory Committee  
**ON** 23 June 2010  
**FROM** Tony Jane – Building Compliance Officer  
**APPROVED BY** Lloyd Barton – Director: Customer Service  
**SIGNATURE**

A handwritten signature in black ink, appearing to read "Lloyd Barton".

**SUBJECT** **EXEMPTION: FENCING OF SWIMMING POOLS ACT 1987**  
**ADDRESS:** 19 Caroline Heights, Omaha  
**OWNER:** Alex den Boogert  
**FILE REF** SWM 8821

**PURPOSE OF REPORT:**

|  |   |  |   |
|--|---|--|---|
| <input type="checkbox"/> Information only      | <input type="checkbox"/> Strategic decision | <input type="checkbox"/> Policy decision | <input checked="" type="checkbox"/> Statutory process |
| <input type="checkbox"/> Community issue       | <input type="checkbox"/> Contract decision  | <input type="checkbox"/> Delegation      | <input type="checkbox"/> Appointment                  |
| <input type="checkbox"/> Administrative matter |   |  |   |

**IMPLICATIONS:**

|       |   |
|-------|---|
| (i)   | Is this matter significant in terms of Council's Policy on Significance?<br>No  |
| (ii)  | Implications in terms of Vision Rodney?<br>No   |
| (iii) | Implications in terms of Long Term Council Community Plan / Annual Plan?<br>No  |
| (iv)  | Implications in terms of other Council Strategic documents or Council Policy?<br>No                                   |
| (v)   | Is a budget amendment required?<br>No   |
| (vi)  | Have the views of affected or interested persons been obtained and is any further public consultation required?<br>No |

|       |  |
|-------|--|
| (vii) | Does a decision on this matter require Auckland Transitional Authority approval? (yes / no / advice being sought?) |
|       | No   |

**FINANCIAL IMPLICATIONS:**

|  |     |
|--|-----|
| Capital cost implications  | Nil |
| Is it currently budgeted for?  | Nil |
| Funding source of capital costs  | Nil |
| Ongoing operational cost implications  | Nil |
| Is it currently budgeted for?  | Nil |
| Funding & rating impact (whether resulting from capital expenditure or arising directly) | Nil |

**SUMMARY:**

This is an application for an exemption from the requirements of the Fencing of Swimming Pools Act 1987 (FOSP ACT). A copy of the original application for exemption is attached as **Appendix 1** and requests the following:

*Exemption and approval is sought to not fence a hard lockable lid spa pool that is 760mm above the finished ground level.*

**RECOMMENDATION:**

**That the application for exemption from the Fencing of Swimming Pools Act 1987 by Alex den Boogert, be granted subject to the following:**

- (a) The top of the spa pool or hot tub shall be positioned with the entire top surface not less than 760 mm above the surrounding ground or deck;
- (b) The cover shall be lockable and shall be kept locked when the spa pool or hot tub is not being used or supervised. A locking device shall contain a mechanical locking mechanism or a self-locking mechanism in addition to latching shut;
- (c) The locks shall not be able to be readily opened or released by a child of up to the age of six (6) years;
- (d) When locked the cover shall be fitted so that if lifted it does not release the locking device or provide a clearance greater than 100 mm;
- (e) The cover shall be made of a material that if walked on, cannot collapse and can withstand the weight of at least 20 kg to ensure that it will more than take the weight of a child up to six (6) years of age;
- (f) The cover shall be constructed of material that meets American Society Testing and Materials Standard (ASTM) F1346-91 to allow easy movement on and off the spa pool or hot tub;
- (g) The cover shall be constructed with a taper from the centre hinge to the outside edge of the cover so that water will not pond on top of it;
- (h) The cover shall have an evenly spaced mechanical locking device as required in (b) which shall be positioned to ensure the cover cannot be lifted more than 100mm by a child up to six (6) years of age, and ensures that the cover is fixed securely to the spa pool or hot tub;

- (i) The cover and locks shall be maintained at all times in a good state of repair;
- (j) Warning stickers/signs shall be placed on the cover to advise that it shall be locked in place when the spa pool or hot tub is not being used or supervised;
- (k) Removable steps, movable furniture, or other objects that can assist a young child to climb onto the cover, shall be stowed/stored away at least 1200 mm from the side of the spa pool or hot tub;
- (l) That the property owner/tenant sign a statement of undertaking, taking responsibility to ensure the above requirements are adhered to;
- (m) Further, the exemption is not transferable to any new owner/s of the property in the event of sale by the current owner Alex den Boogert;
- (n) The deck structure supporting the Spa pool will require upgrading to support the additional loading to meet the requirements of B1 of the Building Code.

