

Timaru District Council Policy Review Consultation

- **Gambling Venue Policy**
- **Local Approved Products Policy**
- **Dangerous and Insanitary Buildings Policy**

Let us know what you think of our draft policies



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Purpose of this Statement of Proposal

Timaru District Council has reviewed three policies and is now proposing a number of changes. This Statement of Proposal is seeking public feedback on these changes. Let us know what you think...

Council is seeking feedback on:

- **The draft Gambling Venue Policy;**
- **The Local Approved Products Policy; and**
- **The draft Dangerous, Affected and Insanitary Buildings Policy**

This Statement of Proposal has been prepared in accordance with the requirements of section 83 and 87 of the Local Government Act 2002. It includes making publicly available –

- The draft policy and the rationale behind this;
- Other reasonably practicable options; and

A description of the consultation and submission process, including the period within which views on the proposal may be provided.

Once the submission period closes, Council will conduct hearings for anyone who wishes to speak in support of their submission. See Page 20 for details.



1. Gambling Venue Policy

What is Being Proposed

Timaru District Council is proposing a number of changes to our current Class 4 Gambling Venue and Board Venue Policy. These changes have been included in the draft policy and the rationale for their inclusion is discussed on Page 5.

There are a number of other policy options which can be taken into account. The advantages and disadvantages of these options are discussed on Page 9.

Background

The Gambling Act 2003 and the Racing Act 2003 require all territorial authorities (city and district councils) to have policies relating to Class 4 gambling venues and Racing Industry Transition Agency* (TAB) venues in their district. These policies must be reviewed every three years, taking into account the social impacts of gambling. Council's current policy combines both Class 4 and Agency venues.

The oversight of Class 4 gambling venues and Agency (TAB) venues sits with the Department of Internal Affairs (DIA). However, territorial authorities are responsible for issuing consent to venues that wish to provide Class 4 or TAB gambling. Essentially, DIA may issue a licence to a venue once Council has issued consent for that particular venue in accordance with this policy.

*Formerly the New Zealand Racing Board

Quick Facts

What is Class 4 gambling?

Class 4 gambling covers gaming machines, commonly known as pokie machines, in venues that are not casinos.

And Agency venues?

This deals with stand-alone Racing Industry Transition Agency venues, or TAB, venues. It does not cover TAB outlets.

Gambling venues in the Timaru District

There are currently 14 Class 4 gambling venues in the Timaru District and a total of 165 gaming machines.*

There are no Agency venues in the District.*

*DIA gambling statistics as at 30 June 2019. www.dia.govt.nz

What does the Policy deal with?

Under the Gambling Act 2003 Council's policy:

- **must** specify whether or not a Class 4 venue may be established and, if so, where they may be located within the District; and
- **may** specify any restrictions on the maximum number of gaming machines that may be operated at a venue; and
- **may** include a relocation policy.

The Gambling Act 2003 sets a maximum limit of nine machines for new venues. Council is able to set a lower limit through its policy.

Under the Racing Act 2003, Council's policy:

- **must** specify whether or not new TAB venues may be established and, if so, where they may be located within the District.

What doesn't the Policy cover?

Council's policy cannot:

- reduce the number of machines in existing venues
- control the hours of operation for gambling venues
- close down an existing gambling venue
- control what happens to the proceeds of gambling – i.e. where, and to whom the proceeds are distributed.
- regulate casinos, internet gambling, or Lotto outlets

Class 4 Gambling Venue and Board Venue Policy

Adopted 22 November 2016

Policy Objectives:

- Recognise that gambling can be a serious problem;
- Ensure that Council and the community has influence over the provision of new gambling venues within the Timaru District;
- Allow those who wish to participate in controlled gambling to do so; and
- Minimise harm to our community caused by gambling.

Gambling Venue Locations:

New applications will be approved within the boundary of the Timaru township if:

- They are within Commercial 1, 2 and 3 Zones or Recreation Zones
- They are no closer than 200m by public access way to any Residential Zone;
- They are no closer than 100m by public access way to any school, early childhood centre, kindergarten, place of worship, other community facility, or any other gambling venue (TAB venues can apply for an exemption to this);
- The venue is not associated with family or children's activities, unless the activity is in a room separate from gaming machines;
- The venue (within the Recreation Zone) is within a recognised sports or other recreational non-profit club building.

