



AGENDA

Ordinary Council Meeting Tuesday, 26 November 2019

Date Tuesday, 26 November 2019

Time 9am

Location Council Chamber
District Council Building
King George Place
Timaru

File Reference

Timaru District Council

Notice is hereby given that a meeting of the Ordinary Council will be held in the Council Chamber, District Council Building, King George Place, Timaru, on Tuesday 26 November 2019, at 9am.

Council Members

Mayor Nigel Bowen (Chairperson), Cllrs Allan Booth, Peter Burt, Barbara Gilchrist, Richard Lyon, Gavin Oliver, Paddy O'Reilly, Sally Parker, Stu Piddington and Steve Wills

Quorum – no less than 6 members

Local Authorities (Members' Interests) Act 1968

Councillors are reminded that if they have a pecuniary interest in any item on the agenda, then they must declare this interest and refrain from discussing or voting on this item and are advised to withdraw from the meeting table.

Bede Carran

Chief Executive

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- 1 Opening Prayer and Waiata**
- 2 Apologies**
- 3 Public Forum**
- 4 Identification of Urgent Business**
- 5 Identification of Matters of a Minor Nature**
- 6 Declaration of Conflicts of Interest**

7 Reports

7.1 Declaration by Councillors

Author: Bede Carran, Chief Executive

Authoriser: Bede Carran, Chief Executive

Declaration

Those persons who as a result of the elections held during the period commencing on Friday 20 September 2019 and ending on Saturday 12 October 2019, were duly elected as Councillors of the Timaru District, will be requested to make and sign declarations as required by the provisions of Clause 14, Schedule 7 of the Local Government Act 2002.

Stuart Bruce PIDDINGTON

The wording of the declaration is below.

Declaration by Member

I, Stuart Bruce Piddington, declare that I will faithfully and impartially, and according to the best of my skill and judgment, execute and perform, in the best interests of Timaru District, the powers, authorities, and duties vested in, or imposed upon, me as Member of the Timaru District Council by virtue of the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, or any other Act.

Attachments

Nil

7.2 Gambling Venue Policy Consultation Hearing

Author: Fabia Fox, Policy Analyst

Debbie Fortuin, Environmental Compliance Manager

Authoriser: Tracy Tierney, Group Manager Environmental Services

Recommendation

1. That Council receive and note the written and oral submissions, and officer comments on the draft Gambling Venue Policy.
2. That Council provide officers with direction to prepare the final draft Gambling Venue Policy for adoption.

Purpose of Report

- 1 To provide, in accordance with section 83(d) of the Local Government Act, an opportunity for persons to present their views to Council on the draft Gambling Venue Policy following public consultation on the draft policy.
- 2 For Council to consider submissions received on the draft Gambling Venue Policy and provide officers with direction to prepare the final draft policy for adoption at a later meeting.

Assessment of Significance

- 3 The draft Gambling Venue Policy is assessed as high significance for gambling venues, gambling licence holders, public health and problem gambling organisations and iwi. The consultation process ensured these stakeholders were given the opportunity to participate.

Consultation

- 4 At a Council meeting on 8 October 2019 Council adopted the Policy Review Consultation Statement of Proposal, including the draft Gambling Venue Policy, the draft Local Approved Products Policy, and the draft Dangerous, Affected and Insanitary Buildings Policy, and agreed to it being the subject of a Special Consultative Procedure (SCP).
- 5 On 9 October 2019 the Statement of Proposal was made available on Council's website and hard copies were available at Council libraries and service centres in Timaru, Temuka and Geraldine. Key stakeholders were directly notified of the consultation and invited to submit their feedback. A summary of the Statement of Proposal was published in the Courier on 17 October 2019. The consultation has also been promoted via social media and in the Council Noticeboard. Consultation closed on 11 November 2019.
- 6 Submitters were invited to make their submissions using the online form on the Council website, or to email or post their submission to Council.

Submissions

- 7 Fourteen submissions on the draft Gambling Venue Policy have been received. Four submitters have requested to speak to their submission. A draft schedule of these submitters

is attached. All submissions received are attached under a separate cover and are available on Council's website www.timaru.govt.nz.

- 8 One submitter supported the draft Gambling Venue Policy and 13 submitters did not support the policy. Submissions can broadly be divided into two positions; those recommending a policy with less restrictions on gambling venues to enhance the social and economic good generated by gaming machines in the Timaru District; and those recommending a more restrictive policy to minimise the harm caused by problem gambling in the Timaru District.
- 9 The feedback addresses five key topics discussed in the consultation document, either as proposed amendments to the policy, or other policy options for consideration. These key topics are summarised below and are accompanied by an officer comment for each topic.

Topic 1: Relocation Policy – Submission Summary

- 10 Council's current policy does not allow for the relocation of Class 4 gambling venues in accordance with section 97A of the Gambling Act 2004. Under this section, if councils consent to a venue relocation, the maximum number of gaming machines permitted at the new venue would be the same as the number permitted at the original venue (up to a maximum of 18 machines).
- 11 Without a relocation policy, any venue wishing to relocate would need to meet the conditions of Council's current policy, including the lower cap of seven gaming machines per venue.
- 12 The draft policy includes a clause which allows venues to relocate in instances where they are unable to continue operating at the existing site, for example, the expiration of a lease, due to a fire, or the building being deemed earthquake-prone, dangerous, affected or insanitary. Venues must meet all other conditions of the policy.
- 13 Eight submitters supported the inclusion of the relocation policy. They wished to see the policy extended to allow for venue relocations in a wider range of circumstances including relocating to an upgraded facility, or in response to high building rents. Two submitters did not support the inclusion of a relocation policy allowing the grandparenting of a greater number of gaming machines for relocated venues.

Relocation Policy – Officer Comments

- 14 Some submitters have requested an open relocation policy not restricting the relocation policy to adverse circumstances, while others requested no relocation policy at all. The fundamental reason for inclusion of a relocation policy would permit a venue to retain grandparenting rights. Council may wish to consider the following three options:
 - Retain the proposed option, limiting relocations to adverse circumstances such as natural disaster, expiration of lease etc. While allowing some restricted ability for venues to relocate, this option may also lead to a reduction in the number of machines for those venues with higher numbers of machines set under previous legislation.
 - Amend the policy to permit a relocation of a venue under any circumstance. This would allow venues full flexibility for relocation and would not result in any reduction in machine numbers for venues with grandparenting rights.
 - Maintain the status quo and not to include a relocation policy. This would be continue to limit the ability of venues to retain grandparenting rights should they wish to relocate, however it has to decrease the number of gaming machines in the District over time.

- 15 Officer's recommend that if a relocation policy be included in the final policy that the applications be referred to the Environmental Services Committee for a decision.

Topic 2: Machine Cap – Submission Summary

- 16 The Gambling Act 2003 states that a new Class 4 gambling venue must not operate more than nine gaming machines. Council is able to set a lower machine limit for venues. Council's existing policy allows a maximum of seven gaming machines for new venue applicants. Venues which hold a licence prior to 17 October 2001, under previous legislation, may have up to 18 machines. Currently there are 165 machines in the Timaru District. There is no overall cap on machines across the District.
- 17 The draft policy proposed to maintain the cap of seven gaming machines. The consultation document also presented other cap options including capping the total number of gaming machines in the District; reducing or increasing the venue machine cap; and a sinking lid policy which would see the cap drop if any venues closed or relocated.
- 18 Ten submissions opposed the draft policy retaining the limit of seven machines per venue and recommended the limit increase to the legislated limit of nine machines per venue. A number of these submissions stated that gaming machine venues have fixed costs associated with the operating the machines, regardless of the number, and increasing the limit to nine would make venues more financially viable, and increase the amount of funding available for the community.
- 19 Two submitters opposed increasing the machine cap at venues, recommending a reduction in the cap and the adoption of a sinking lid approach as a policy mechanism to reduce the harm caused by gambling.

Machine Cap – Officer Comments

- 20 Officers note the submissions received both in favour, and against the venue machine cap, and the proposed district cap on machines.
- 21 In light of the submissions received on the draft policy, Council may wish to consider the following options:
- Retain the venue machine cap at seven for any new venues. This cap does allow for the potential increase in the total number of machines in the District over time if new venues are established. This may result in higher levels of community funding and the potential for increased harm from gambling.
 - Remove the venue machine cap and implement a district cap set at 165 machines. This approach is likely to sustain the current level of community funding that arises out of gaming machine profits. New venues would only be approved if other venues close or reduce their number of machines. Placing a district cap may not reduce gambling harm at current levels but would prevent an increase in exposure for the community to greater number of machines.
 - Increase the venue machine cap from seven to nine, which is the limit set in the Gambling Act 2003. This would be less restrictive for new venues. It would also allow the current venues capped at seven to increase their machine numbers which could see an addition 16 machines across the District. Increasing the cap has the potential to increase the harm caused by gambling.

Topic 3: Removing Exemption Clause – Submission Summary

- 22 Council's current policy includes an exemption clause which states: "It is acknowledged that not all venues, including existing venues, will be able to comply with these requirements. For this reason Council will consider applications for exemption made for specific sites."
- 23 The draft policy proposed the removal of this clause. The consultation document explains that the clause creates unnecessary ambiguity for Council officers processing applications and that Council believes that only venues meeting the criteria of the policy should be given consent to operate gaming machines.
- 24 Nine submitters oppose the removal of this clause, stating that this allowed for applications to be considered on a case-by-case basis, and one submitter supported removing the clause.

