



Notice is hereby given that a Meeting of the Regulatory and Consents Committee will be held on:

Date: **Wednesday, 7 March 2018**
Time: **1pm**
Meeting Room: **Council Chambers**
Venue: **15 Forth Street, Invercargill**

Regulatory and Consents Committee Agenda OPEN

MEMBERSHIP

Chairperson Gavin Macpherson
Mayor Gary Tong
Councillors Brian Dillon
Paul Duffy
Darren Frazer
Julie Keast
Neil Paterson

IN ATTENDANCE

Group Manager, Environmental Services Bruce Halligan
Committee Advisor Alyson Hamilton

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Full agendas are available on Council's Website
www.southlanddc.govt.nz

Note: The reports contained within this agenda are for consideration and should not be construed as Council policy unless and until adopted. Should Members require further information relating to any reports, please contact the relevant manager, Chairperson or Deputy Chairperson.

Terms of Reference – Regulatory and Consents Committee

The Regulatory and Consents Committee is responsible for overseeing the statutory functions of the Council under the following legislation (but not limited to the following):

- Resource Management Act 1991
- Health Act 1956
- Food Act 2014
- Dog Control Act 1996
- Sale and Supply of Alcohol Act 2012
- Heritage New Zealand Act Pouhere Taonga Act 2014
- Building Act 2004
- Freedom Camping Act 2011
- Psychoactive Substances Act 2013
- Impounding Act 1955

The Regulatory and Consents Committee is delegated the authority to undertake the following functions in accordance with the Council's approved delegations register:

- (a) Maintain an oversight of the delivery of regulatory services;
- (b) Conduct statutory hearings on regulatory matters and undertake and make decisions on those hearings (excluding matters it is legally unable to make decisions on as legislated by the Resource Management Act 1991);
- (c) Appoint panels for regulatory hearings;
- (d) Hear appeals on officer's decisions to decline permission for an activity that would breach the Southland District Council Control of Alcohol Bylaw 2015;
- (e) Approve Council's list of hearings commissioners (from whom a commissioner can be selected) at regular intervals and the Chief Executive Officer be authorised to appoint individual Commissioners for a particular hearing;
- (f) Make decisions on applications required under the Southland District Council's Development and Financial Contribution Policy for remissions, postponements, reconsiderations and objections;
- (g) Approve Commissioners and list members under the Sale and Supply of Alcohol Act 2012;
- (h) Exercise the Council's powers, duties and discretions under the Sale of Liquor Act 1989 and the Sale and Supply of Alcohol Act 2012;
- (i) Hear objections to officer decisions under the Dog Control Act 1996.

The Regulatory and Consents Committee shall be accountable to Council for the exercising of these powers.

The Regulatory and Consents Committee is responsible for considering and making recommendations to Council regarding:

- (a) Regulatory policies and bylaws for consultation;
 - (b) Regulatory delegations;
 - (c) Regulatory fees and charges (in accordance with the Revenue and Financial Policy)
 - (d) Assisting with the review and monitoring of the District Plan.
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1 Apologies

At the close of the agenda no apologies had been received.

2 Leave of absence

At the close of the agenda no requests for leave of absence had been received.

3 Conflict of Interest

Committee Members are reminded of the need to be vigilant to stand aside from decision-making when a conflict arises between their role as a member and any private or other external interest they might have.

4 Public Forum

Notification to speak is required by 5pm at least two days before the meeting. Further information is available on www.southlanddc.govt.nz or phoning 0800 732 732.

5 Extraordinary/Urgent Items

To consider, and if thought fit, to pass a resolution to permit the committee to consider any further items which do not appear on the Agenda of this meeting and/or the meeting to be held with the public excluded.

Such resolution is required to be made pursuant to Section 46A(7) of the Local Government Official Information and Meetings Act 1987, and the Chairperson must advise:

- (i) the reason why the item was not on the Agenda, and
- (ii) the reason why the discussion of this item cannot be delayed until a subsequent meeting.