New applications will be approved in all other areas of the Timaru District if:

- They are within Commercial 1 Zone or Recreation Zones.
- They are no closer than 25m by public access way to any Residential Zone;
- They are no closer than 25m by public access way to any school, early childhood centre, kindergarten, place of worship, other community facility, or any other gambling venue (TAB venues can apply for an exemption to this);
- The venue is not associated with family or children's activities, unless the activity is in a room separate from gaming machines;
- The venue (within the Recreation Zone) is within a recognised sports or other recreational non-profit club building.

Number of Gaming Machines:

- New Class 4 venues are allowed a maximum of 7 gaming machines.
- Existing venues with fewer than 7 gaming machines are allowed to increase the number of machines to 7.

Exemptions:

- 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.

Applications:

- All applicants must complete the required form.
- Application fees are set by Council and reviewed from time to time with the intention of recovering full costs from applicants.

A full copy of the current Class 4 Gambling Venue and Board Venue Policy is available at www.timaru.govt.nz or contact Council on **03 687 7200**.

Proposed Changes

Council is proposing a number of changes to ensure the policy is fit for purpose, and continues meeting its objectives. These changes include:

Change	Reason
Including a relocation policy	<ul style="list-style-type: none"> ■ The current Policy does not allow for the relocation of Class 4 gambling venues in accordance with Section 97A of the Gambling Act. 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). ■ Council is proposing to include a policy 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. ■ This would mean the Gambling Venue Policy does not negatively impact existing businesses when events beyond their control mean they must relocate. ■ While this would not increase the overall number of gaming machines in the District, it will not decrease them either.
Removing "Recreation Zones" from areas where gambling venues may be established	<ul style="list-style-type: none"> ■ The inclusion of "Recreation Zones used for organised sporting purposes or recreational non-profit purposes" in the areas where gambling venues may be established is inconsistent with the intent of the Policy. ■ The policy currently excludes gambling venues from close proximity to places where children, families, community groups, and individuals congregate for physical, social, cultural or intellectual development and wellbeing: pre-schools; schools; places of worship; and community facilities; including playgrounds; halls; community centres; and swimming pools. As such, Recreation Zones used for organised sporting purposes or recreational non-profit purposes should also be excluded from the locations where gambling venues may be established.
Removing exemption clause	<ul style="list-style-type: none"> ■ This clause currently states that: "not all venues, including existing venues, will be able to comply with the policy requirements. For this reason Council will consider applications for exemption made in respect to specific sites." ■ This clause creates unnecessary ambiguity for Council officers processing applications. Council believes that only venues who meet the criteria detailed in the Policy should be given consent to operate gaming machines. ■ Further, as the Policy applies to new applications for consent, existing venues and their licences are not affected by this policy, unless the venue proposes to increase the number of gaming machines or to relocate.
Simplifying the wording of the Policy and clarifying definitions	<ul style="list-style-type: none"> ■ The current Policy is quite wordy and in some places is unnecessarily complicated. Council believes all our policies should be easily understood. Apart from the proposed changes detailed below, these wording changes do not alter the meaning or intent of the Policy.
Change the policy title to "Gambling Venue Policy"	<ul style="list-style-type: none"> ■ The current Policy is titled "Class 4 Gambling Venue and Board Venue Policy", and it's a bit of a mouthful. Council thinks "Gambling Venue Policy" covers the purpose of the Policy just nicely.

Tell us what you think of the proposed changes on Page 21



Draft Gambling Venue Policy

1. Purpose

- 1.1 The purpose of this Policy is to:
 - 1.1.1 Detail Council's policy with regards to consenting applications for new Class 4 gambling venue and Racing Industry Transition 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 To allow those who wish to participate in controlled gambling to do so within the Timaru District.
 - 1.1.5 To minimise harm to the community caused by gambling.

Note: The Gambling Venue Policy applies only to new applications for Class 4 gambling venues and Agency venues, it 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 a 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.
- 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 the 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 (9) machines for new venues and those venues that obtained a licence after 17 October 2001. This policy proposes a maximum of seven machines (see Clauses 6.1).
 - 2.3.3 In the development of this 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.

Draft Gambling Venue Policy Continued...