Removing Exemption Clause – Officer Comments

- 25 Officers note the submitters' feedback on the proposed removal of the exemption clause and recommend that the clause be removed, as presented in the draft policy. If discretion is preferred then officers believe that a decision to approve an applicant where the policy conditions are not met is a governance decision, best made at a higher level. Officers recommend that if an exemption clause is to remain in the final policy that the applications be referred to the Environmental Services Committee for a decision.

Topic 4: Sinking Lid Clause – Submission Summary

- 26 As part of the other options available for consideration in the Gambling Venue Policy consultation document, a sinking lid clause was discussed. This clause would mean that no new consents to operate Class 4 gaming machines would be issued by Council, venues would not be able to increase their number of machines, and consent would not be given for relocation of venues. Over time, this would lead to a decrease in the number of venues and machines in the Timaru District.
- 27 Two submitters recommended Council adopt a sinking lid clause, stating that such an approach gradually reduces the number of machines in the District and the harm that accompanies them. Nine submitters oppose the adoption of a sinking lid policy, a number cite the loss of community funding as a reason for this opposition.

Sinking Lid Clause – Officer Comments

- 28 Submissions received both for and against a sinking lid clause are noted. Council may wish to consider the sinking lid clause in conjunction with the options for a district wide machine cap.

Topic 5: Social Impact Assessment – Submission Summary

- 29 In adopting a gambling venue policy, Council must have regard to the social impact of gambling within the District. One submitter raised that a balanced and in-depth social impact study be undertaken to review both the gambling harm minimisation initiatives and to consider the benefits of community grants providing by gaming machines and any impact caused by decreasing that level of funding.

Social Impact Assessment – Officer Comments

- 30 Officers acknowledge the potential benefits of a full social impact assessment in ascertaining the range of impacts of both gambling and Council's policy on the community. If Council wish to undertake a full assessment, additional budget provision would be required for the next review of the policy.

Options and Preferred Option

- 31 **Option 1:** Council receives, notes and considers the submissions on the draft Gambling Venue Policy and provides direction to officers on the issues raised by the submissions for inclusion in the final draft policy.
- 32 **Option 2:** Council receives, notes and considers the submissions on the draft Gambling Venue Policy and no further direction is required for the final draft policy.

Relevant Legislation, Council Policy and Plans

- 33 Gambling Act 2003: Requires Council to adopt a policy on Class 4 gambling venues, specifying whether new venues may be established in the District, and if so, where they may be located. The Act also specifies review timeframes and the use of the SCP when amending or replacing the policy.
- 34 Racing Act 2003: Requires Council to adopt a policy on Agency venues, specifying whether or not new venues may be established in the District, and if so, where they may be located. The Act also specifies review timeframes and the use of the SCP when amending or replacing the policy.
- 35 Local Government Act 2002 (section 83): Details the special consultative procedure that Council must undertake when proposing to amend or replace the policies under consideration. The Act also allows Council to undertake combined or concurrent consultation (Section 83A) which has been undertaken in this instance with the draft Dangerous, Affected and Insanitary Buildings Policy and the draft Local Approved Products Policy.

Financial and Funding Implications

- 36 The cost of the consultation has been drawn from existing budgets.

Other Considerations

- 37 Following the consideration by Council of submissions received and direction provide on the topics listed above, officers will, if required, amend the policy and present a final draft to Council for adoption on 10 December 2019.

Attachments

1. **Draft Gambling Venue Policy**  
2. **Schedule of Submitters**  
3. **Submissions received on draft Gambling Venue Policy (under separate cover)** 

Gambling Venue Policy



Approved by:	Timaru District Council
Date Approved:	To be confirmed
Keywords:	Gambling Venue Machines Policy Class Environmental Compliance District Problem Agency Zone

1 Purpose

1.1 The purpose of this policy is to:

- 1.1.1 Detail Council's policy with regards to consent applications for new Class 4 gambling venue and New Zealand Racing Agency (TAB) venue licences, in accordance with the Gambling Act 2003 and the Racing Act 2003.
- 1.1.2 Recognise that gambling can be a serious problem for people in our community.
- 1.1.3 Ensure Council and the community has influence over the provision of new gambling venues within the Timaru District.
- 1.1.4 Allow those who wish to participate in controlled gambling to do so within the Timaru District.
- 1.1.5 Minimise harm to the community caused by gambling.

Note: The Gambling Venue Policy applies only to new consent applications for Class 4 gambling venues and Agency venues. The Policy will not be applied retrospectively to venues with current licences.

2 Background

- 2.1 The Gambling Act 2003 was enacted on 18 September 2003. The Act requires councils to adopt a Class 4 gambling venue policy for their district. The Act also amended the Racing Act 2003 so that council consent is required to establish a new Agency (TAB) venue. Under that amendment Council is required to adopt an Agency venue policy for the District.
- 2.2 Both policies must be adopted in accordance with the special consultative procedure set out in the Local Government Act 2002 (section 83).
- 2.3 The Gambling Act 2003 and the Racing Act 2003 together state that the Class 4 gambling venue and Agency venue policies:
 - 2.3.1 Must specify whether or not Class 4 venues and Agency venues may be established in a district, and if so, where they may be located.

2.3.2 May specify any restrictions on the maximum number of gaming machines that may be operated at any Class 4 gambling venue. The Gambling Act 2003 establishes a maximum limit of nine machines for new venues and those venues that obtained a licence after 17 October 2001. This policy sets a maximum of seven machines per venue (see Clauses 6.1).

2.3.3 In the development of this gambling venue policy Council must have regard for the social impacts of gambling on the Timaru District community.

2.4 In 2007 Council combined the Class 4 gambling venue and Agency venue policies.

3 Key Definitions

Agency Venue – means premises that are owned or leased by the Racing Industry Transition Agency (TAB) and where the main business carried out at the premises is providing racing betting or sports betting services under the Racing Act 2003. This does not include TAB outlets.

Class 4 Gambling – Means any activity that involves the use of gaming machines (i.e. pokies) in pubs and clubs (i.e. outside a casino) which may only be conducted by a corporate society and only to raise money for an authorised (i.e. community and non-commercial) purpose.

Commercial Zones – As defined in the operative Timaru District Plan.

Community Facility – Any building, place or facility which provides for the physical, social, cultural or intellectual development or welfare of the community, including but not limited to; public playgrounds; recreational halls; community centres; community halls; libraries; museums; and public swimming pools.

Gambling Venue: - Any Class 4 gambling venue or Agency venue.

Residential Zones – As defined in the operative Timaru District Plan.

Sensitive Site – Any childhood centre, kindergarten, school, place of worship or community facility.

4 Policy – Timaru Township

4.1 Within the boundary of the Timaru Township, Gambling Venues may be established in Commercial 1, 2 and 3 Zones subject to:

- 4.1.1 Meeting application and fee requirements;
- 4.1.2 Being no closer than 200 metres, by public access way, to any Residential Zone;
- 4.1.3 Being no closer than 100 metres, by public access way, to any sensitive site (as defined in Section 3 of this policy);
- 4.1.4 Being no closer than 100 metres, by public access way to another Gambling Venue; excepting that Agency venues may, on application be exempt from this requirement;

- 4.1.5 Not being a venue that is associated with family or children's activity unless the activity is in a room separate from gaming machines;

5 Policy – Rest of Timaru District.

5.1 For all areas outside the boundary of the Timaru Township, Gambling Venues may be established in **Commercial 1 Zone** subject to:

- 5.1.1 Meeting consent application and fee requirements;
- 5.1.2 Being no closer than 25 metres, by public access way, to any Residential Zone;
- 5.1.3 Being no closer than 25 metres, by public access way, to any sensitive site (as defined in Section 3 of this policy);
- 5.1.4 Being no closer than 25 meters, by public access way, to any other gambling venue excepting that Agency venues may, on application, be exempt from this requirement; and
- 5.1.5 Not being a venue that is associated with family or children's activity unless the activity is in a room separate from gaming machines.

6 Relocation of Venues

6.1 Consent for the relocation of existing Class 4 venues is subject to:

- 6.1.1 The current premises being unable to continue to operate at the existing site. Examples of such circumstances include, but are not limited to the following:
 - Expiration of lease;
 - A natural disaster or fire making the venue unfit to continue to operate; or
 - The building in which the venue is located is deemed, under the Building Act 2004, to be earthquake-prone, dangerous, affected or insanitary.
- 6.1.2 The total number of Class 4 gaming machines at the new premises must be the same, or less than the existing Class 4 venue.
- 6.1.3 The consent application meeting all other requirements of this Policy.

7 Number of gaming machines to be allowed

- 7.1 New Class 4 gambling venues shall be allowed a maximum of seven gaming machines.
- 7.2 Existing Class 4 gambling venues operating fewer than seven gaming machines, shall be allowed to increase the number of machines operated at the venue to seven.