Section 46A(7A) of the Local Government Official Information and Meetings Act 1987 (as amended) states:

"Where an item is not on the agenda for a meeting,-

- (a) that item may be discussed at that meeting if-
 - (i) that item is a minor matter relating to the general business of the local authority; and
 - (ii) the presiding member explains at the beginning of the meeting, at a time when it is open to the public, that the item will be discussed at the meeting; but
- (b) no resolution, decision or recommendation may be made in respect of that item except to refer that item to a subsequent meeting of the local authority for further discussion."

6 Confirmation of Minutes

- 6.1 Meeting minutes of Regulatory and Consents Committee, 16 November 2017



Regulatory and Consents Committee

OPEN MINUTES

Minutes of a meeting of Regulatory and Consents Committee held in the Council Chambers, 15 Forth Street, Invercargill on Thursday, 16 November 2017 at 9am.

PRESENT

Chairperson	Gavin Macpherson
Councillors	Brian Dillon
	Darren Frazer
	Julie Keast
	Neil Paterson

IN ATTENDANCE

Group Manager Environmental Services, (Bruce Halligan), Environmental Health Manager (Michael Sarfaiti), Team Leader, Building Solutions (Michael Marron), Team Leader, Resource Management (Marcus Roy), Building Control Senior, Peter Meikle, Roving Museum Officer, Johanna Massey and Committee Advisor, (Alyson Hamilton).

1 Apologies

Moved Cr Frazer, seconded Cr Dillon and **resolved:**

That the Regulatory and Consents Committee accept the apologies for non-attendance from Mayor Tong and Councillor Duffy.

2 Leave of absence

There were no requests for leave of absence.

3 Conflict of Interest

There were no conflicts of interest declared.

4 Public Forum

There was no public forum.

5 Extraordinary/Urgent Items

There were no Extraordinary/Urgent items.

6 Confirmation of Minutes

Resolution

Moved Cr Dillon, seconded Cr Paterson **and resolved:**

That the Regulatory and Consent Committee confirms the minutes of the meeting held on 15 August 2017 as a true and correct record of that meeting.

Reports

8.1 Presentation by Roving Museum Officer on recent work on Stewart Island/ Rakiura
Record No: R/17/10/24024

Johanna Massey, Roving Museum Officer, was in attendance and presented a power point presentation on important and interesting heritage preservation work undertaken on Stewart Island/Rakiura.

Ms Massey responded to queries raised by Members relating to ongoing research, volunteer and expert assistance and use of technology to store information.

Resolution

Moved Cr Keast, seconded Cr Paterson **and resolved:**

That the Regulatory and Consents Committee:

- a) Receives the report titled "Presentation by Roving Museum Officer on recent work on Stewart Island/ Rakiura " dated 6 November 2017.**

Reports for Recommendation

7.1 Action Plan for the implementation of Earthquake-prone Buildings Regulations 2016 Record No: R/17/10/25236

Michael Marron, Team Leader, Building Solution, and Peter Meikle, Building Control Senior, were in attendance for this item.

Mr Meikle advised the purpose of this report is to outline Council's requirements under the Earthquake-prone Buildings (EPBs) Regulations 2016 and to demonstrate how these requirements are going to be met by the Southland District Council.

Mr Meikle informed New Zealand is extremely prone to seismic activity and ensuring the safety of people is paramount. Buildings need to be safe for occupants and users.

Mr Meikle explained the Building (Earthquake-prone Buildings) Amendment Act 2016 introduced major changes to the way EPBs are identified and managed under the Building Act. It uses knowledge learned from past earthquakes in New Zealand and overseas.

The Committee noted the system established via the Amendment Act is consistent across the country and focuses on the most vulnerable buildings in terms of the safety of persons.

Mr Meikle advised it categorises New Zealand into three seismic risk areas and sets time frames for identifying and taking action to strengthen or remove EPBs.

Mr Meikle informed it provides more information for people using buildings such as nationally consistent EPB notices with ratings for EPBs, and a public EPBs register.

The Committee was informed under the new system for managing EPBs territorial authorities, engineers and building owners have key roles to play.

Mr Meikle advised these are set out in the Building Act and can be summarised as:

- ☒ territorial authorities identify potentially EPBs
- ☒ owners who are notified by their territorial authority must obtain engineering assessments of the building carried out by suitably qualified engineers
- ☒ territorial authorities determine whether buildings are earthquake-prone, assign ratings, issue notices and publish information about the buildings in a public register
- ☒ owners are required to display notices on their building and to remediate their building.