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 (e.g. 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 – Early 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; and
 - 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 the rest of the Timaru District, outside the boundary of the Timaru Township, Gambling Venues may be established in Commercial 1 Zone subject to:
- 5.1.1 Meeting 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 metres, 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 Class 4 gambling venues is subject to:
- 6.2.1 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
 - the building in which the venue is located is deemed under the Building Act 2004 to be earthquake-prone, dangerous, affected or insanitary
 - 6.2.2 The total number of Class 4 gaming machines at the new premises must be the same, or less, than the existing Class 4 venue.
 - 6.2.3. The consent application meeting all other requirements of this Policy.

Draft Gambling Venue Policy Continued...

- 7. Number of Machines**
- 7.1 New Class 4 gambling venues shall be allowed a maximum of seven (7) gaming machines.
 - 7.2 Consent from Council is required if an existing Class 4 gambling venues operating fewer than seven (7) gaming machines wishes to increase the number of machines operated at the venue to seven (7).
-
- 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 liquor or for liquor 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.
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- 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 Fees 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. Application and Review**
- 11.1 This Policy will be reviewed at least ever three years, as required by the Gambling Act 2003 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.



Other Options

While it is Council's preferred option to adopt the draft policy as presented, there are other options available, taking into consideration the social impact of gambling within the Timaru District. These are:

Options	Advantages and Disadvantages
<p>Status Quo</p> <ul style="list-style-type: none"> ■ Maintain the current cap at 7 machines per venue. ■ Maintain the current location restrictions. ■ No Relocation Policy. 	<ul style="list-style-type: none"> ■ Under the current Policy the total number of gaming machines in the Timaru District has fallen. As at 30 June 2019 there were 165 machines, down from 213 in 2016. This may suggest that, through natural attrition, machine numbers will continue to decrease. Yet in the year ending 30 June 2019 over \$38,000 more was spent on gaming machines than in the year ending 30 June 2016. This is to say, more money is being spent on less machines*. ■ The current policy may not be meeting its purpose to minimise harm caused to the community by gambling. ■ The level of funding available in the Timaru District from charitable trusts operating gambling machines is maintained. ■ Without a Relocation Policy, current venues are not able to relocate should circumstances require a change of venue. They need to apply for a new consent and the number of machines would be capped at 7, which may have adverse financial implications if the venue's previous licence allowed for higher numbers of machines. <p>* DIA gambling statistics as at 30 June 2019. www.dia.govt.nz</p>
<p>Sinking Lid Policy</p> <ul style="list-style-type: none"> ■ No new consents will be issued by Council. ■ Venues will not be able to increase their number of machines. ■ Gaming machines will not be able to be transferred to another venue if one venue closes. ■ Consent will not be given for venue relocations. 	<ul style="list-style-type: none"> ■ Over time, this would lead to a decrease in the number of venues and machines in the Timaru District, potentially reducing the harm caused by problem gambling, while still allowing for existing venues to continue to operate. ■ If a venue is unable to continue operating in its current location (for example, due to a fire, or a building lease is not renewed), the venue would not be able to relocate its machines to any other venue. ■ A sinking lid policy takes time to have an effect on the total number of gaming machines and is reliant on current venues closing down. ■ May discourage some hospitality businesses from establishing within the District if they are unable to have gaming machines and negatively affect employment opportunities in the hospitality industry. ■ May reduce over time the level of funding available in the Timaru District from charitable trusts operating gambling machines.
<p>Other Capping options</p> <ul style="list-style-type: none"> ■ Capping the total number of gaming machines in the District. ■ Reduce the cap on the number of machines each new venue may operate. 	<ul style="list-style-type: none"> ■ A district wide cap of machines would ensure no further potential for gambling harm is created. ■ A reduction in the cap on machines per venue may further reduce the potential for problem gambling by minimising any potential proliferation of machines in the District. ■ May discourage some hospitality businesses from establishing within the District if they are unable to have gaming machines and negatively affect employment opportunities in the hospitality industry. ■ May reduce over time the level of funding available in the Timaru District from charitable trusts operating gambling machines.
<p>Ease Restrictions</p> <ul style="list-style-type: none"> ■ Increase the number of machines allowed at each venue to the legislative maximum.* <p>*18 machines for those venues which holding such a licence prior to 17 Oct 2017, 9 machines for those with such a licence issued after this date.</p>	<ul style="list-style-type: none"> ■ This approach would be more enabling for businesses, allowing a greater number of machines within the District as a whole, and possibly in each venue. As such, it may help enhance the benefits of gambling, including the economic success of local businesses, social enjoyment, and the availability of funding for the District. ■ However, this option might result in an increase in the current levels of gambling risk, which is not consistent with the general objectives of this policy.

