



AGENDA

Environmental Services Committee Meeting Tuesday, 12 October 2021

Date Tuesday, 12 October 2021

Time 9.30am

Location Council Chamber
District Council Building
King George Place
Timaru

File Reference 1450570

Timaru District Council

Notice is hereby given that a meeting of the Environmental Services Committee will be held in the Council Chamber, District Council Building, King George Place, Timaru, on Tuesday 12 October 2021, at 9.30am.

Environmental Services Committee Members

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

Quorum – no less than 2 members

Local Authorities (Members' Interests) Act 1968

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

Paul Cooper

Group Manager Environmental Services

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- 1 Apologies**
- 2 Identification of Items of Urgent Business**
- 3 Identification of Matters of a Minor Nature**
- 4 Declaration of Conflicts of Interest**
- 5 Chairperson's Report**

6 Confirmation of Minutes

6.1 Minutes of the Environmental Services Committee Meeting held on 31 August 2021

Author: Joanne Brownie, Governance Support Officer

Recommendation

That the Minutes of the Environmental Services Committee Meeting held on 31 August 2021 be confirmed as a true and correct record of that meeting and that the Chairperson's electronic signature be attached.

Attachments

1. Minutes of the Environmental Services Committee Meeting held on 31 August 2021



MINUTES

Environmental Services Committee Meeting

Tuesday, 31 August 2021

Ref: 1450570

**Minutes of Timaru District Council
Environmental Services Committee Meeting
Held via Zoom
on Tuesday, 31 August 2021 at 9.30am**

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

In Attendance: Chief Executive (Bede Carran), Environmental Services Manager (Paul Cooper), Strategy and Corporate Planning Manager (Mark Low), Governance Support (Joanne Brownie)

Charles Scarsbrook – Temuka Community Board
Ross Munro – Pleasant Point Community Board

1 Apology

Resolution 2021/8

Moved: Chairperson Barbara Gilchrist

Seconded: Mayor Nigel Bowen

That the apology received from Wayne O'Donnell – Geraldine Community Board be accepted.

Carried

2 Identification of Items of Urgent Business

There were no urgent business items identified.

3 Identification of Matters of a Minor Nature

There were no matters of a minor nature identified.

4 Declaration of Conflicts of Interest

Mayor Bowen declared an interest in item 6.1 – Annual Report to Alcohol Regulatory and Licensing Authority as he maintains a liquor licence, and in item 6.3 - 2021 Bandquet Festival - Proposed Alcohol Control Area, due to his hospitality business interests.

5 Chairperson's Report

The Chairperson reported on duties she had carried out and meetings she had attended since the last Environmental Services Committee meeting including Council meetings and workshops, refugee programme update, biodiversity champion meeting, Alpine Energy Ltd Annual General Meeting, Local Government NZ conference and Orari-Temuka-Opihi-Pareora Water Zone workshops.

Motion

Resolution 2021/9

Moved: Chairperson Barbara Gilchrist

Seconded: Cr Sally Parker

That the Chairperson's report be received and noted.

Carried

6 Reports**6.1 Annual Report to Alcohol Regulatory and Licensing Authority**

The Committee considered the Annual Report to the Alcohol Regulatory and Licensing Authority (ARLA).

Resolution 2021/10

Moved: Chairperson Barbara Gilchrist

Seconded: Deputy Chairperson Gavin Oliver

That the report be received and noted.

Carried

6.2 Dog Control Annual Report

The Committee considered a report informing the Committee and the Secretary for Local Government of the dog control activities during the period 1 July 2020 to 30 June 2021.

The Group Manager Regulatory Services confirmed that the period for dog registrations has been extended by one month in acknowledgement of the difficulties associated with the Covid lockdown, so allowing people additional time to register their dogs.

Resolution 2021/11

Moved: Cr Sally Parker

Seconded: Cr Allan Booth

That the Dog Control Report 2020/2021 be noted and received and that, as required by the Dog Control Act 1996, the report be publicly notified and forwarded to the Secretary for Local Government.

Carried

6.3 2021 Bandquet Festival - Proposed Alcohol Control Area

The Committee considered a report on the request from New Zealand Police for a temporary alcohol control area at Caroline Bay during the 2021 Bandquet Festival being held 9 October 2021.

Note - Mayor Bowen did not take part in the discussion nor voting on this item, having declared a conflict of interest, at the beginning of the meeting.