Mr Meikle explained the Building Act also divides New Zealand into three seismic risk areas - high, medium and low. Mr Meikle added the Southland District Council has all three zones.

The Committee noted there are set time frames, based on these seismic risk areas. They include time frames for territorial authorities to identify potentially EPBs and for building owners to assess and remediate EPBs.

The Committee queried the number of EPBs in Southland District.

Mr Marron responded advising approximately 1,200 buildings are considered earthquake prone. Mr Marron clarified staff undertake an assessment of the outside of the building only.

Mr Marron explained that building staff can advise the property owner of a potential issue with their building and suggest that the property owner obtain an engineer's report to ascertain the building.

Resolution

Moved Cr Frazer, seconded Cr Dillon **and resolved:**

That the Regulatory and Consents Committee:

- a) **Receives the report titled "Action Plan for the implementation of Earthquake-prone Buildings Regulations 2016" dated 6 November 2017.**
- b) **Determines that this matter or decision be recognised as not significant in terms of section 76 of the Local Government Act 2002.**
- c) **Determines that it has complied with the decision-making provisions of the Local Government Act 2002 to the extent necessary in relation to this decision; and in accordance with section 79 of the Act determines that it does not require further information, further assessment of options or further analysis of costs and benefits or advantages and disadvantages prior to making a decision on this matter.**
- d) **Agrees to the Action Plan for the implementation of Earthquake-prone Buildings Regulations 2016.**

7.2 Winton Air Quality

Record No: R/17/10/25349

Michael Sarfaiti, Environmental Health Manager, was in attendance for this item.

Mr Sarfaiti advised the purpose of the report is for the Committee to consider the recommendations from the Winton Community Board, concerning air quality.

Mr Sarfaiti explained the Board at its meeting on 9 October 2017, resolved to make recommendations to both Environment Southland (ES) due to ES requirement to administer the Resource Management (National Standards for Air Quality) Regulations 2014 and Southland District Council (SDC) who has a duty under the Health Act 1956 to improve, promote and protect public health, for the purpose of improving air quality in the town.

The Committee agreed that based on the results of the survey, there appears to be a strong mandate from the residents for clean air, improved health and a reduction to pollution.

Resolution

Moved Cr Keast, seconded Cr Frazer **and resolved:**

That the Regulatory and Consents Committee:

- a) **Receives the report titled "Winton Air Quality" dated 6 November 2017.**
- b) **Determines that this matter or decision be recognised as not significant in terms of Section 76 of the Local Government Act 2002.**

- c) **Determines that it has complied with the decision-making provisions of the Local Government Act 2002 to the extent necessary in relation to this decision; and in accordance with Section 79 of the Act determines that it does not require further information, further assessment of options or further analysis of costs and benefits or advantages and disadvantages prior to making a decision on this matter.**
- d) **Requests the Manager of Environmental Health to work with Environment Southland to increase awareness of subsidies available, promote the free home health checks, and complete educational initiatives.**
- e) **Recommend to Council that it approves the extension of the Southland District Council wood burner free building consent incentives scheme until 31 December 2020.**

7.3 Dog Control Amnesty

Record No: R/17/10/25389

Michael Sarfaiti, Environmental Health Manager, was in attendance for this item.

Mr Sarfaiti advised the purpose of the report is for the Committee to consider recommending to Council that a dog control amnesty is conducted.

Mr Sarfaiti explained this is a follow-up report from the staff report *Dog Attacks - Research and Recommendations* dated 17 May 2017.

Mr Sarfaiti advised non-registration history is a significant factor in attacks.

The Committee noted other councils have completed amnesties successfully, and an amnesty may prove effective in lowering the dog control risk in the District by the registration of unregistered dogs.

Mr Sarfaiti advised there are two basic types of amnesty that Council could consider:

1. A focus on menacing dogs be breed, in particular American Pit Bull Terriers. This may also include cheap or free de-sexing.
2. Unregistered dogs generally, that would also capture menacing breeds.

Mr Sarfaiti highlighted two options for the Committee's consideration. Members felt option two being the preferred option, of making a recommendation to Council to authorise staff to complete an amnesty primarily as an attack prevention measure.