Do you support any of these other policy options? Tell us on Page 21

2. Local Approved Products Policy

What is Being Proposed

Council has reviewed the Local Approved Products Policy and believes no changes are necessary at this time. We would like to know if you think that the Policy is appropriate, or if you think we need to make some changes to make it more effective.

Background

The Psychoactive Substances Act 2013 regulates the manufacture and sale of psychoactive substances, also known as 'legal highs', in New Zealand. The Act was introduced to ensure manufacturers of these products underwent safety and risk testing, and to minimise the potential harm caused by psychoactive substances. Under the Act, councils are able to adopt a policy detailing the locations of premises from where approved products may be sold.

Under the legislation, Council does not have the power to prohibit the sale of 'legal highs'. This is regulated by the Psychoactive Substances Regulatory Authority (PSRA). The PSRA issues licences to people and businesses wanting to import, manufacture and sell psychoactive substances in New Zealand. All products must also undergo a rigorous approval process. The products must pose no more than a low risk of harm to users, and go through a process similar to that required for new medicines. If a product meets these strict criteria it is classified as an approved product.

In 2014 Council adopted a policy addressing the licencing and control of retailers wanting to sell approved products or legal highs. Council recognised that within the community there was considerable concern about the availability, effects and usage of these substances. Council further recognised a need to be mindful of the future and to ensure proper controls were in place for any potential development in this particular sector of retail.

What are Psychoactive Substances?

A psychoactive product or substance refers to a substance, mixture, preparation, article, device, or thing that is capable of inducing a psychoactive effect in an individual who uses the substance. They can also sometimes be known as 'legal highs' or 'synthetics'.

Approved Products in the Timaru District

Broadly, the current policy restricts retail outlets of approved psychoactive substances to Commercial Zone 1A in Timaru. Legal highs cannot be sold in other townships or in rural areas.

Council cannot ban shops that sell legal highs. The law only permits our policy to restrict the location and density of shops selling legal highs.

As at 31 May 2019 there were no approved products in Timaru or New Zealand, and no applications for approval have been received since the Psychoactive Substances Act was introduced in 2013.

Options

While it is Council's preferred option to maintain the existing Local Approved Products Policy, there are a couple of other options available:

Revoke the policy: The legislation does not require Council to have a policy. As there are currently no approved products in New Zealand, or any applications for approval, it could be concluded that it is unnecessary to have such a policy. However, Council would prefer to maintain the policy in the event that some psychoactive substances are approved in the future.

Amend the policy: Council's policy cannot ban psychoactive substances, or regulate them to such an extent that it effectively creates a ban, however the locations where approved products can be sold can be amended. Council is confident that the current policy provides the appropriate restrictions for potential retailers of approved products.

Do you support any of these other policy options? Tell us on Page 22



1. 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:
 - 1.41 Location of premises from which approved products may be sold by reference to broad areas within the district.
 - 1.42 Location from which approved products may be sold by reference to proximity to other premises from which approved products is sold within the district.
 - 1.43 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. 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 to:
 - 2.21 Minimise the harm to the community caused by psychoactive substances by defining the permitted location of retail premises.
 - 2.22 Minimise the exposure and potential for harm to vulnerable members of the community, from the sale of the psychoactive substances.
 - 2.23 Minimise the potential for adverse effects from the sale of psychoactive products to sensitive sites and residential areas.
 - 2.24 Ensure that the Council and the community have influence over the location of retail premises in the District.

3. 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.
- 3.4 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.
- 3.5 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.

Local Approved Products Policy continued...

4. Definitions

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	Means sites which are used by people who are, or may be, more vulnerable to the influence of the sale of psychoactive substances. Includes: <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. 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.

Local Approved Products Policy continued...