Resolution 2021/12

Moved: Cr Sally Parker

Seconded: Cr Peter Burt

That the Committee approves the New Zealand Police request for a temporary alcohol control area to be put in place over Caroline Bay (map shown in Attachment 1) in order to ban the consumption of alcohol within the controlled area (excluding the licensed area) for the period 8.00am 9 October 2021 to 8.00pm 9 October 2021.

Carried

7 Consideration of Urgent Business Items

There were no urgent business items to consider.

8 Consideration of Minor Nature Matters

There were no minor nature matters to consider.

The Meeting closed at 9.40am.

.....
Chairperson

7 Reports

7.1 Earthquake-prone Building Fee Review

Author: Jayson Ellis, Building Control Manager

Authoriser: Paul Cooper, Group Manager Environmental Services

Recommendation

1. That the Environmental Services Committee recommend to Council that:
Council retain the fee for the registration and maintenance of the Earthquake-prone Buildings Register of \$420.00 and provide a discount for the same amount on the cost of the building consent application for the seismic strengthening work.

Purpose of Report

- 1 This report highlights the issues surrounding Council's Fees and Charges pertaining to the statutory functions relating to the implementation and ongoing management of the Earthquake-prone Buildings (EQPB) legislation.
- 2 The report provides an opportunity for the Environmental Services Committee to test if the current approach still aligns with the view previously formed by governance, and to recommend to Council any changes to these fees and charges, should they be deemed necessary.

Assessment of Significance

- 3 The Committee's decision to recommend one of the options presented to Council has been assessed as being of low significance in terms of the Significance and Engagement Policy. However the significance of this issue varies between the effected parties, and the nature of any recommendation to Council from the Committee.
- 4 Any decision to amend the fees relating to the EQPB register has been assessed as being of medium significance. While the number of people directly impacted by the fee, and the revenue gathered from the fee is relatively small, amending this fee would result in ratepayers picking up the cost of this change, and such a decision may impact on revenue collected for the activity, as described below.
- 5 Based on any recommendation from the Environmental Services Committee, a further assessment of significance would be undertaken by Council. Any necessary engagement with affected parties and the wider community will be undertaken as may be appropriate.

Background

- 6 The building team, Group Manager Environmental Services, and the Chief Executive, have over time received feedback from a number of local building owners, sharing their concerns with the fees and charges relating to the Earthquake-prone Buildings and the process in general.
- 7 From July 2017, central government introduced an amendment to the Building Act 2004 requiring local authorities to develop and implement policies and procedures to manage Earthquake-prone Buildings within their district. This involved community consultation to

determine 'Strategic Routes and Thoroughfares', identifying 'Priority Buildings', desk top assessments of buildings and information, communication with building owners, determining whether or not those buildings are Earthquake-prone, and the ongoing monitoring of notices being displayed.

- 8 As part of this process, and Council's budget development, it was confirmed by Council that a fee to perform this function would be appropriate. The charging of such a fee is in accordance with Council's Revenue and Financing Policy, which determines how activities of Council will be funded. In 2018 this policy established that operating expenses for the building control activity, including EQPB work, would be funded 90-100% through fees and charges. However; this was adjusted to 70-30% split respectively at the adoption of the 2021-2031 Long Term Plan (LTP), developed around the concept of Thriving Together.
- 9 Thriving Together as a concept is a change in emphasis from the former LTP and denotes a desire to enable a diverse economy that supports our community.
- 10 As part of the 2018-28 LTP adoption Council approved the inclusion of a fee of \$420.00 including GST for the registration and maintenance of the EQPB Register. This fee was adopted again by Council on 14 July 2021 as part of the LTP 2021-31. The effective cost to building owners that are GST registered being \$365.
- 11 The fee is invoiced to a building owner once the EQPB determination had been made. The fee does not apply to buildings that have been determined as not Earthquake-prone. Many building owners have encountered a number of challenges throughout this process, including a shortage of engineers throughout New Zealand, COVID-19 restrictions, and coming to terms with the impacts of the cost to their business. This has resulted in Council receiving assessments after the allotted timeframe, resulting in changes to the National Building Standard (NBS) % ratings.