Mr Sarfaiti further sought an additional recommendation (e) that the Committee supports the amnesty being combined with any other southern council that resolves similarly, provided any district funding of desexing is limited to dogs that are ordinarily kept in the Southland District, and provided that a combined approach does not impose undue delays in progressing the amnesty."

The Committee agreed to the addition of recommendation (e).

Resolution

Moved Cr Dillon, seconded Cr Frazer **and resolved recommendations a to c, with an addition of e (as indicated):**

That the Regulatory and Consents Committee:

- a) **Receives the report titled "Dog Control Amnesty" dated 2 November 2017.**
- b) **Determines that this matter or decision be recognised as not significant in terms of Section 76 of the Local Government Act 2002.**
- c) **Determines that it has complied with the decision-making provisions of the Local Government Act 2002 to the extent necessary in relation to this decision; and in accordance with Section 79 of the Act determines that it does not require further information, further assessment of options or further analysis of costs and benefits or advantages and disadvantages prior to making a decision on this matter.**
- d) **Makes a recommendation to Council to authorise staff to complete an amnesty for unregistered dogs, including offering free de-sexing for menacing dogs in early 2018.**
- e) **Supports the amnesty being combined with any other Southland territorial authority which resolves similarly, provided that any funding of dog desexing provided by the Southland District is used solely for desexing dogs that are normally kept in the Southland District, and provided that a combined approach does not impose undue delays in progressing the amnesty."**

The meeting concluded at 10.10am

CONFIRMED AS A TRUE AND CORRECT RECORD AT A
MEETING OF THE REGULATORY AND CONSENTS
COMMITTEE HELD ON THURSDAY 16 NOVEMBER
2017.

DATE:.....

CHAIRPERSON:.....

Environmental Services Group Update report for 7 March 2018 Regulatory and Consents Committee meeting

Record No: R/18/2/3169

Author: Bruce Halligan, Group Manager Environmental Services

Approved by: Bruce Halligan, Group Manager Environmental Services

☐ Decision

☐ Recommendation

☒ Information

1. This report is for the Committee's information only, to update Committee members on progress on some key workstreams across the Environmental Services Group.
2. The report has been ordered in accordance with each of the 3 teams within the Group – Resource Management, Environmental Health/Animal Control and Building Solutions

Resource Management:

Milford Sound Activity

3. The Resource Management team has been receiving a number of requests and applications relating to additional development activity at Milford. This is not surprising, having regard to the significant ongoing tourism growth in the area. When processing such requests for information/applications, the Council has to have high regard under both the Resource Management Act 1991 and the Building Act 2004 to the significant natural hazards which exist in the locality such as the potential for rock fall, flooding from the Cleddau River and the nationally - recognised tsunami hazard in the area. This to date has not translated into a "no go" for new development, but the Council seeks to ensure that applicants have a thorough awareness of these hazards and a process has also been established to mitigate Council liability.

National Planning Standards

4. As part of the Resource Management Amendment Act 2017 the Ministry for the Environment is developing National Planning standards which will be binding on all Councils. These seek to standardise many elements of Councils' planning documents and thereby streamline the planning system and reduce inconsistencies. The Ministry for the Environment website includes the following explanatory content on these standards.

About the National Planning Standards

The purpose of the National Planning Standards (Standards) is to improve consistency in plan and policy statement structure, format and content so they are easier to prepare, understand, compare and comply with. The Standards also support implementation of national policy statements and help people observe the procedural principles of the Resource Management Act 1991 (RMA).

The Standards have been introduced as part of the 2017 amendments to the Resource Management Act 1991. The development of the National Planning Standards is enabled by sections 58B–58J of the RMA.

They are issued by the Minister for the Environment.

Why they are needed

Currently, plans and policy statements prepared under the RMA are inconsistent with each other and slow and costly to prepare. They can also be hard to understand, compare with each other and comply with. This is because councils have generally developed their plans and policy statements independently of each other and without a standard structure and format as a reference point.

As a result national direction is often poorly and inconsistently implemented in plans and policy statements.