6. Proximity to Other Premises and Sensitive Sites

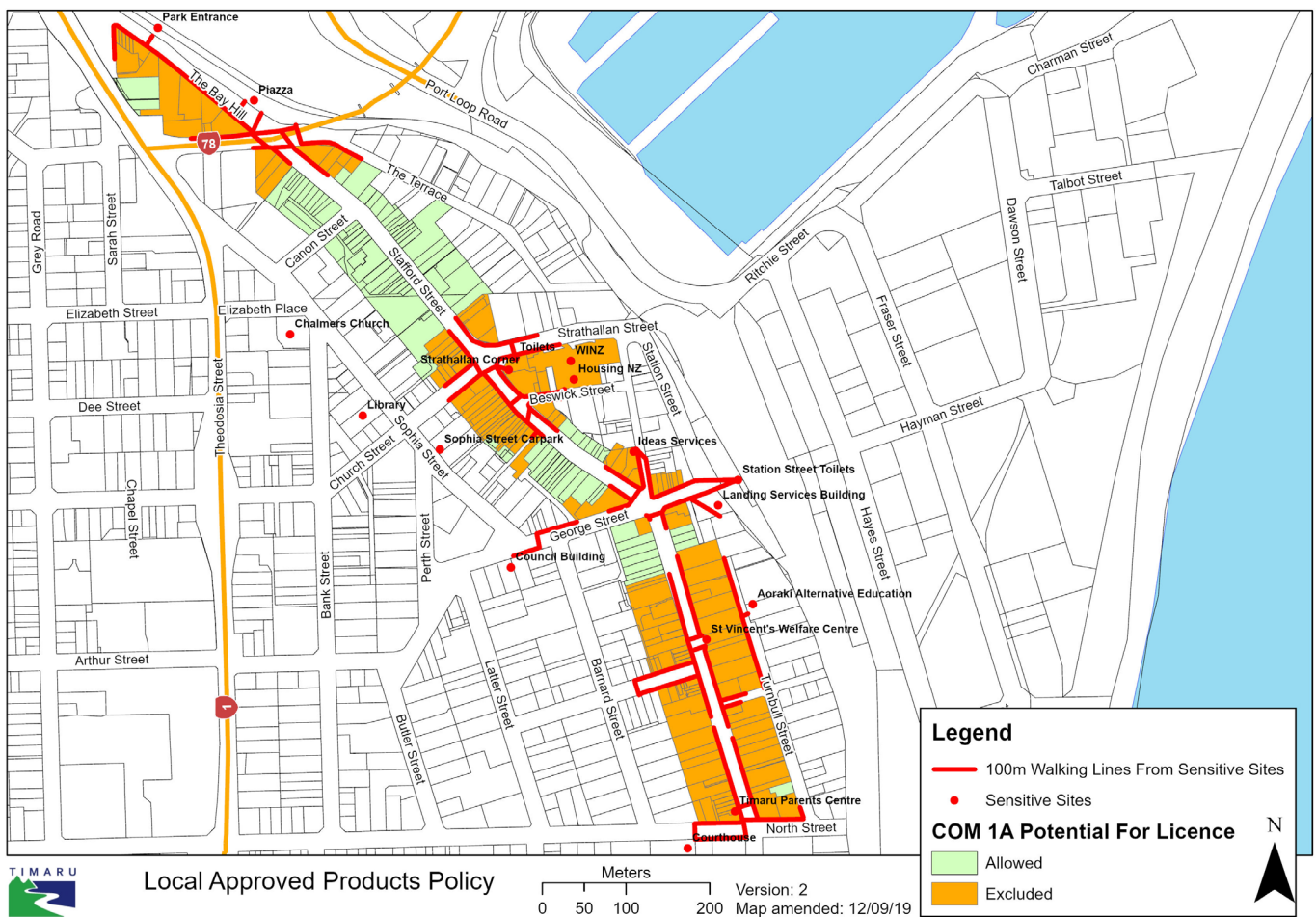
- 6.1 Licences for the sale of approved products will not be issued in respect of premises which are within 100 metres of premises for which a licence has been issued or premises which are within 100 metres of a sensitive site.
- 6.2 The 100 metre exclusion zone shall be measured from the public entrance 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. 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.

Map

The map included is indicative and for explanatory purposes to identify sensitive sites. It is NOT part of the policy.



Tell us what you think of this policy on Page 22

3. Dangerous, Affected and Insanitary Buildings Policy

What is Being Proposed

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

Background

We like to think of our Building Control Unit as the guardians of our built environment. They are responsible for ensuring a safe residential and commercial environment for workers, residents and visitors to our District, in accordance with the provisions of the Building Act 2004.

Council also has a responsibility as a regulator and Building Consent Authority to ensure the purposes of the Building Act 2004 are being met. This varies from inspecting and consenting building developments to the strict standards set by the legislation; to ensuring existing buildings are safe and hazards are dealt with.