Discussion

- 12 Building Act 2004 section 219 allows for the Territorial Authority (TA) to impose a fee or charge to perform a function or service under the Act, and this is in accordance with Council's Revenue and Financing Policy. However, while the TA may choose not to perform a function or service if no fee or charge has been paid, Council's main objective is to work with building owners as much as possible to ensure the required seismic work is carried out. This approach will result in (structurally) safer buildings.
- 13 Like many of our fees and charges, the EQPB fee of \$420.00 is intended to cover the costs of the following work:
 - i. Identifying the relevant buildings (priority and non-priority).
 - ii. Desk top assessment of building file information.
 - iii. Informing building owners to carry out seismic assessments of their buildings.
 - iv. Assessment of engineering reports.
 - v. Making determinations (EQPB or not).
 - vi. Produce relevant notices and forward to owner.
 - vii. Ongoing monitoring of notices attached to buildings.
- 14 Council agreed, at the time of setting the fee, it was appropriate for the relevant building owner to cover the cost Council would incur by performing this regulatory function, although

the wider community would also benefit from this legislative requirement. It was also acknowledged that the assessment process would vary between different buildings, therefore the amount agreed would be considered as a middle ground approach ('swings and roundabouts').

Options and Preferred Option

- 15 Due to the time that has elapsed from the start of this process, many things have emerged from how the process has evolved, issues that have arisen and the knowledge gained from these, has potentially altered our views and how best to continue moving forward with this regulatory process. Therefore the following options are presented to Council for consideration:
- 16 Option 1
 - i. Continue with the status quo, charging the fee of \$420.00 on completion of Councils assessment, determining the building is Earthquake-prone (NBS% <34%). This fee is not applicable for buildings that have been assessed and determined as not Earthquake-prone (>34% NBS).
 - ii. This option as the EQPB programme (assessment and determination) is approximately 90% complete, therefore any changes to the fee structure at this stage would provide little value to all parties concerned.
 - iii. Under this option, officers will continue to review potential future options for supporting EQPB owners as part of a current work stream.
- 17 Option 2
 - i. Amend the 2021/22 Fees and Charges to remove the fee of \$420.00. The costs incurred by the Building Control activity relating to the EQPB register will be funded via the general rate.
 - ii. Under this option Council may seek to refund any fees previously paid. Currently there are approximately 219 invoices of \$420.00 paid to Council for the 265 identified Priority Buildings. This equates to an amount of \$91,980.00 to be refunded. There will also be a considerable amount of time and resource required to work through these refunds. This process may have budgetary implications in terms of loss of revenue in one financial year.
 - iii. If the building owner has changed in the interim, then the current owner will receive the refund.
- 18 Option 3 (preferred)
 - i. Approaching this as an incentive can be considered a viable option with the potential of refunding the \$420.00 fee on completion of the consent process for work that brings the building to or over the NBS threshold of 34%.
 - ii. The discount will apply to the building consent fee for the seismic strengthening work to bring the building to or over the NBS threshold of 34%.
 - iii. This option will be easier to manage as it will occur over about 10 years, having a lesser impact on staff time and on revenue in any one financial year.
 - iv. There will be a certain amount of time and resource required to assess who has already paid the fee and completed their seismic work to date so that we can

determine refunds for these building owners. The Building Compliance Monitoring Officer will have capacity to undertake this work if required.

Consultation

- 19 Council's Fees and Charges are publically available for comment as part of the consultation process. Council has not received any submissions through the LTP consultation process regarding this fee.
- 20 The Timaru District Council adopted their EQPB plan very early on in the process, which included engaging with the affected parties through various workshops throughout the district. Building staff have been continuously communicating with building owners as they work through this process, providing answers to queries, assisting, and providing information.
- 21 We have also consulted with other councils throughout the South Island from Invercargill to Christchurch as they have adopted their plans and policies. Interestingly, their approach to this legislation including fees and charges has been varied with some choosing to charge for this service, some choosing not to, and some using various types of incentives designed to encourage and enable building owners throughout this process.
- 22 The adoption of the 2021-2031 LTP around the concept of Thriving Together indicated a shift in focus by governance. This can be construed as consultation with the wider community that broadly speaking supports some change in approach in how we deal with earthquake-prone buildings in terms of fees.
- 23 Council has also received feedback from building owners over this time, which has highlighted a level of uncertainty and concern. Some of the concerns relate to what and how to comply with the Building Code, other than structural requirements, and the cost of what this will involve. Other concerns relate to rent costs, and how potential increases to rents may reduce the building owner's ability to lease their premises.