The Rules Reduction Taskforce found that plans and policy statements are complex to the extent that people at all levels need specialist knowledge and experience to understand their provisions. For more information see the taskforce's report:

[The loopy rules report: New Zealanders tell their stories - executive summary](#) [Department of Internal Affairs website]

The National Planning Standards are an opportunity to standardise the basic elements of RMA plans and policy statements. They will enable councils and plan users to focus their resources on the matters that directly influence resource management outcomes.

5. The first set of draft National Planning Standards is due for release indicatively in April 2018. The shape of these standards could have significant implications for the Southland District Council, bearing in mind that the Council has only recently made its District Plan fully operative after a very significant effort in terms of staff and elected representative time and financial resource.
6. The form and content of these draft standards is also highly relevant in terms of the potential to consolidate Southland Councils' planning documents in the future.
7. In that regard, a cross-Council team has been established to take a shared approach to submitting on these standards when they become available. There is no formal right to be heard in relation to a submission.
8. Also linked to this is the potential development of a Regional Spatial Plan for Southland, which was a key recommendation flowing from the Ease of Doing Business workstream of the Southland Regional Development Strategy. This inter-Council planning team will also be looking at the implications of the National Planning Standards for advancing this Southland spatial planning work. It is also important to note that Southland spatial planning should not be done in isolation to the significant growth node which the Queenstown Lakes District Council represents to the north, and obviously also needs to have regard to other major environmental influences such as climate change and water quantity and quality.

Shared Approach to Landscape Assessment

9. Committee members will recall that Resource Management staff have discussed the potential to take a shared approach with other Southland Councils to undertaking further landscape assessment across the Southland region, and Committee support was expressed for this shared approach.
10. A staff steering group with representatives from Environment Southland, Gore District Council, Invercargill City Council and Southland District Council has now progressed this, and has called for expressions of interest (coordinated through Environment Southland) from suitably qualified landscape consultants for this work.
11. These expressions of interest have recently been assessed against a range of attributes and a selection process is nearing conclusion. The Southland District Council financial contribution to this will be within allocated budget. However, it is also very important for the Committee to recognise that the initial expert assessment is only one part of a wider process - particularly should such assessment eventually translate into more detailed District Plan protection proposed for private property.
12. The Committee will be further informed at a later date of subsequent developments within this work stream.

Building Solutions

IANZ 2019 Reaccreditation

13. Committee members will recall that in early 2017 the Council's Building Solutions team successfully completed the International Accreditation New Zealand (IANZ) 2- yearly reaccreditation audit, to enable it to continue to issue building consents. One Corrective Action Required (known as a CAR) was identified, along with several strong recommendations for improvement, and these have been subsequently actioned.
14. While the next audit is not scheduled until March 2019, a project team has been formed to take a team approach to preparing for this audit in order to ensure that the Council is well-positioned early for the next audit process.
15. While primarily drawn from the Building Control team and with the GM Environmental Services also a team member, other members also include representatives from the Knowledge Management, Finance and Resource Management teams. This will assist with knowledge sharing and also creating some personal development opportunities, as compared to taking an approach where only 1 or 2 people undertake all the preparatory work for this very important audit process.
16. A part of this team's functions will be focusing on recent audits of other recent Building Control Authorities and ensuring issues highlighted by those are suitably addressed.

Online Lodgement and Processing

17. Committee members will possibly recall that a key element of the Building Solutions Activity Management Plan was to transition to online lodgement and processing of building consents, preferably in a two year timeframe. Many Councils already have this capability.
18. This also links to the wider Cores Systems Review programme which the Council's Chief Information Officer Mr Damon Campbell is leading.
19. At the initial stages, a brainstorming session has been held with an external facilitator in late November 2017, and various available software packages have been viewed.

20. The brainstorming session highlighted the importance of honing our processes to be as efficient and effective as possible, before considering what that means for software/systems, rather than the other way around.
21. It is also hoped that as part of this process, it may be feasible to move down a path which is consistent with Gore and Invercargill City Council, who are at similar stages in this transition process to Southland District. This would be consistent with the Southland Regional Development Strategy Ease of Doing Business programme, which highlighted shared/consistent Building Act processes and systems as a key opportunity.