8 Primary Activity of Venues

- 8.1 The primary activity of any Class 4 gambling venue shall be:

- 8.1.1 For the sale of alcohol, or the sale of alcohol and food; or
- 8.1.2 For private club activities; or
- 8.2 The primary activity for Agency venues, as defined by section 5 of the Racing Act 2003, shall be:
 - 8.2.1 Providing racing betting, or sports betting services.

9 Application

- 9.1 Applications for Council consent must be made on the correct form, accompanied by all required documentation and fees.
- 9.2 Application forms are available on Council's website, www.timaru.govt.nz and at all Council service centres.

10 Application Fees

- 10.1 These will be set by Council from time to time with the intention of recovering full costs from applicants/operators, and shall include consideration of:
 - 10.1.1 The cost of processing the application, including any consultation and hearings involved;
 - 10.1.2 The cost of triennially reviewing the Gambling Venue Policy;
 - 10.1.3 The cost of inspecting Class 4 gambling venues on a regular basis to ensure compliance with consent or licence conditions; and
 - 10.1.4 A contribution towards the cost of triennial assessments of the economic and social impact of gambling in the District.
- 10.2 Council will comply with section 150 of the Local Government Act 2002 in setting such fees.

11 Policy Review

- 11.1 This Policy will be reviewed at least every three years, as required by the Gambling Act and the Racing Act 2003.
- 11.2 This Policy does not cease to have effect because it is due for review, or being reviewed.
- 11.3 This Policy takes effect from the date it is formally adopted by Council.

Policy Review Consultation

Draft Gambling Venue Policy Hearing

Tuesday 26 November 2019 – Commencing at 9.15am

Time	Submitter	Organisation
9.15	Anna Halliday and Kristy Phillips	Hospitality New Zealand – South Canterbury
9.25	Anne-Marie McRae and Irene Emond	Trust Aoraki
9.35	Jared True	Gaming Machine Association of New Zealand
9.45	Sarah Campagnolo	Problem Gambling Foundation of New Zealand

7.3 Dangerous, Affected and Insanitary Buildings Policy

Author: Jayson Ellis, Building Control Manager
Fabia Fox, Policy Analyst

Authoriser: Tracy Tierney, Group Manager Environmental Services

Recommendation

1. That Council receive and note the submission received on the draft Dangerous, Affected and Insanitary Buildings Policy.
2. That Council adopt the Dangerous, Affected and Insanitary Buildings Policy as presented.

Purpose of Report

- 1 To present Council with the submission received on the draft Dangerous, Affected and Insanitary Buildings Policy.
- 2 To present Council with the draft Dangerous, Affected and Insanitary Buildings Policy for adoption.

Assessment of Significance

- 3 The draft Dangerous, Affected and Insanitary Buildings Policy is assessed as high significance for any owner or manager of a dangerous, affected or insanitary building, however these people will not be identified until a building has been classified as dangerous, affected or insanitary. The policy itself addresses appropriate consultation with owners and managers of dangerous, affected and insanitary buildings as part of Council's Building Control activities.
- 4 The draft policy has been subject to the special consultative procedure (SCP), as required by the Building Act 2004, and in accordance with section 83 of the Local Government Act 2002.

Background

- 5 The Building Act 2004 requires all territorial authorities to adopt a policy on dangerous and insanitary buildings. The policy must state the approach Council will take in performing its functions under Subpart 6 of the Building Act 2004 – Special provisions for dangerous, affected, and insanitary buildings. The policy must also state Council's priorities in performing those functions and how the policy will apply to heritage buildings. As a result of an amendment in 2013, the policy must also take into account "affected buildings".
- 6 Affected buildings are buildings that pose a risk to users and/or passers-by because of their proximity to dangerous buildings.
- 7 The policy must be reviewed every five years and Council can amend or replace the policy only in accordance with the SCP.¹

¹ [Building Act 2004, section 131-133](#)

- 8 The Environmental Services Committee adopted the Dangerous and Insanitary Buildings Policy in November 2018 with a number of immaterial changes and resolved to review the policy to include the affected building provisions and undertake a SCP as soon as practicable within 12 months.²
- 9 At a meeting on 8 October 2019 Council adopted a Statement of Proposal for the purposes of undertaking the SCP, allowing the public and key stakeholders an opportunity to provide Council with feedback on the draft policy.
- 10 The consultation ran from 9 October 2019 until 11 November 2019.

Submissions

- 11 One submission was received on the draft policy from Community and Public Health (CPH), a division of the Canterbury District Health Board. The submission is attached. CPH support the inclusion of affected buildings in the policy.
- 12 CPH recommends that Council either expands the current policy or develops a discrete policy, strategy or procedures that specifically addresses the approach to be taken when dealing with people inhabiting dangerous or insanitary properties. CPH recommends as part of the policy, Council officers liaise with relevant agencies to carry out a health and welfare assessment of the occupants of such properties.

Officer Comments

- 13 Council officers note and recognise the importance of the recommendation from CPH to address the mental health and welfare issues of the occupants of dangerous and insanitary buildings within the Timaru District, however do not believe that this policy is the appropriate mechanism for addressing this issue. It is Council officers' practice to proactively provide contact information for appropriate agencies where people are affected by the implementation of this policy, particularly in a situation where they may need to vacate a property at short notice.
- 14 Minor comments noted in the submission have been accepted and immaterial amendments have been made to the draft policy.

Options and Preferred Option

- 15 **Option 1 (preferred):** Council adopts the draft Dangerous, Affected and Insanitary Buildings Policy as presented. The amendments to the policy are a legislative requirement and, by including "affected buildings" in the policy, Council is afforded statutory powers under the Building Act 2004 to ensure the safety of persons or property with regards to dangerous and insanitary buildings, and now buildings which are adjacent to, adjoining, or nearby a dangerous building.
- 16 **Option 2:** Council amends the draft Dangerous, Affected and Insanitary Buildings Policy to include a clause, as recommended by CPH, addressing the approach to be taken when dealing with the mental health and welfare of the occupants of dangerous or insanitary properties.

² The introduction of sections 133AA -133AY of the Building Act 2004 on 1 July 2017 removed the requirement for territorial authorities to have policies on earthquake prone building. All references to earthquake prone buildings were removed from Council's policy in November 2018.

Officers recommend that the draft policy not be amended to include such a clause as this policy is not the appropriate mechanism.

Relevant Legislation, Council Policy and Plans

- 17 Building Act 2004: Requires Council to adopt a policy on dangerous, affected and insanitary buildings stating; the approach Council will take in performing its functions under the Act; and Council's priorities in performing these functions; and how the policy will apply to heritage buildings. The Act also specifies review timeframes and the use of the SCP when amending or replacing the policy.
- 18 Local Government Act 2002 (section 83): Details the special consultative procedure that Council must undertake when proposing to amend or replace the policies under consideration. The Act also allows Council to undertake combined or concurrent consultation (Section 83A) which has been undertaken in this instance with the draft Gambling Venue Policy and the draft Local Approved Products Policy.

Financial and Funding Implications

- 19 The cost of the consultation has been drawn from existing budgets.

Other Considerations

- 20 There are no further considerations relevant to this matter.

Attachments

1. **Dangerous Affected and Insanitary Buildings Policy - Submission - Community and Public Health - November 2019** [!\[\]\(d27edc55493507da2f9b8c7a52b3b96f_img.jpg\)](#) 
2. **Draft Dangerous, Affected and Insanitary Buildings Policy** [!\[\]\(4b60241e906ef61007ada3e521a0c6a3_img.jpg\)](#) 



Submission on Timaru District Council's Draft Dangerous, Affected and Insanitary Buildings Policy

To: Timaru District Council

Submitter: Community and Public Health

Proposal: Council is proposing to amend the Dangerous and Insanitary Buildings Policy to include "affected buildings" to keep in step with the changes to the Building Act 2004, and ensure the Policy is fit for purpose

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**SUBMISSION ON TIMARU DISTRICT COUNCIL'S DRAFT
DANGEROUS, AFFECTED AND INSANITARY BUILDINGS POLICY**

Details of submitter

1. Community and Public Health.
2. This submission has been developed by Community and Public Health (CPH), a division of the Canterbury District Health Board, which provides public health services to Canterbury, South Canterbury and the West Coast
3. Community and Public Health is responsible for promoting the reduction of adverse environmental effects on the health of people and communities and for improving, promoting and protecting their health pursuant to the New Zealand Public Health and Disability Act 2000 and the Health Act 1956. These statutory obligations are the responsibility of the Ministry of Health and in the South Canterbury region, are carried out under contract by Community and Public Health under Crown funding agreements.

Details of submission

4. We welcome the opportunity to comment on the Timaru District Council's (TDC) Dangerous, Affected and Insanitary Buildings Policy.

General Comments

5. CPH supports the inclusion of "affected buildings" into this policy.
6. CPH notes that the draft Policy is focused on the assessment and actions associated with dangerous, affected and insanitary buildings but does not fully consider the susceptibility of at risk individuals living in these dwellings. CPH recommends that the Council either expands the current policy or develops a discrete policy, strategy or procedure that specifically addresses the approach to be taken when dealing with people inhabiting dangerous or insanitary properties
7. Properties where hoarding is a major issue are often associated with insanitary housing conditions. Although a cleansing order from a local authority (s41 of the

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Health Act 1956) may address some of the public health issues arising from hoarding, the inhabitants often have complex mental health or welfare issues. These situations require a much wider approach involving a range of agencies.