**Reasons:**

In the opinion of the Council it is possible, reasonable and not in breach of any other act, regulation or bylaw to ensure compliance with the Fencing of Swimming Pools Act 1987 requirements or the new New Zealand Standard (NZS) 8500:2006 guidelines if the above conditions were met.

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## **1.0 Background**

A building consent was issued in September 1998 for the construction of a basement to the existing dwelling. The present owners now wish to fit a hard lockable lid spa pool onto the upper deck. The spa pool is 910mm high, off the finished deck level. (See **Appendix 3**). As can be seen on the photos, this upper deck area is completely private, and the only access to this area is through the master bedroom ranchslider and a rear set of stairs. The entire rear area of the property is surrounded by mature trees and plants as well as being fenced (see **Appendix 4**). The spa pool meets all of the conditions under the new standard NZS 8500:2006 (see **Appendix 2**).

## **2.0 Issues**

An application, attached as **Appendix 1**, requests exemption from the Fencing of Swimming Pools Act 1987. Also attached, as **Appendix 2**, are relevant excerpts from the Fencing of Swimming Pools Act 1987, Schedule of Requirements under the Fencing of Swimming Pools Act 1987, Summary of Fencing of Swimming Pools Act, Requirements for Gates & Doors and Summary of NZS 8500:2006 Requirements.

## **3.0 Options**

The Council can decline this application; however, if the exemption were to be granted, the Committee may impose conditions relating to the property or pool which are reasonable in the circumstances. Such conditions should, in the opinion of Council officers, include those specified in the conditions of this report.

## **4.0 Conclusion**

It is considered that, subject to having a lockable hard cover lid together with the proposed conditions, there would not be any significantly increase in the risk to any child under the age of six years on the property. The exemption could be granted with the recommended conditions.

**APPENDICES:**

- Appendix 1:** Application from Alex den Boogert seeking exemption from the Fencing of Swimming Pools Act 1987.
- Appendix 2:** Fencing of Swimming Pools Act 1987 and Summary of NZS 8500:2006 Requirements.
- Appendix 3:** Photo of spa pool.
- Appendix 4:** Site Plan showing position of the new spa pool on the upper deck area.

# APPENDIX 1

# APPENDIX 2

# APPENDIX 3

# APPENDIX 4

ITEM NO: 4

REPORT



TO District Plan and Regulatory Committee  
ON 23 June 2010  
APPROVED BY Ian Dobson – Manager: Resource Consents  
SIGNATURE

A handwritten signature in black ink, appearing to read "Ian Dobson".

SUBJECT **SCHEDULE OF DELEGATED DECISIONS ON RESOURCE CONSENT APPLICATIONS**  
FILE REF TP/1/6

*Note: Councillors should raise any queries they may have with the relevant director prior to the day of the meeting so that these may be responded to on the day.*

The schedule below summarises, for the Committee's information, recent decisions made by staff on delegated authority.