Staff Changes in the Building Solutions team

22. In December 2017, the Council received the resignation of Keri Longman, Team Leader of Building Administration (who had over 30 years' service to Southland District and before that Southland County Councils) and Peter Meikle and Aidan Baron, Senior Building Solutions Officer and Building Solutions Officer.
23. Recruitment processes are being undertaken at the time of writing, and Pippa Jones has been appointed to the position of Building Solutions Officer, commencing 19 March 2018.
24. These resignations have placed some additional pressures on the Building Solutions team, but the team is working very diligently to seek to ensure that customer service and processing times are not significantly adversely affected.

Earthquake Prone Buildings- Consultation on Priority Routes

25. As part of the implementation of the Building (Earthquake Prone Buildings) Amendment Act 2016, Councils are required to consult with their communities to identify priority transport and pedestrian routes. The extent to which these are identified has implications for the number of buildings within the District likely to be identified as earthquake prone. The Council's Communications Team is working closely with the Council's Team Leader of Building Solutions, Mr Marron, to frame this consultation.

Environmental Health/Animal Control

Dog Control Registration Amnesty

26. As authorised by the full Council pre-Xmas (as the Regulatory and Consents Committee does not have financial delegations), a dog registration amnesty is being run for two months until mid-April 2018 , when people with unregistered dogs domiciled in the Southland District can get their dog registered for free.
27. There is a strong link between unregistered dogs and dog attacks, which is the driver for the amnesty, and various Councils around New Zealand have undertaken similar exercises.
28. At the time of writing, this amnesty has only just started so therefore the level of success of this amnesty is unknown at this stage, but will be reported back to the Committee in due course.

Freedom Camping

29. This has continued to remain a relatively hot topic both at a national and local level.
30. Nationally the Minister of Tourism has formed a new forum with 22 mayors (including Mayor Tong) to focus on this issue , and some Councils (most notably Queenstown Lakes) have moved to significantly tighten their freedom camping regimes.
31. Locally, the freedom camping ranger in the Te Anau – Manapouri area (a shared service with DOC) has continued, and a new shared service ranger with DOC and Clutha District Council is in its first season. Additional arrangements have also been made with regard to the enforcement

Regulatory and Consents Committee

7 March 2018

of the Lumsden provisions of the Council's Freedom Camping bylaw, and the Council's Manager of Environmental Health Mr Sarfati is to be commended for his proactive work with these arrangements.

32. Council continues to receive sporadic complaints about freedom camping, although these are not noticeably centred in any specific location and the concerns anecdotally do not seem to be as strong as from some other parts of New Zealand. Numbers generally seem on a par with last year, although again this is reasonably anecdotal as we do not have a formal system for recording freedom campers in the District at present.

Dog Registration processes 2018/2019

33. With over 13,000 registered dogs in the District, the annual dog registration process is a major body of work for the Council's Animal Control and Customer Support teams.
34. 2017/2018 was the first full year of the Council's tiered dog registration fees structure (with discounts for fencing, neutering and microchipping to seek to drive responsible dog ownership behaviours).
35. Generally this has bedded down reasonably well, but the learnings from the 2017/2018 process have been brainstormed with relevant staff and some changes made following this, including some greater clarity in the form itself to ensure all relevant information is captured. Two new Rangers have been appointed following the retirement of Cr Ford, who was Council's long serving Honorary Dog Ranger on the Island. Council's two Recycling Technicians, Alistair Faulknor and Stuart McKenzie, have been appointed Dog Rangers and also will have general enforcement functions, in particular noise control and freedom camping. While there is not a significant demand for Ranger services on the Island, this arrangement will provide excellent coverage for when such services are required.

Recommendation

That the Regulatory and Consents Committee:

- a) **Receives the report titled "Environmental Services Group Update report for 7 March 2018 Regulatory and Consents Committee meeting" dated 28 February 2018.**

Attachments

There are no attachments for this report.

Dangerous, Affected and Insanitary Buildings Policy

Record No: R/18/2/3517

Author: Robyn Rout, Policy Analyst

Approved by: Bruce Halligan, Group Manager Environmental Services

☐ Decision

☒ Recommendation

☐ Information

Purpose

- 1 The purpose of this report is to:
 - a) discuss legislative changes that impact on Council's current Earthquake-Prone, Dangerous and Insanitary Buildings Policy 2011 (the current Policy), and
 - b) to seek the Committee's feedback on a draft Dangerous, Affected and Insanitary Buildings Policy 2018 (the draft Policy).