8. CPH recommends that there should be the inclusion of a section detailing what procedure would be carried out to address the mental health or welfare issues of occupants. Words to the effect could be, "Where the TDC authorised officer has concerns about the health of any occupants they will liaise with relevant agencies to carry out a health and welfare assessment of the occupants. A number of regulatory tools are available to health agencies which may be appropriately invoked, including but not limited to the Mental Health Act 1992, Section 126 of the Health Act 1956 and the Protection of Personal and Property Rights Act 1988."

Specific Minor Comments

Section	Comment
4.2 Definition of Heritage Building	Recommend replace "Aoteraroa" with "Aotearoa"
4.2 Definition of Owner	Sentence under (a)(i) reads "is entitled to the rack rent form the land" Recommend replacing "form" with "from"
7.3 c	This section currently reads "Invoke its powers under Section 124, 126 or 126 or 129 of the Act" – suggest checking the numbering of the sections referred to.

Conclusion

9. CPH does not wish to be heard in support of this submission.
10. Thank you for the opportunity to submit on Timaru District Council's (TDC)
Dangerous, Affected and Insanitary Buildings Policy

Person making the submission



Neil Brosnahan
Regional Manager South Canterbury
Community & Public Health

Date: 11/11/2019

Contact details

Rose Orr
Community and Public Health
Rose.orr@cdhb.health.nz
03 687 2600



Dangerous, Affected and Insanitary Buildings Policy

Approved by:	Timaru District Council
Date Approved:	To be confirmed
Keywords:	Dangerous, Affected, Insanitary, Buildings

1. Introduction

- 1.1. The Dangerous, **Affected** and Insanitary Buildings Policy (Policy) has been prepared by the Timaru District Council to comply with section 131 of the Building Act 2004 (the Act). The Act requires Council to have a policy on Dangerous, **Affected** and Insanitary Buildings.
- 1.2. This policy supersedes Council's Dangerous and Insanitary Buildings Policy 2018 and sets out the policy adopted by Timaru District Council in accordance with the requirements of the Act.
- 1.3. All requirements regarding earthquake-prone building were removed from the Policy on 27 November 2018, as they are now covered by sections 133AG - 133AY of the Act.
- 1.4. Early detection and rectification of dangerous, **affected** or insanitary buildings has a strong relationship with Council's strategy for a safe district. It is important that Council protects public health through a balanced, risk-based approach to ensure buildings are structurally sound, do not pose health risks, and perform their function without putting the health of residents and visitors at risk.

2. Purpose of the policy

- 2.1. The purpose of the Policy is to:
 - Reduce the potential risk posed to residents in the District by dangerous, **affected** and insanitary buildings;
 - Improve the control of, and encourage better practice in design and construction; and
 - Provide a clear framework of how Council will manage dangerous, **affected** and insanitary buildings.

- 2.2. In setting the Policy, Council has endeavoured to strike a balance between the threats posed by dangerous, affected and insanitary buildings and the broader social and economic issues affecting the community that are involved.
- 2.3. The relevant principles of section 4 of the Act have been taken into account in preparing the Policy, and will be taken into account in the performance of Council's functions, powers and duties.

3. Policy Scope

- 3.1. The Policy applies to all buildings within the Timaru District Council Territorial Authority District.
- 3.2. The Policy sets out:
- The approach Council will take in performing its functions under Part 2 of the Act;
 - Council's priorities in performing those functions; and
 - How the Policy will apply to heritage buildings.

4. Definitions

- 4.1. For the purposes of the Policy the definitions in the table below shall apply.
- 4.2. Where a definition has the same meaning as a definition in the Act, the definition for the purposes of the Policy includes any subsequent amendment to the definition in the Act. For the avoidance of doubt, where a definition in the Act differs from a definition in the Policy, the definition in the Act has precedence.

Term	Definition
The Act	means the Building Act 2004
Affected building	has the same meaning as section 121A of the Act, as follows: a building is an affected building for the purposes of this Act if it is adjacent to, adjoining, or nearby – <ul style="list-style-type: none"> (a) a dangerous building as defined in section 121; or (b) a dangerous dam within the meaning of section 153.
Authorised officer	has the same meaning as section 222 of the Act, as follows: means an officer of a territorial authority to whom either or both of the following applies: <ul style="list-style-type: none"> (a) he or she is authorised to carry out inspections; or (b) he or she is authorised to enter the land – <ul style="list-style-type: none"> (i) by this Act; or (ii) by an order of the District Court made under section 227.
Building	has the same meaning as section 8 of the Act, as follows: In this Act, unless the context otherwise requires, building –

	<p>(a) means a temporary or permanent movable or immoveable structure (including a structure intended for occupation by people, animals, machinery, or chattels); and</p> <p>(b) includes -</p> <ul style="list-style-type: none"> (i) a mechanical, electrical, or other system; and (ii) a fence as defined in section 2 of the Fencing of Swimming Pools Act 1987; and (iii) a vehicle or motor vehicle (including a vehicle or motor vehicle as defined in section 2(1) of the Land Transport Act 1998) that is immovable and is occupied by people on a permanent or long term basis; and <p>(c) includes any 2 or more buildings that, on completion of building work, are intended to be managed as one building with a common use and a common set of ownership arrangements; and</p> <p>(d) includes the non-moving parts of a cable car attached to or servicing a building; and</p> <p>(e) includes the moving parts of a cable car attached to or servicing a building.</p>
Council	means the Timaru District Council
Dangerous Building	<p>has the same meaning as section 121 of the Act, as follows:</p> <p>(1) A building is dangerous for the purposes of this Act, if -</p> <ul style="list-style-type: none"> (a) In the ordinary course of events (excluding the occurrence of an earthquake), the building is likely to cause - <ul style="list-style-type: none"> (i) injury or death (whether by collapse or otherwise) to any persons in it or to persons on other property; or (ii) damage to other property; or (b) In the event of fire, injury or death to any persons in the building or to persons on other property is likely. <p>(2) For the purpose of determining whether a building is dangerous in terms of subsection (1)(b), a territorial authority -</p> <ul style="list-style-type: none"> (a) may seek advice from members of the Fire and Emergency New Zealand who have been notified to the territorial authority by the board of Fire and Emergency New Zealand as being competent to give advice; and (b) if the advice is sought, must have due regard to the advice.
Heritage building	<p>has the same meaning as section 7 of the Act, as follows: means a building that is included on -</p> <ul style="list-style-type: none"> (a) the New Zealand Heritage List/Rarangi Korero maintained under section 65 of the Heritage New Zealand Pouhere Taonga Act 2014; or (b) the National Historic Landmarks/Nga Manawhenua o Aotearoa me ona Korero Tuturu list maintained under s 81 of the Heritage New Zealand Pouhere Taonga Act 2014.
Household unit	has the same meaning as section 7 of the Act, as follows:

	<p>(a) means a building or group of buildings, or part of a building or group of buildings, that is –</p> <p>(i) used, or intended to be used, only or mainly for residential purposes; and</p> <p>(ii) occupied, or intended to be occupied, exclusively as the home or residence of not more than one household; but</p> <p>(b) does not include a hostel, boardinghouse, or other specialised accommodation.</p>
Insanitary building	<p>has the same meaning as section 123 of the Act, as follows: a building is insanitary for the purposes of this Act if the building –</p> <p>(a) is offensive or likely to be injurious to health because –</p> <p>(i) of how it is situated or constructed; or</p> <p>(ii) it is in a state of disrepair; or</p> <p>(b) has insufficient or defective provisions against moisture penetration so as to cause dampness in the building or in any adjoining building; or</p> <p>(c) does not have a supply of potable water that is adequate for its intended use; or</p> <p>(d) does not have sanitary facilities that are adequate for its intended use.</p>
Inspection	<p>has the same meaning as section 222 of the Act, as follows: means the taking of all reasonable steps –</p> <p>(a) to determine whether –</p> <p>(i) building work is being carried out without a building consent; or</p> <p>(ii) building work is being carried out in accordance with a building consent; or</p> <p>(iii) a notice to fix has been complied with:</p> <p>(b) to ensure that –</p> <p>(i) in relation to buildings for which a compliance schedule is issued, the inspection, maintenance, and reporting procedures states in the compliance schedule are being complied with; or</p> <p>(ii) in relation to buildings that have specified systems, the requirement for a compliance schedule is being complied with:</p> <p>(c) to enable an authority to –</p> <p>(i) identify dangerous, earthquake-prone or insanitary buildings within its district; and</p> <p>(ii) carry out its functions or duties in relation to those buildings:</p> <p>(d) to satisfy a territorial authority as to whether a certificate of acceptance for building work should be issued under section 96.</p>
Owner	<p>has the same meaning as section 7 of the Act, as follows: in relation to land and any buildings on the land –</p> <p>(a) means the person who –</p> <p>(i) is entitled to the rack rent from the land; or</p>