Our current Dangerous and Insanitary Building Policy is an important tool to help us:

- reduce the risk unsafe buildings pose;
- to improve the control of, and encourage better design and construction of buildings; and
- to provide a clear framework for how Council will manage buildings which may pose a risk to our community and visitors.

Proposed Changes

An amendment to the Building Act in 2013 requires Council's current Dangerous and Insanitary Buildings Policy to be amended to take into account 'affected buildings'.

Having reviewed the Policy, we are proposing to include consideration for affected buildings in all instances where Council currently considers dangerous buildings.

We have included the full draft policy in this Statement of Proposal with the proposed changes marked in **red**.

What is an "affected building"?

These are buildings that pose a risk to users and/or passers-by because of their proximity to dangerous buildings.

The Building Act states a building is an affected building if it is adjacent to, adjoining, or nearby to a dangerous building or a dangerous dam.*

*Building Act 2004, Section 121A,

Options

Council's preferred option is to adopt the draft Dangerous, Affected and Insanitary Buildings as presented. It is a legislative requirement for Council to take into account affected buildings so we don't have an option around this.

Because this Policy is largely dictated by the Building Act 2004, there isn't a lot of wiggle room on many of the provisions. However, we would like to know if you think there are areas we could change or improve on to make the Policy more efficient.

**Are there other policy options you think we should consider?
Tell us on Page 22**

Draft Dangerous, Affected and Insanitary Buildings Policy

Note: All the proposed changes to the current policy are marked in **red**.

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 that 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 (and its amendments)
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 – <ol 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.

Draft Dangerous, Affected and Insanitary Buildings Policy continued...

Term	Definition
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: <ol 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 – <ol 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 – <ol style="list-style-type: none"> (a) means a temporary or permanent movable or immovable structure (including a structure intended for occupation by people, animals, machinery, or chattels); and (b) includes – <ol 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 (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 (d) includes the non-moving parts of a cable car attached to or servicing a building; and (e) includes the moving parts of a cable car attached to or servicing a building.
Council	means the Timaru District Council
Dangerous building	has the same meaning as section 121 of the Act, as follows: <ol style="list-style-type: none"> (1) A building is dangerous for the purposes of this Act, if - <ol style="list-style-type: none"> (a) In the ordinary course of events (excluding the occurrence of an earthquake), the building is likely to cause – <ol 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. (2) For the purpose of determining whether a building is dangerous in terms of subsection (1)(b), a territorial authority – <ol 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	has the same meaning as section 7 of the Act, as follows: means a building that is included on - <ol 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: <ol style="list-style-type: none"> (a) means a building or group of buildings, or part of a building or group of buildings, that is – <ol style="list-style-type: none"> (i) used, or intended to be used, only or mainly for residential purposes; and (ii) occupied, or intended to be occupied, exclusively as the home or residence of not more than one household; but (b) does not include a hostel, boardinghouse, or other specialised accommodation.

Draft Dangerous, Affected and Insanitary Buildings Policy continued...

Term	Definition
Insanitary building	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 – <ul style="list-style-type: none">(a) is offensive or likely to be injurious to health because -<ul style="list-style-type: none">(i) of how it is situated or constructed; or(ii) it is in a state of disrepair; or(b) has insufficient or defective provisions against moisture penetration so as to cause dampness in the building or in any adjoining building; or(c) does not have a supply of potable water that is adequate for its intended use; or(d) does not have sanitary facilities that are adequate for its intended use.
Inspection	has the same meaning as section 222 of the Act, as follows: means the taking of all reasonable steps – <ul style="list-style-type: none">(a) to determine whether –<ul style="list-style-type: none">(i) building work is being carried out without a building consent; or(ii) building work is being carried out in accordance with a building consent; or(iii) a notice to fix has been complied with:(b) to ensure that –<ul style="list-style-type: none">(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(ii) in relation to buildings that have specified systems, the requirement for a compliance schedule is being complied with:(c) to enable an authority to –<ul style="list-style-type: none">(i) identify dangerous, earthquake-prone or insanitary buildings within its district; and(ii) carry out its functions or duties in relation to those buildings:(d) to satisfy a territorial authority as to whether a certificate of acceptance for building work should be issued under section 96.
Owner	has the same meaning as section 7 of the Act, as follows: in relation to land and any buildings on the land – <ul style="list-style-type: none">(a) means the person who –<ul style="list-style-type: none">(i) is entitled to the rack rent from the land; or(ii) would be so entitled if the land were let to a tenant at a rack rent; and(b) includes –<ul style="list-style-type: none">(i) the owner of the fee simple of the land; and(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.
Territorial authority	has the same meaning as section 7 of the Act, as follows: <ul style="list-style-type: none">(a) means a city council or district council named in Part 2 of schedule 2 of the Local Government Act 2002; and –<ul style="list-style-type: none">(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(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(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.

