

## 12. COUNCIL SUBMISSION ON PROPOSED AMENDMENTS TO NZS 8500: 2007 – SAFETY BARRIERS FOR YOUNG CHILDREN AROUND SWIMMING POOLS

<b>General Manager responsible:</b>	General Manager Regulation and Democracy Services DDI 941-8549
<b>Officer responsible:</b>	Legal Services Manager
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### PURPOSE OF REPORT

1. Standards New Zealand has instituted a review of NZS 8500 which sets standards for fencing around pools and has called for public comment.
2. Officers have reviewed the proposed new standard and their comments in the approved submission format is attached for consideration.

### EXECUTIVE SUMMARY

3. This is not a review of the Fencing of Swimming Pools Act 1987 [the FOSP Act].
4. The proposed changes to NZS 8500 (copy attached) relate to design and construction options for the location of effective safety barriers.
5. If the Act is ever to be amended by referring to the new NZS 8500 or by explicitly incorporating the new NZS 8500 then the Council will have the opportunity to submit on that amendment in the normal manner.
6. The submission period closed on 11 August, although Standards NZ has approved an extension until 18 August to enable the Council to consider and approve a submission.
7. The proposed new standard has not been previously been considered by the Council but the FOSP Act was considered in 2003 and submissions made to the Department of Internal Affairs for amendments to the Act. A copy of the Council's submissions is attached for information.
8. Councillors have the ability under the FOSP Act to approve exemptions to the FOSP Act. This function has been delegated to a Council Hearings Panel by a resolution of the Council on 16 December 2004.
9. S.6 FOSP Act - 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.*
10. It is recommended that if the new NZS 8500 is adopted then in approving any exemption the Council should require that the exemption is to a standard not less than the minimum in the new standard.
11. The Council may need to revise its policy on fencing of swimming pools if NZS 8500 is adopted.

## **FINANCIAL AND LEGAL CONSIDERATIONS**

12. There are no immediate financial implications. If and when a new standard becomes law then the Council may face extra monitoring costs.
13. NZS 8500 is an ideal standard but does not have legislative force unless explicitly incorporated into the Act. That step, when and if it occurs, will impose new but not additional standards on the Council to monitor and enforce.

## **STAFF RECOMMENDATION**

It is recommended that the Council approve and endorse as a Council submission the staff comments on NZS 8500 attached.

## **OPTIONS**

14. The Council's options are:

Make no submission

Submit in support of the changes without comment

Submit in support of the officer comments as a formal Council submission.

Submit in support in such other manner as Council may determine.

## **PREFERRED OPTION**

15. That the Council endorse the officer comments as a formal Council submission.