	<p>(ii) would be so entitled if the land were let to a tenant at a rack rent; and</p> <p>(b) includes -</p> <p>(i) the owner of the fee simple of the land; and</p> <p>(ii) for the purposes of sections 32, 44, 92, 96, 97 and 176(c), any person who has agreed in writing, whether conditionally or unconditionally, to purchase the land or any leasehold estate or interest in the land, or to take a lease of the land, and who is bound by the agreement because the agreement is still in force.</p>
Territorial authority	<p>has the same meaning as section 7 of the Act, as follows:</p> <p>(a) means a city council or district council named in Part 2 of schedule 2 of the Local Government Act 2002; and -</p> <p>(i) in relation to land within the district of a territorial authority, or a building on or proposed to be built on any such land, means territorial authority; and</p> <p>(ii) in relation to any part of a coastal marine area (within the meaning of the Resource Management Act 1991) that is not within the district of a territorial authority, or a building on or proposed to be built on any such part, means the territorial authority whose district is adjacent to that part; and</p> <p>(b) includes the Minister of Conservation or the Minister of Local Government, as the case may be, in any case in which the Minister of Conservation or the Minister of Local Government is the territorial authority under section 22 of the Local Government Act 2002.</p>

5. Council's Role

- 5.1. When buildings that may be dangerous or insanitary come to the attention of Council, Council will act promptly to investigate and, if determined to be dangerous or insanitary, ensure they are made safe.
- 5.2. A building may become dangerous or insanitary due to a number of reasons such as unauthorised alterations being made from a fire, a natural disaster, or as a result of use by an occupant.
- 5.3. Council has a statutory responsibility to act promptly to ensure the safety of persons or property when buildings that may be dangerous or insanitary come to Council's attention. Council is also required to consider whether any other buildings may be affected by a dangerous building and if so, what action, if any, is appropriate.
- 5.4. The concept of an affected building arises in the context of a dangerous building that is physically close enough to potentially pose a danger to people within the affected building. Note: affected buildings are defined as buildings which are

adjacent to, adjoining, or nearby a dangerous building (see section 4 for definitions).

6. Policy

Approach to dangerous, affected or insanitary buildings

- 6.1. Council will not actively inspect all buildings within the District, but will make it a priority to quickly and efficiently respond to any information received regarding potentially dangerous, affected or insanitary buildings.

Application of the Policy to heritage buildings

- 6.2. This Policy applies to heritage buildings in the same way it applies to all other buildings. Where Council receives information regarding buildings which have a heritage classification under Heritage New Zealand Pouhere Taonga, in addition to consulting with affected owners, Council will consider seeking advice from Heritage New Zealand Pouhere Taonga.

Co-operation with other agencies

- 6.3. Council will work with Heritage New Zealand Pouhere Taonga, Fire and Emergency New Zealand, the New Zealand Police and other agencies to achieve the purpose of the Building Act 2004.

Costs

- 6.4. Council may issue a notice under section 124(2)(c) of the Act requiring work to be carried out on dangerous or insanitary buildings to reduce or remove the danger, or to prevent the building from remaining insanitary. If work required under such a notice issued by Council is not completed or proceeding with reasonable speed, Council may invoke its powers under section 126 of the Act and apply to the District Court to gain authorisation to carry out building work required in the notice.
- 6.5. If Council carries out building work, it is entitled to recover costs associated with that work from the building owner, as set out in section 126(3) of the Act.

Immediate danger

- 6.6. If a building presents an immediate danger or health hazard to people within and/or around it, or to surrounding buildings, Council may choose to invoke its powers under section 129 of the Act.

7. Procedures

Detect

- 7.1. Once Council has received information regarding a potentially dangerous, affected or insanitary building, it will:
- a. Check the details of the property against council records;
 - b. Have an authorised officer undertake an inspection of the building in question. In doing this, Council may seek advice from Fire and Emergency New Zealand, or any other professional or organisation deemed appropriate by Council; and
 - c. Prepare an inspection record.

Assess

- 7.2. All inspections of potentially dangerous, affected or insanitary buildings will involve an assessment of the building's condition in terms of the definitions in sections 121 and 123 of the Act, and the current building code requirements. Inspection records will be prepared in all cases.

Act

- 7.3. Once Council is satisfied that a building is dangerous, affected or insanitary, it may:
- a. Consult with the owner of the affected building to further determine the circumstances and decide on an appropriate course of action.
 - b. Inspect any building, except a household unit, to identify whether it is dangerous, affected or insanitary. Authorised officers are entitled at all times, during normal working hours, to inspect any building to identify any dangerous or insanitary buildings and are not required to inform or obtain approval for inspections to determine whether or not a building is dangerous or insanitary, unless the building is a household unit. In the case of a household unit Council must either obtain consent of the occupier of the household unit or an order from a District Court.
 - c. Invoke its powers under Section 124, 126 or 129 of the Act where a mutually acceptable outcome cannot be reached, or where the situation requires.
 - d. Inform complainants of the inspection results and Council's intended course of action to deal with the situation.

Priorities

- 7.4. Council will give priority to buildings that have been determined to be immediately dangerous. Immediate action will be required in these situations to remove the danger, such as prohibiting any person from occupying or using the building. If necessary, the building will be secured to prevent entry.

Record keeping

- 7.5. Any buildings identified as being dangerous or insanitary will have a requisition placed on Council's property database for the property on which the building is situated until the dangerous or insanitary condition is remediated.
- 7.6. In addition, the following information may be placed on any Land Information Memorandum (LIM):
- a. copies of any notices issued where a building is dangerous, **affected** or insanitary and requires evacuation of the building;
 - b. copies of any letters sent to the owner, occupier and any other person where a building is dangerous or insanitary; and
 - c. copies of any notices given under s 124(1) which identifies the work to be carried out on a building and the timeframe given to reduce or remove the danger or insanitary condition.

State of emergency

- 7.7. Where a state of emergency has been declared (or following a state of emergency, when a transition period has been declared) the council may choose to exercise powers under the Civil Defence Emergency Management Act 2002 instead of or in addition to powers under the Building Act 2004.

8. Amendments

- 8.1. The Policy may be amended when required, subject to the provisions of the Act.

9. Application and review

- 9.1. This Policy will be reviewed at least every five years as required by section 132(4) of the Building Act 2004.
- 9.2. This Policy will take effect from [**date to be confirmed**] which is the date it was formally adopted by the council.
- 9.3. This Policy does not cease to have effect because it is due for review or it is being reviewed.

7.4 Local Approved Products Policy

Author: Debbie Fortuin, Environmental Compliance Manager
Fabia Fox, Policy Analyst

Authoriser: Tracy Tierney, Group Manager Environmental Services

Recommendation

That Council adopts the Local Approved Products Policy as presented.

Purpose of Report

- 1 To present Council with the draft Local Approved Products Policy for adoption.

Assessment of Significance

- 2 The draft Local Approved Products Policy is assessed as low/medium significance for key stakeholders including potential approved products retailers and public health organisations. No potential retailers have been identified. Public health organisations were notified about the statement of proposal considering the policy for re-adoption.
- 3 The special consultative procedure (SCP) has been undertaken in accordance with section 83 of the Local Government Act 2002.

Background

- 4 The Psychoactive Substances Act 2013 allows Council to adopt a policy relating to the sale of approved products within its District.
- 5 Psychoactive substances or products are a substance, mixture, preparation, article, device, or thing that is capable of inducing a psychoactive effect in an individual who uses the substance. They are also sometimes known as a 'legal highs' or 'synthetics'. A psychoactive substance or product must be approved by the Psychoactive Substances Regulatory Authority before it can be imported, manufactured or sold in New Zealand. Council's policy addresses approved products.
- 6 Such a policy may cover the location of premises from which approved products may be sold within the District by reference to broad areas, proximity to other premises from which approved products are sold, and proximity to premises or facilities within the District (e.g. kindergartens, schools, places of worship). The policy is not able to ban the sale of an approved product in the District, only restrict the location and density of shops selling the products.
- 7 The policy must be reviewed every five years and can be amended or replaced only in accordance with the SCP.
- 8 Council adopted the current Local Approved Products Policy in 2014. The objectives of this policy are to minimise the harm caused by psychoactive substances to the community, including vulnerable members of the community, by limiting the location of any retail premises within the Timaru District.

Discussion

- 9 Council reviewed the current policy at a workshop in July 2019. No amendments to the policy were recommended at this time.
- 10 It was noted that no psychoactive substances had gained approval for retail sale since the Psychoactive Substances Act was passed in 2013, and therefore the policy remained untested.
- 11 When considering an option to revoke the policy, Council felt that it was necessary to be mindful of the future and ensure proper controls were in place should there be any development in psychoactive substance retail sector.
- 12 At a meeting on 8 October 2019 Council adopted a Statement of Proposal for the purposes of undertaking the SCP, allowing the public and key stakeholders an opportunity to provide Council with feedback on the policy.
- 13 The consultation ran from 9 October 2019 until 11 November 2019.
- 14 No submissions were received on the Local Approved Products Policy.

Options and Preferred Option

- 15 **Option 1 (preferred):** Adopt the policy as presented.
- 16 **Option 2:** Revoke the policy: The Psychoactive Substances Act 2013 does not require Council to have a policy on approved products. As no products have been approved in New Zealand since the Act came into force in 2013, Council may wish to consider if the policy is necessary.