Draft Dangerous, Affected and Insanitary Buildings Policy continued...

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:
- Consult with the owner of the building to further determine the circumstances and decide on an appropriate course of action.
 - 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.
 - Invoke its powers under Section 124, 126 or 126 or 129 of the Act where a mutually acceptable outcome cannot be reached, or where the situation requires.
 - 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):
- copies of any notices issued where a building is dangerous, affected or insanitary and requires evacuation of the building; and
 - copies of any letters sent to the owner, occupier and any other person where a building is dangerous or insanitary; and
 - copies of any notices given under s124(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 does not cease to have effect because it is due for review or it is being reviewed.
- 9.3. This Policy will take effect from *****date to be confirmed***** which is the date it was formally adopted by Council.

4. Have your say

Let us know what you think about our draft policies

You can do this by:

- Going to the Council website www.timaru.govt.nz and completing the online feedback form
- Filling out the submission form at the end of this document with your feedback and Freepost it back to Council (instructions on the next page)
- Scanning your feedback form and emailing this to: submission@timdc.govt.nz

Want more information?

Submissions close 5.00pm Monday 11 November 2019

If you have any questions about the draft policies, you can contact:

Gambling Venue Policy and Local Approved Products Policy

Debbie Fortuin, Environmental Compliance Manager (debbie.fortuin@timdc.govt.nz)

Dangerous, Affected and Insanitary Buildings Policy

Jayson Ellis, Building Control Manager (jayson.ellis@timdc.govt.nz)

If you have any questions about the consultation process, please contact Mark Low (mark.low@timdc.govt.nz) or Fabia Fox (fabia.fox@timdc.govt.nz)

Telephone: 03 687 7200

Timeline

Timeline for considering the draft policies.

**9 October 2019 –
11 November 2019:**

Consultation period

11 November 2019:

Submissions close

26 November 2019:

**Council considers submissions
(public hearings if required)**

10 December 2019:

**Council decision on Gambling Venue
Policy; Local Approved Products Policy;
and Dangerous, Affected and Insanitary
Buildings Policy**

Submission Form

Your details

First name:

Last name:

Organisation (if applicable):

Phone (landline or mobile):

Email address:*

Postal address:*

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*we require your email address and/or your physical postal address.

Your feedback

Do you want to speak about your submission at a Council Hearing? (tick a box)**:

Yes No

**must complete. If you do not complete, we will assume you do not wish to speak.

Which policy are you providing feedback on? (tick as many as apply)

Gambling Venue Policy Local Approved Products Policy Dangerous, Affected and Insanitary Buildings Policy

Gambling Venue Policy

Do you support the draft Gambling Venue Policy as presented? (tick a box):

Yes No

Comments:

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What changes, if any, would you like to see in the Policy?

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How to return this form via FreePost

Complete **Your details** and **Your feedback** sections

Put your form in a sealed envelope and address to:

FreePost Authority Number
95136
Policy Review Consultation
Timaru District Council
PO Box 522
TIMARU 7940

Thank you.

Local Approved Products Policy

Do you support the Local Approved Products Policy as presented? (tick a box):

Yes No

Comments:

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What changes, if any, would you like to see in the Policy?

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Dangerous, Affected and Insanitary Buildings Policy

Do you support the draft Dangerous, Affected and Insanitary Buildings Policy as presented? (tick a box):

Yes No

Comments:

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What changes, if any, would you like to see in the Policy?

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Need more room?

Please use extra paper if required and attach with your submission.

Submissions are public information

Submissions made to Council, including submitters' name, will be included in papers available to the Council, media and the public.

If requested, Council is legally required to make all written and electronic submissions available to the public including the name and contact details of the submitter, subject to the provisions of the Local Government Official Information and Meetings Act 1987.

If you believe there are compelling reasons why your contact details or submission should be kept confidential, please contact us.

Timaru District Council

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www.timaru.govt.nz