Relevant Legislation, Council Policy and Plans

- 24 **Building Act 2004, sections 133AA - 133AY** which set out the requirements, roles and responsibilities for managing Earthquake-prone buildings.
- 25 **Building Act 2004, section 219** which states a Territorial Authority may impose a fee or charge (or both).
- 26 **Earthquake-prone Buildings Project Plan #1112465**, this project includes the design, implementation, management and enforcement, in a timely, well communicated and cost-effective way, a regulatory regime to give effect to the earthquake-prone building ("EQPB") requirements incorporated in the Act.
- 27 **Revenue and Finance Policy** includes a funding needs assessment which identifies who benefits or creates the need for each activity or service provided by Council, and therefore how the activity or service should be funded. Recognising that the benefits from the Building Control activity are mainly realised by the building owners through ensuring they have met legislative requirements, Council's policy has set that 70-80% of operating expenditure is collected through fees and charges, and 20-30% through the general rate. Council's budgets and rates for the 2021/2022 year have been set in accordance with this policy. In this particular case, with the buildings being effected predominantly being in the CBD, the benefits of a safe and thriving CBD are of a higher community benefit than many other buildings where the main benefit clearly remains with the owner.

- 28 **Timaru District Council Long Term Plan 2021-2031** sets out Councils' focus for the next 10 years of "thriving together". The new focus includes a focus area called "gather together" which means Council will play an enabling role in the Timaru City Centre regeneration.
- 29 **Local Government Act 2002 (LGA)** section 80 of this Act requires that if a decision of Council is significantly inconsistent with, or is anticipated to have consequences that will be significantly inconsistent with any policy adopted by Council, when making a decision Council must clearly identify the inconsistency, the reason for the inconsistency and any intention Council has to amend the policy to accommodate the decision.
- 30 An amendment to the building control fees and charges may be considered significantly inconsistent with Council's Revenue and Financing Policy by shifting the cost burden from building owners through the existing fee, to all rate payers through the general rate.

Financial and Funding Implications

- 31 The Building Act 2004 section 219 allows for Council to impose a fee, charge or levy and it also allows Council to refuse to perform a function or service if the fee, charge or levy is not paid.
- 32 A full refund of the fee without the seismic work being completed will not ensure that at-risk buildings within our district will be strengthened, which is contrary to the legislative requirement of the Act.
- 33 Using the \$420.00 fee as a deposit so as to incentivise owners to complete seismic strengthening building work is consistent with both the legislation and the intent of the 2021-2031 LTP.

Other Considerations

- 34 Notwithstanding the options already identified within this report, there is an opportunity for Council to look at the Timaru Districts Earthquake-prone Buildings with a broader lens. Due to the seismic zone and the types of buildings in our towns, and central business districts, this puts us in an uncommon position with regards to the regulatory constraints.
- 35 The review of the \$420.00 fee is just the start of considering what we can do to better enable the necessary work to be carried out, ensuring safer buildings and showing commitment to growth and longevity for our communities.
- 36 Currently there is a significant pattern emerging from the process of determining a building as an EQPB. Approximately 80% of building owners are not providing any assessment information, resulting in the determination of those buildings as Earthquake-prone. However, this poses a risk to Council. If the building owner is not engaged in this process and the seismic work is not undertaken, Council is then required to make a decision on how to best to manage those situations. These options include:
- i. Demolish the building.
 - ii. Carry out the seismic work and charge the owner for that work.
 - iii. Carry out the seismic work and requisition the rates.
- 37 Currently, Council is developing strategies, guidance and public information to further expand on the needs of building owners, while working within the constraints of the regulatory framework. Part of this work stream is identifying the tools available to Council and developing these in ways that potentially reduce certain regulatory requirements on building owners, some of these can include:

- i. Providing guidance on how to comply with certain aspects of the building code that reduce the scope and cost of the work.
- ii. Staged consents.
- iii. Options to pay off their consent in instalments.
- iv. Council providing financial assistance to building owners.
- v. Continuing EQPB workshops that update and inform building owners on process, case studies, engineering findings, and any further or future developments.

Attachments

Nil

- 8 Consideration of Urgent Business Items**
- 9 Consideration of Minor Nature Matters**