Relevant Legislation, Council Policy and Plans

- 17 Psychoactive Substances Act 2013: Allows for Council to adopt a policy relating to the location of premises from which approved products may be sold. The Act also specifies review timeframes and the use of the SCP when amending or replacing the policy.
- 18 Local Government Act 2002 (section 83): Details the special consultative procedure that Council must undertake when proposing to amend or replace the policy under consideration. The Act also allows Council to undertake combined or concurrent consultation (Section 83A) which has been undertaken in this instance with the draft Gambling Venue Policy and the draft Dangerous, Affected and Insanitary Buildings Policy.

Financial and Funding Implications

- 19 The cost of the consultation has been drawn from existing budgets.

Other Considerations

- 20 There are no further considerations relevant to this matter.

Attachments

1. **Local Approved Products Policy** [!\[\]\(05a3150ca7eafd44fce8deaa48838121_img.jpg\) !\[\]\(6ce459b4dcae8e7d92253a855b1dd385_img.jpg\)](#)



Local Approved Products Policy (LAPP)

Approved by:	<i>Council</i>
Date Approved:	<i>To be confirmed</i>
Keywords:	<i>Psychoactive substances, Local Approved Products</i>

1.0 Introduction

- 1.1 The Psychoactive Substances Act 2013 (the Act) came into force on 18 July 2013. It seeks to regulate the importation, manufacture, sale, supply and possession of psychoactive substances. These are the active ingredients in party pills, energy pills and herbal highs.
- 1.2 The purpose of the Act is to regulate the availability of psychoactive substances in New Zealand to protect the health of, and minimise harm to, individuals who use psychoactive substances.
- 1.3 To achieve this, the Act provides for licences to be issued by the Psychoactive Substances Regulatory Authority (PSRA) for the right to retail psychoactive substances. Sections 66 – 69 of the Act allows territorial authorities to develop a policy for their area which outlines where retail outlets of approved psychoactive substances can be located. The Act refers to these policies as Local Approved Products Policy.
- 1.4 The Act defines what a Council Local Approved Products Policy (LAPP) can address:
 - 1.4.1 Location of premises from which approved products may be sold by reference to broad areas within the district.
 - 1.4.2 Location from which approved products may be sold by reference to proximity to other premises from which approved products is sold within the district.
 - 1.4.3 Location of premises from which approved products may be sold by reference to proximity to premises or facilities of a particular kind or kinds within the district (for example, kindergartens, early childhood centres, schools, places of worship, or other community facilities).

2.0 Objectives

- 2.1 This LAPP will provide guidance to PSRA as to which locations it is appropriate to grant retail licences for approved products to be sold within the Timaru District.

2.2 The objectives of this policy are:

- 2.2.1 Minimise the harm to the community caused by psychoactive substances by defining the permitted location of retail premises.
- 2.2.2 Minimise the exposure and potential for harm to vulnerable members of the community, from the sale of the psychoactive substances.
- 2.2.3 Minimise the potential for adverse effects from the sale of psychoactive products to sensitive sites and residential areas.
- 2.2.4 Ensure that Council and the community have influence over the location of retail premises in the District.

3.0 Scope

- 3.1 This policy applies to any application for a licence as defined in the Act to sell approved products from a retail premise from the date that this policy comes into force.
- 3.2 This policy does not apply to retail premises where internet sales only, are made or to premises where the sale of approved products is by wholesale only.
- 3.3 This policy does not limit the number of retail premises or restrict the issue of new licences. Provided the applicant meets the policy criteria and the provisions of the Act.
- 3.4 The requirements of the Resource Management Act 1991 and the Hazardous Substances and New Organisms Act 1996 must be met in respect of any premises holding a licence.

4.0 Definitions

- 4.1 When interpreting this Policy the definitions set out in section 8 of the Act apply unless the context requires otherwise. If you see a reference to a repealed Act, regulation, District Plan, bylaw or policy, read that as a reference to its replacement.

The Act	Means the Psychoactive Substances Act 2013
Approved location	Means an area where premises from which approved products may be sold are permitted to be located
Approved Product	Means a psychoactive product approved by the Authority under Section 37 of the Act.
Authority	Means the Psychoactive Substances Regulatory Authority (PSRA) established by Section 10 of the Act.
Central Business District	Means the area of Timaru defined by the operational Timaru District Plan Commercial 1A zone.

Childcare facilities	Means premises (public and private) where children are cared for or given basic tuition and includes a crèche, day or after-school care, pre-school, kindergarten, kohanga reo or play centre. This term excludes a school.
Educational Institution	Means institution as defined by the Education Act 1989 and amendments describing Schools, kindergartens, early childhood centres and tertiary education institutions.
Licence	Means a licence, as defined by the Act.
Psychoactive Product or product	Means a finished product packaged and ready for retail sale that is a psychoactive substance or that contains one or more psychoactive substance.
Psychoactive substance	Means a substance, mixture, preparation, article, device, or thing that is capable of inducing a psychoactive effect (by any means) in an individual who uses the psychoactive substance and defined further in s.9 of the Act
Regulations	Means regulations made under the Act.
Retailer	Means a person engaged in any business that includes the sale of products by retail.
Retail Premises	Means premises for which a licence to sell approved products by retail has been granted by the Authority
Specialist Treatment and Support Services	Means externally funded mental health, problem gambling, alcohol and other drug specialist treatment and or support service.
Sensitive Site	<p>Means sites which are used by people who are, or may be, more vulnerable to the influence of the sale of psychoactive substances.</p> <p>Includes:</p> <ul style="list-style-type: none"> • District Court; Department of Corrections; Medical Centre; • Any premises occupied by a central social welfare agency such as Work and Income or Housing New Zealand; • Specialist Treatment and Support Service facility; • Any place of worship, school, childcare facilities, or other educational institution; • Any property located in the residential zone in the operative Timaru Council District Plan; • Any Council Owned library, museum, recreational facility, public toilets; • King George Place, Strathallan Corner, Piazza, Caroline Bay and Landing Services.

5.0 Broad Areas

- 5.1 The retail premises selling psychoactive substances shall be restricted to the Commercial 1A Zone as defined by the operative Timaru District Council District Plan.
- 5.2 Retailers shall be restricted to areas in the Commercial 1A zone that are covered by CCTV. Any retailer wanting to sell approved products from an area not covered by security cameras will require to negotiate a reasonable financial contribution to the installation of a camera based on Councils assessment of the balance of private/public good.

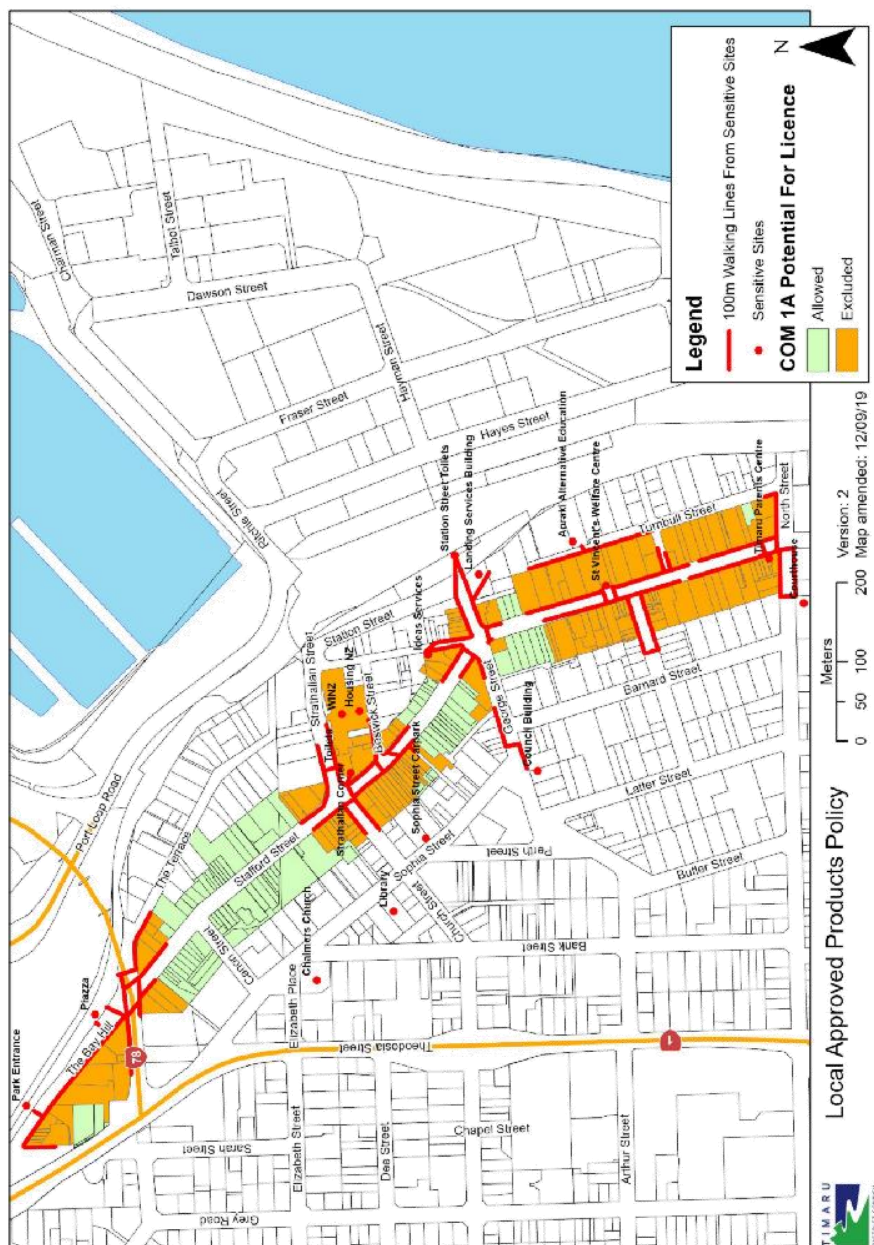
6.0 Proximity to Other Premises and Sensitive Sites

