



AGENDA

Extraordinary Council Meeting Tuesday, 30 January 2024

Date Tuesday, 30 January 2024

Time 1pm

Location Council Chamber
District Council Building
King George Place
Timaru

File Reference 1647746

Timaru District Council

Notice is hereby given that a meeting of the Extraordinary Council will be held in the Council Chamber, District Council Building, King George Place, Timaru, on Tuesday 30 January 2024, at 1pm.

Council Members

Mayor Nigel Bowen (Chairperson), Cllrs Allan Booth, Peter Burt, Gavin Oliver, Sally Parker, Stu Piddington, Stacey Scott, Scott Shannon, Michelle Pye and Owen Jackson

Quorum – no less than 5 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.

Nigel Trainor

Chief Executive

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- 1 Apologies**
- 2 Public Forum**
- 3 Declaration of Conflict of Interest**

4 Reports

4.1 Discontinuation of 3 Waters Court of Appeal Action

Author: Nigel Trainor, Chief Executive

Authoriser: Nigel Trainor, Chief Executive

Recommendation

That Council:

1. Approve the withdrawal of the appeal from the High Court decision of ***Timaru District Council and Ors v Minister of Local Government*** [2023] NZHC 244 [CIV-2021-485-641].
2. Note that there will be modest legal costs associated with the withdrawal of the appeal but that these will be substantially less than continuing with the appeal.

Purpose of Report

- 1 As a result of the new Government's commitment to repeal the previous Government's 3 Waters legislation, this report seeks a Council resolution to withdraw formally from its appeal of the High Court decision of 21 February 2023 in ***Timaru District Council and Ors v Minister of Local Government*** [2023] NZHC 244 [CIV-2021-485-641].

Assessment of Significance

- 2 This matter is deemed to be of low significance in respect of Council's Significance and Engagement Policy. This decision does not require consultation. It reflects the success of Council's lobbying efforts against the previous Government's 3 Waters reform proposals.

Background

- 3 In 2022, Timaru District Council, Waimakariri District Council, and Whangarei District Council launched proceedings in the High Court seeking declarations that the Crown was expropriating without compensation local authorities 3 Waters assets.
- 4 On 21 February 2023 the High Court declined to make the declarations but did state that what the then Government was proposing did amount to expropriation but that the matter of compensation was for Parliament.
- 5 Timaru District Council and Waimakariri District Council subsequently appealed the decision not to make the declarations sought. This appeal is due to be heard by the Court of Appeal in April 2024.

Discussion

- 6 On 14 October 2023, the General Election was held which has subsequently seen the formation of a new coalition Government comprised of the National, ACT and NZ First Parties. The coalition agreements underpinning the new Government, committed to a repeal of the previous Government's decision to expropriate council 3 Waters assets.
- 7 On 14 December 2023, the Minister of Local Government, Hon. Simeon Brown, publicly announced that appeal legislation would be introduced to Parliament in early 2024 as part of

the new Government's 100 day programme. We understand that this is scheduled for mid-February 2024. Parliament resumes on 30 January 2024.

- 8 Given the new Government's policies, legal advice is that it would be appropriate now to withdraw the scheduled Court of Appeal action as the policy matter it concerns is now redundant. This will avoid also incurring further unnecessary legal costs.
- 9 Although repeal legislation has not been introduced, this is imminent. It is considered that the risk of the new Government not proceeding is very low. Waiting longer to withdraw the appeal would incur unnecessary legal costs as submissions are required to be prepared and filed with the court well before April.

Consultation

- 10 This decision does not require consultation.

Relevant Legislation, Council Policy and Plans

- 11 Local Government Act 2002

Financial and Funding Implications

- 12 There will be modest legal costs associated with the withdrawal of the appeal but that these will be substantially less than continuing with the appeal.

Other Considerations

- 13 There are no other considerations.

Attachments

Nil

5 Public Forum Items Requiring Consideration