NORTHERN WARD

| Type of Delegation | Officer                         | Applicant/ Owner                                 | Address                           | Application   | Decision/ Date                 |
|--------------------|---------------------------------|--|-----------------------------------|---|--------------------------------|
| A                  | Independent Commissioner        | S & S Groenhart L55205                           | 76 Matakana Valley Road, Matakana | For consent to a Discretionary Activity to extend an existing childcare that previously fell under the permitted rules of the District Plan increasing the number of children from 10 to 15.  | Non-Notified Approved 02/06/10 |
| A                  | Independent Commissioner        | Warkworth Birthing Centre Community Trust L56179 | 36 and 56 View Road, Warkworth    | For consent to a Restricted Discretionary Activity to establish seventeen car parks within a Council owned reserve. Eight parking spaces will be to service the adjacent Warkworth Birthing Centre and the remainder will be for reserve users.   | Non-Notified Approved 02/06/10 |
| A                  | Team Leader Resource Management | J Atkins L56283                                  | 176 Pakiri Road, Leigh            | For consent to a Discretionary Activity to construct a farm implement shed within the East Coast Rural and Leigh Special Character zones and involves 160m <sup>3</sup> of earthworks to form the building platform.                              | Non-Notified Approved 02/06/10 |
| A                  | Team Leader Resource Management | BA Jamison & SF Whitley L56132                   | Matheson Bush Road Leigh          | For consent to a Discretionary Activity to erect a dwelling in excess of 300m <sup>2</sup> that exceeds the maximum height, front yard & side yard development controls & to cut, damage or destroy native trees in excess of 3 metres in height. | Non-Notified Approved 02/06/10 |
| A                  | Team Leader Resource Management | S Whibly L56300                                  | 30 Southgate Road, Warkworth      | For consent to a Restricted Discretionary Activity to construct a dwellings with 172m <sup>3</sup> of earthworks infringing the 1:2 rule in relation to the south-western, south-eastern and northern/north-western boundaries.                   | Non-Notified Approved 03/06/10 |

| Type of Delegation | Officer                         | Applicant/ Owner                  | Address   | Application  | Decision/ Date                 |
|--------------------|---------------------------------|-----------------------------------|---|--|--------------------------------|
| A                  | Team Leader Resource Management | M & J van Houtte L56293           | 29 Inanga Lane, Omaha   | For consent to a Non-Complying Activity to construct a dwelling with earthworks within 75m of the coastal hazard line.   | Non-Notified Approved 03/06/10 |
| A                  | Team Leader Resource Management | B & C Pinker L56297               | 57 Ashmore Crescent, Warkworth                                    | For consent to a Restricted Discretionary Activity for earthworks not 200m <sup>3</sup> that intercept a line drawn at 1 vertical to horizontal when drawn from the boundary of the property.  | Non-Notified Approved 04/06/10 |
| A                  | Team Leader Resource Management | Milestone Homes Rodney Ltd L56361 | 21 Tamatea Drive, Snells Beach                                    | For consent to a Restricted Discretionary Activity for earthworks of 50m <sup>3</sup> which involve excavations intercepting a line drawn at 1 vertical to 2 horizontal from the ground level at the western (side) boundary and create an access way for a new dwelling which will be located within a defined road boundary. | Non-Notified Approved 04/06/10 |
| A                  | Team leader Resource Management | J & R Wylie L56311                | Sharp Road, Matakana  | For consent to a Discretionary Activity to construct a shed encroaching the front yard by 4 metres and a dwelling infringing the height in relation to boundary provisions by a maximum of 1.4 on the northern boundary and encroaching the northern side yard boundary by 2 metres.   | Non-Notified Approved 09/06/10 |
| G                  | Team Leader Resource Management | Cape Rodney Estate Ltd R56325     | 100 Omaha Block Access Road, Leigh                                | For consent to a Restricted Discretionary Activity for a boundary relocation, two lots.  | Non-Notified Approved 10/06/10 |
| A                  | Team Leader Resource Management | J Ferguson R56317                 | 576 Mahurangi West Road, Opahi Bay and 9 Ngarewa Drive, Opahi Bay | For consent to a Restricted Discretionary Activity to undertake a boundary relocation between the common boundaries of two lots.   | Non-Notified Approved 10/06/10 |
| G                  | Team Leader Resource Management | The Jutland Trust R56219          | 271 Takatu Road, Matakana   | For consent to a Non-Complying Activity to undertake a subdivision creating an additional rural-residential site of 1ha and a balance lot of 20.0879 ha. To undertake a maximum total volume of earthworks of 3000m <sup>3</sup> .   | Non-Notified Approved 10/06/10 |
| G                  | Team Leader Resource Management | Turvey Company Ltd R56266         | Pakiri Road, Pakiri   | For consent to a Restricted Discretionary Activity for a boundary relocation between two lots.   | Non-Notified Approved 11/06/10 |