- 6.1 Licences for the sale of approved products will not be issued in respect of premises which are within 100 metres of premises for which a licence has been issued or premises which are within 100 metres of a sensitive site.
- 6.2 The 100 metre exclusion zone shall be measured from the public entrance of the applicant's premises and extend 100 metres in either direction along the thoroughfare on which the premises is situated. The measurement of the 100 metre exclusion zone shall also include any perpendicular intersecting thoroughfares and the opposite side of any such thoroughfare which falls within the 100 metre exclusion zone.
- 6.3 Following the adoption of this Policy, if an organisation or entity which falls within the definition of a sensitive site operator moves within the specified buffer zone distance of a retail premises, there is no requirement for the retail premises to move premises outside the approved buffer distance

7.0 Review

- 7.1 This Policy will be reviewed:
 - every five years as required by the Act; or
 - at the request of Council; or
 - in response to District Plan Zoning changes; or
 - in response to legislative changes; or
 - in response to any issues that may arise.

That the included map is indicative and for explanatory purposes to identify sensitive sites at the date of adoption. It is NOT part of the policy.



7.5 Re-establishment and Membership of Subcommittees and Other Groups**Author:** Nigel Bowen, Mayor**Authoriser:** Bede Carran, Chief Executive**Recommendation**

That Council:

1. Establishes the following Subcommittees and groups –
 - (a) Local Arts Scheme Subcommittee
 - (b) Sister Cities Subcommittee
2. Approves the delegations and Membership for each of the Subcommittees as set out in Appendix A
3. Resolves that the Council's Delegations Manual be updated to include these Subcommittees and their delegations

Purpose of Report

- 1 To confirm the re-establishment and membership of the subcommittees set out in this report.

Assessment of Significance

- 2 This matter is of low significance under the Council's Significance and Engagement Policy.

Background

- 3 Timaru District Council works collaboratively with other groups on a number of issues. In such instances governance may be by way of committees, working groups, advisory groups or other similar structures.
- 4 Council committees have a number of subcommittees established to consider particular issues. This report deals with those subcommittees who can deal with business on Council's behalf and with matters requiring decisions prior to the next Council meeting round in early 2020. Council is progressively reviewing other previously existing committees, subcommittees and groups to ensure the functions, delegations and membership of them is current and fits with best practice. These will be brought back progressively to meetings in early 2020.

Establishment and Appointments to Subcommittees/Groups/Panels

- 5 The subcommittees included in Appendix A require establishment and appointments to be made so they can commence and exercise the functions granted to them.

Discussion

- 6 Pursuant to clause 30(1)(a) of the LGA, a local authority may appoint the committees, subcommittees and other subordinate decision-making bodies that it considers appropriate.
- 7 The Mayor wishes to recommend that Council establishes the following Subcommittees and groups, with the functions and membership set out in Appendix A.

Relevant Legislation, Council Policy and Plans

8 Local Government Act 2002

Attachments

Nil

Appendix A – Subcommittees and Groups to be established

The following subcommittees report to the Community Services Committee.

- Local Art Scheme Subcommittee
- Sister Cities Subcommittee

Local Arts Scheme Subcommittee

Type of Committee	Subcommittee
Subordinate to	Community Services
Subordinate Committees	None
Legislative basis	<ol style="list-style-type: none"> 1 Subcommittee established pursuant to clause 30 and 31 of Schedule 7 of the Local Government Act 2002 2 Subcommittee delegated powers by Council pursuant to clause 32 of Schedule 7 of the Local Government Act 2002
Membership	Chairperson Community Services, Deputy Chairperson Community Services, one representative from each of the local Community Arts Councils, three Community Representatives, one whom must be of Maori descent and have good knowledge of local Maori arts activities.
Functions	Decision-making on Creative Communities funding applications as per the delegations.
Delegations	<p>The Council delegates the following general powers, duties and responsibilities:</p> <ol style="list-style-type: none"> 1. Delegated authority to allocate funds under the Creative New Zealand rules, and appoint three community representatives. 1. That subject to the following limitations the Local Arts Scheme Subcommittee shall have power to act in all matters concerning the functions granted by Council provided they do not conflict with the stated policy of the Council. 2. That in respect of matters requiring financial input: <ol style="list-style-type: none"> (a) The subcommittee has the power to approve funding where provision has been made in the annual Budget. 3. That minutes of subcommittee meetings contain details of subcommittee decisions made under delegated authority.

Sister Cities Subcommittee

Type of Committee	Subcommittee
Subordinate to	Community Services
Subordinate Committees	None
Legislative basis	<ol style="list-style-type: none"> 1 Subcommittee established pursuant to clause 30 and 31 of Schedule 7 of the Local Government Act 2002 2 Subcommittee delegated powers by Council pursuant to clause 32 of Schedule 7 of the Local Government Act 2002
Membership	Mayor, Deputy Mayor, Chairperson of the Community Services Committee, the Chief Executive of Aoraki Development, Chairperson of the Sister Cities volunteer group.
Functions	Sister City and Friendship relationships.
Delegations	<p>The Council delegates the following general powers, duties and responsibilities:</p> <ol style="list-style-type: none"> 1. Delegated authority to conduct the existing Sister City and Friendship relationships within budget and to appoint special purpose working parties to assist with those relationships. 2. That subject to the following limitations the Sister Cities Subcommittee shall have power to act in all matters concerning the functions granted by Council provided they do not conflict with the stated policy of the Council. 3. That in respect of matters requiring financial input: <ol style="list-style-type: none"> (a) The subcommittee has the power to approve funding where provision has been made in the annual Budget. 4. That minutes of subcommittee meetings contain details of subcommittee decisions made under delegated authority.

7.6 Appointments

Author: Nigel Bowen, Mayor

Authoriser: Bede Carran, Chief Executive

Recommendation

That Council:

1. Makes the appointments and/or delegations as set out in the recommendations included in this report.
2. Approves the other appointment decisions and/or delegations as set out below.

Purpose of Report

1. To make appointments or decide the approach to appointments to the Committees or organisations described in this report.

Background

2. Timaru District Council works collaboratively with other Councils and groups on a number of issues. In such instances governance may be by way of committees, working groups, advisory groups or other similar structures.
3. There are also other Council Organisations or affiliated organisations in respect of which Council has a right to appoint a committee member, trustee, director or other representative.
4. Recommendations are provided below relating to these appointments.

Relevant Legislation, Council Policy and Plans

5. Local Government Act 2002

Appointments

6. Audit and Risk Committee

7. At the inaugural Council meeting the new Audit and Risk Committee was established. The membership of this committee includes The Mayor, Chairperson of the Commercial and Strategy Committee, Deputy Chairperson of the Commercial and Strategy Committee, another Councillor and at least one and up to two External Appointees (one of whom will be the Chairperson). Other Councillors are able to attend as observers.
8. The membership requires that another Councillor is appointed to the Committee.

Recommendation: That an appointment of one further Councillor is made to the Audit and Risk Committee.

9. Other appointments and recommendations are outlined below:
10. **Regional Water Management Committee – Southern Zone (Timaru, Mackenzie, Waimate Districts):**

Recommendation: That the Mayor be delegated authority to appoint to the committee, in conjunction with the Mackenzie and Waimate District Councils.

11. **Biosecurity Advisory Group – Southern Zone (Timaru, Mackenzie, Waimate Districts):**

Recommendation: That the Mayor be delegated authority to appoint to the committee, in conjunction with the Mackenzie and Waimate District Councils.

Attachments

Nil

7.7 City Hub Strategy - Project Steering Group membership

Author: Frazer Munro, Development Manager

Authoriser: Sharon Taylor, Group Manager Community Services

Recommendation

- 1 That Council reconstitutes the City Hub Strategy Project Steering Group as per the previously approved Terms of Reference.
- 2 That Council appoint an Elected Member to the City Hub Strategy Project Steering Group.

Purpose of Report

- 3 To reconstitute the City Hub Strategy Project Steering Group as per the previously approved Terms of Reference (attached).
- 4 To consider the appointment of an Elected Member to the membership of the City Hub Strategy Project Steering Group

Assessment of Significance

- 5 The matter is deemed of low significance under the Councils Significance and Engagement Policy.

Background

- 6 Previous Council resolved to create a project steering group to deliver the City Hub Strategy. With the change of Council this group is now required to be reconstituted.
- 7 The City Hub Strategy and vision of *A Vibrant City Hub* was approved by Council on 28 May 2019. Four Elected Members and three Council Officers were appointed to the Project Steering Group (PSG).
- 8 Since that time, three external appointments have been made to the PSG, the Terms of Reference finalised, draft media release prepared, an Expression of Interest for the Project Delivery Manager prepared, and web page ready to go live.
- 9 With the changes brought about by the recent election, an Elected Member vacancy has arisen so there is a need to consider and nominate a new Elected Member to be appointed to the PSG. This would bring the number of Elected Members on the PSG to the previously agreed four members.
- 10 The Terms of Reference (attached) dictate that the Mayor takes the Chairperson role.

Options and Preferred Option

- 11 The options are –
 - Option 1 - That Council appoint an Elected Member to the City Hub Strategy Project Steering Group.
 - Option 2 – That no appointment is made and the Project Steering Group proceeds under its current membership.

- 12 In filling the vacant Elected Member role, consideration be given to the requirement that the PSG operates at a governance level and the value that a diverse range of perspectives would give.

Consultation

- 13 Appropriate consultation with public and relevant stakeholders will be under taken as part of the City Hub Strategy in due course.

Relevant Legislation, Council Policy and Plans

- 14 Long Term Plan 2018 -2028

Financial and Funding Implications

- 15 Not applicable.

Other Considerations

- 16 There are no other considerations relevant to this matter.

Attachments

1. **City Hub - Project Steering Group - Terms of Reference**

1. Purpose

This document describes the terms of reference for the City Hub Strategy Project Steering Group. It documents the expectations of members and sets out the mechanics of Steering Group meetings to support the successful delivery of the project.

2. Objectives

The role of the Steering Group is to formulate and deliver the City Hub Strategy by fulfilling the following objectives:

- Providing an overview to ensure that the goals of the City Hub Strategy are aligned to the strategic vision as set by Council.
- Ensuring appropriate management practices are in place.
- Ensuring effective communication with key stakeholders.
- Ensuring the project is successfully delivered according to objectives, scope, time, quality, cost, and risk.
- Provide support and guidance to the Project Delivery Manager to ensure successful delivery of the programme of work.
- Ensure any documentation going to the Council is appropriate, clear, and concise, allowing governance to make well informed and timely decisions.
- Ensure project work program remains within the bounds of the Terms of Reference and Project Plan.

3. Steering Group Membership

The City Hub Strategy Project Group is made up of the following members:

Name	Project Steering Group Role
Mayor Nigel Bowen	Chairperson
Cr Steve Wills	
Cr Sally Parker	
To be confirmed	
Sharon Taylor – GM Community Services	Group Secretary
Frazer Munro – Development Manager	
Simon Davenport – Transportation Team Leader	
Nigel Gilkison – Chairperson of CBD Group	
Shaun Stockman - Managing Director Stockman Group Ltd	
Karl Jackson - General Manager Te Runanga Arowhenua	

4. Steering Group Role and Responsibilities

- Appoint an External Project Delivery Manager to oversee the technical delivery of the City Hub Strategy.
- In consultation with the Project Delivery Manager prepare a Project Management Plan to be approved by Council.
- In consultation with the Project Delivery Manager appoint members to the Project Team.
- Approve the key elements that contribute to the Vision and will constitute the content / work streams of the Strategy.
- Oversee the Project Delivery Managers' compilation of the work streams into a coherent Strategy for approval by Council
- Provide regular reporting to the Council by;
 - Providing advice and recommendations on key project decisions, documents and issues.

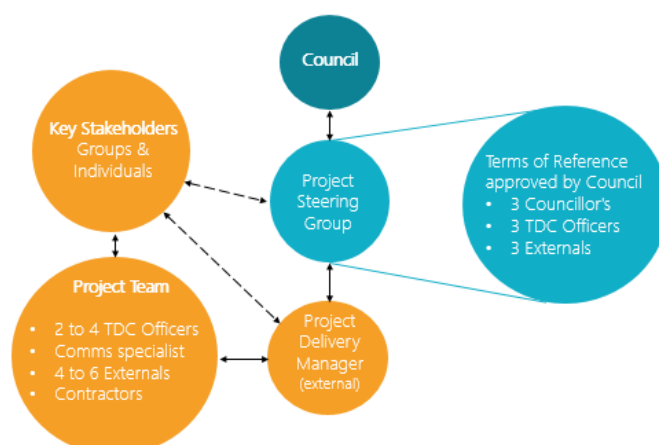
- Providing information which gives assurance that the project is within agreed bounds and on budget to deliver outcomes.
- Be responsible for the allocation of financial resources.
- Manage and escalate significant risks and issues for the project.
- Provide support for project communications.
- Champion the project
- Any other responsibilities or requests as set by Council

5. Membership Expectations

That each Steering Group member:

- Has read and understood the Terms of Reference
- Is aware of their responsibilities as set out in the Terms of Reference
- Is able to provide constructive input and advice to the project
- Is able to actively assist with issue resolution
- Is committed to the project and understand the importance of their contribution to the project's success
- Is committed to prepare for and attend Steering Group meetings

6. Project Structure



7. Meetings

The Steering Group will meet monthly and will consider the following;

- Minutes and actions of the previous meeting;
- Consolidated project information – status information, risks, issues, communication requirements;
- Documents for approval;
- Other business as appropriate to support the project.

More frequent meetings may be scheduled as required.

A quorum of the Steering Group will be met by attendance of at least two Councillors and at least 3 of the other members of the Steering Group.

Other staff may be asked to attend Steering Group meetings to support the information presented.

The Timaru District Council will provide administration support for the meetings of the Steering Group.

8. Terms of Reference Review

The terms of reference shall apply for the duration of the project. They be approved by Council, review annually and may be altered or amended by the Timaru District Council as required.

7.8 Timaru District Holdings Limited - Appointment of Directors**Author:** Bede Carran, Chief Executive**Authoriser:** Bede Carran, Chief Executive**Recommendation**

That current directors Richard Lyon, Ian Fitzgerald and Richie Smith be re-appointed as Directors of Timaru District Holdings Limited (TDHL) at the next Annual Meeting of TDHL (December 2019), with Mr Fitzgerald to continue as Chairperson.

That the Chief Executive be authorised to execute, on behalf of Timaru District Council, any shareholder's resolution to give effect to the above.

Purpose of Report

- 1 The purpose of this report is to confirm Council's approval, as shareholder of TDHL, to the re-appointment or continuation (as appropriate) of Richard Lyon, Ian Fitzgerald and Richie Smith as directors of TDHL.

Assessment of Significance

- 2 This matter is of low significance under Council's Significance and Engagement Policy.

Discussion

- 3 The current directors of TDHL are Richard Lyon, Ian Fitzgerald (Chair), Richie Smith and Mayor Nigel Bowen.
- 4 Richard Lyon was appointed in October 2017, Ian Fitzgerald and Richie Smith were appointed in May 2018, and Nigel Bowen was appointed in October 2019.
- 5 Under the constitution of TDHL, one third of directors (the longest standing) are to retire from office at the Annual Meeting (of shareholders) of TDHL, but may be re-elected.
- 6 With four directors currently, this means 2 directors are required to retire (who may be re-elected) at the next Annual Meeting (which is being held in December 2019).
- 7 The purpose of this is to enable a rotation of the Board where appropriate. Recently retired directors Kerry Stevens and (if drawn by lot, Damon Odey), were due to retire at the upcoming Annual Meeting. However, Mr Stevens and Mr Odey have recently retired as they are no longer Elected Members, as required by the constitution. This results in the requirement to consider director rotation at the Annual Meeting December 2019, even though those directors (in the case of Mr Fitzgerald and Mr Smith) would not, and Mr Lyon may not, otherwise have been due to retire and be considered for re-appointment.
- 8 To ensure adequate continuity at this point within the governance of TDHL, Council may consider the re-appointment of Mr Lyon, Mr Fitzgerald and Mr Smith desirable, particularly given the review of TDHL currently underway (and well advanced) includes looking at the director appointment process and the composition of directors vis-à-vis elected member and external directors. Additionally, making changes to the TDHL Board at this time, when the

TDHL review is nearing completion (which will consider and will make recommendations as to Board structure) may be considered unnecessarily disruptive.

- 9 For these reasons, Council may consider it reasonable and appropriate to approve the re-appointment or continuation (as applicable) of Richard Lyon, Ian Fitzgerald and Richie Smith as directors of TDHL..

Options and Preferred Option

- 10 The first option is to approve the re-appointment or continuation (as applicable) of Richard Lyon, Ian Fitzgerald and Richie Smith as directors of TDHL.
- 11 An alternative option includes operating with a smaller Board (the Board must comprise at least 1 external director and 2 Elected Member directors), seek alternative application(s) for 1 or both directorships that are required be considered for rotation, and as necessary enter into a recruitment process which will take some.

Consultation

- 12 There is no consultation requirement in relation to these appointments.

Relevant Legislation, Council Policy and Plans

- 13 Companies Act 1993, Local Government Act 2002, Director and Trustee Appointment Policy.

Attachments

Nil

8 Consideration of Urgent Business Items

9 Consideration of Minor Nature Matters

10 Public Forum Items Requiring Consideration