#### WESTERN AND CENTRAL WARDS

| Type of Delegation | Officer                         | Applicant/ Owner             | Address                         | Application   | Decision/ Date                 |
|--------------------|---------------------------------|------------------------------|---------------------------------|---|--------------------------------|
| G                  | Team Leader Resource Management | Campbell Family Trust R56237 | 63 Oraha Road, Huapai           | For consent to a Restricted Discretionary Activity for a proposed 2 lot subdivision and 1 lot esplanade reserve.  | Non-Notified Approved 01/06/10 |
| G                  | Team Leader Resource Management | C Moat & D Karatau R56351    | 180 and 196 Rimmer Road, Te Pua | For consent to a Restricted Discretionary Activity for a boundary relocation, 2 lots.   | Non-Notified Approved 01/06/10 |
| G                  | Land Surveyor                   | M Oakes R56331               | State Highway 16, Waimauku      | For consent to Section 348 Local Government Act 1974 to form a legal right of way labelled A on Scheme Plan R56331 over Lot 1 DP 36821, in favour of Lot 2 DP 418445. | Non-Notified Approved 03/06/10 |

| Type of Delegation | Officer                         | Applicant/ Owner               | Address  | Application  | Decision/ Date                    |
|--------------------|---------------------------------|--------------------------------|--|--|-----------------------------------|
| A                  | Team Leader Resource Management | Kumeu Brass L56366             | 906 Waitakere Road, Kumeu                                      | For consent to a Discretionary Activity to relocate a second hand building to replace the existing building for the Kumeu Brass Bank which will infringe the 20 metre front yard by 9.6 metres.  | Non-Notified Approved 03/06/10    |
| A                  | Team Leader Resource Management | Kumeu Brass L56366             | 906 Waitakere Road, Kumeu                                      | For consent to a Discretionary Activity to relocate a second hand building to replace an existing building for the Kumeu Brass Band.   | Non-Notified Approved 03/06/10    |
| A                  | Team Leader Resource Management | Dirtworks Trust L56228         | 348 Blackbridge Road Pine Valley                               | For S95 is sought to import 27,500m <sup>3</sup> of cleanfill to level a gully   | S95 Limited Notification 03/06/10 |
| A                  | Independent Commissioner        | Rodney District Council L56260 | Creek Lane, Helensville  | For consent to a Non-Complying Activity to establish new public toilets at Creek Lane.   | Non-Notified Approved 08/06/10    |
| A                  | Team Leader Resource Management | Waimauku Doctors L55139        | 6a Waimauku Station Road and 8 Waimauku Station Road, Waimauku | For consent to a discretionary Activity to infringe the side yard and landscape yard with proposed additions to an existing doctors surgery and to cut, damage or remove native and exotic trees in excess of 6m in height to facilitate the extensions to the doctors surgery.  | Non-Notified Approved 08/06/10    |
| A                  | Team Leader Resource Management | G Boulton R52539/A             | 781 Kahikatea Flat Road, Waitoki                               | For consent to a Discretionary Activity for variation to condition 1 of the subdivision consent R52539 (2 lot significant enhancement planting subdivision) to amend the boundary of the rural residential lot to increase the lot containing the existing accessory building to 2 ha and reduce the size of the balance lot to 23.95ha. | Non-Notified Approved 09/06/10    |
| G                  | Team Leader Resource Management | R Garden R56305                | 54 Tuparekura Road, Maretahi                                   | For consent to a Restricted Discretionary Activity for a two lot boundary relocation.  | Non-Notified Approved 09/06/10    |
| A                  | Team Leader Resource Management | M & J Spicer L56299            | 166c Postman Road, Dairy Flat                                  | For consent to a Discretionary Activity to undertake approx 1400m <sup>3</sup> of earthworks and 500m <sup>3</sup> of landscaping associated with the construction of a new dwelling.  | Non-Notified Approved 10/06/10    |
| A                  | Team Leader Resource Management | H & C Gyde R55697              | 20 Te Kanae Road, South Kaipara Road                           | For consent to a Restricted Discretionary Activity for a subdivision that will create one additional title as a result of protecting a significant cultural heritage site.   | Non-Notified Approved 14/06/10    |

## HIBISCUS COAST WARD

| Type of Delegation | Officer                         | Applicant/ Owner                      | Address  | Application   | Decision/ Date                  |
|--------------------|---------------------------------|---------------------------------------|--|---|---------------------------------|
| A                  | Team Leader Resource Management | G & L Morris L56301                   | 43a Marellen Drive, Red Beach  | For consent to a Restricted Discretionary Activity to erect a two car garage without on site manoeuvring capability within the front yard and side yard setbacks.   | Non-Notified Approved 04/06/10  |
| A                  | Team Leader Resource Management | Telecom Mobile L56309                 | Melandra Road, Manly   | For consent to a Discretionary Activity for the upgrade of an existing mobile phone site (telecommunication facility) located on the road reserve adjacent to the property at 34 Melandra Road.   | Non-Notified Approved 04/06/10  |
| A                  | Team Leader Resource Management | McDonalds Restaurants (NZ) Ltd L56285 | 695 Whangaparaoa Road, 697 Whangaparaoa Road and 4 Link Crescent, Stanmore Bay | For consent to a Non-Complying Activity for the construction and operation of a McDonalds restaurant and drive through facility within 50m of a residential zone, operating 24hrs a day, 7 days per week, construction of an access within the defined road boundary and on an arterial road, provision of stacked parking and loading space within a defined parking space and earthworks in excess of 1,000m <sup>2</sup> . | Non-Notified Approved 09/06/10  |
| G                  | Team Leader Resource Management | J & C Scott R56109                    | 41 and 41a Tiri Road, Manly  | For consent to a Non-Complying Activity for a two lot subdivision of a cross lease site which contains existing dwellings.  | Non-Notified Approved 10/06/410 |
| A                  | Team Leader Resource Management | B Longstaff L56346                    | 1 Careen Grove, Hobbs Bay  | For consent to a Restricted Discretionary Activity to erect a two storey residential dwelling which includes 487m <sup>3</sup> of earthworks on the subject site located within a Defined Road Boundary.  | Non-Notified Approved 14/06/10  |

### RECOMMENDATION:

That the report on decisions relating to:

- A Land Use Resource Consent Applications [s.88 of the Resource Management Act 1991] (Controlled Activity, Discretionary Activity, Non-Complying Activity, Preservation or Conservation of Landscape);**
- B Lapsing of Consents [s.125 of the Resource Management Act 1991];**
- C Change or Cancellation of Consent Conditions by Consent Holder [s.127 of the Resource Management Act 1991];**
- D Existing Uses [s.10 of the Resource Management Act 1991];**
- E Non-Conforming Buildings [s.10 of the Resource Management Act 1991];**
- F Any Other Decision Relating to Activities;**
- G Subdivision Consent [s.105 of the Resource Management Act 1991] and Development Plans [s.409];**

made pursuant to delegated authority from the Council, be received.

ITEM NO: 5

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SUBJECT PUBLIC EXCLUDED

That the public be excluded from the following parts of the proceedings of this meeting, namely:

Agenda Item No(s). 6, 7, 8 and 9

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

| General subject of each matter to be considered | Reason for passing this resolution in relation to each matter | Grounds under section 48(1) for the passing of this resolution   |
|---|---|--|
| Appeals / Proposed District Plan 2000           | Refer grounds   | That the exclusion of the public from the whole or the relevant part of the proceedings of the meeting is necessary to enable the Local Authority to deliberate in private on its decision or recommendation in any proceedings before it where:<br>(i) a right of appeal lies to any court or tribunal against the final decision of the Local Authority in those proceedings; or<br>(ii) the Local Authority is required, by any enactment, to make a recommendation in respect of the matter that is the subject of those proceedings.<br>(section 48(1)(d) Local Government Official Information and Meetings Act 1987.) |

**CONFIDENTIAL**