Executive Summary

- 2 In 2016, Parliament adopted amendments to the Building Act 2004 (the Act) which introduced a new national system for managing earthquake-prone buildings. Statutory provisions now outline how earthquake-prone buildings are identified and managed.
- 3 Council's current Earthquake-Prone, Dangerous and Insanitary Buildings Policy 2011 was prepared prior to this 2016 amendment and outlines how Council will identify and manage earthquake-prone, dangerous and insanitary buildings. Council is still required to have a dangerous and insanitary buildings policy under the 2016 amendment, but it is no longer required to have an earthquake-prone buildings policy. The new statutory provisions override the parts of Council's current Policy that relate to earthquake-prone buildings.
- 4 With the earthquake-prone buildings part of the current Policy being obsolete, staff are presenting a revised policy, which just covers dangerous and insanitary buildings. There is a new legislative requirement to include 'affected' buildings in the policy (the meaning of "affected" is explained below), so this change has been included. A draft version of the policy is being presented to the Regulatory and Consents Committee (the Committee) with this report (see Attachment A), and staff are seeking feedback. Any such feedback would then be incorporated into this draft Policy, prior to it being presented to Council.

Recommendation

That the Regulatory and Consents Committee:

- a) **Receives the report titled “Dangerous, Affected and Insanitary Buildings Policy” dated 28 February 2018.**
- b) **Determines that this matter or decision be recognised as not significant in terms of Section 76 of the Local Government Act 2002.**
- c) **Determines that it has complied with the decision-making provisions of the Local Government Act 2002 to the extent necessary in relation to this decision; and in accordance with Section 79 of the Act determines that it does not require further information, further assessment of options or further analysis of costs and benefits or advantages and disadvantages prior to making a decision on this matter.**
- d) **Notes the legislative changes to the Building Act 2004 that makes the parts of the current ‘Earthquake-Prone and Insanitary Buildings Policy’ that relate to earthquake-prone buildings, obsolete.**
- e) **Considers the draft Dangerous, Affected and Insanitary Buildings Policy 2018 and provides feedback.**
- f) **Recommends that the draft Dangerous, Affected and Insanitary Buildings Policy 2018 be adopted for consultation by Council, subject to any changes the Committee may request being made prior to presentation to Council.**

Background

- 5 In May 2016, Parliament passed the Buildings (Earthquake-prone Buildings) Amendment Act 2016, which changed a number of provisions in the Act. The amendments introduce a nationally consistent approach to the assessment and management of earthquake-prone buildings, along with a standardised notice and national public register of earthquake-prone buildings.
- 6 Council currently has a policy which outlines how Council will identify and manage earthquake prone, dangerous and insanitary buildings, called the Earthquake-Prone Dangerous and Insanitary Building Policy 2011. The new legislation overrides the parts of the current Policy that relate to Earthquake-prone buildings, and renders this content of the current Policy obsolete.
- 7 Council is meeting its new legislative obligations in relation to earthquake-prone buildings flowing from the 2016 amendments to the Act through an Action Plan that has been presented to and endorsed by Council. This is a separate work stream to progressing this draft Policy.

Issues

- 8 Staff are proposing that a draft Policy is progressed, which will outline Council’s position on dangerous and insanitary buildings.
- 9 In 2013, a legislative change was made and section 132A of the Act now requires that “a territorial authority must amend an existing policy to take into account affected buildings”.

- 10 An “affected building” is defined in the Act as a building that is “adjacent to, adjoining or nearby a dangerous building”. The Act also gave Council powers in relation to affected buildings. The draft Policy states how Council will both identify and assess, and take action on, dangerous and affected buildings.
- 11 The draft Policy resembles the current Policy as it states that when a dangerous building is not immediately dangerous, then before Council takes action under the Act, it will liaise and consult with affected owners to try get the owners to produce a mutually acceptable formal proposal on how the problem will be rectified.
- 12 If, after a reasonable period of time, a mutually acceptable proposal has not been achieved, or if a dangerous or affected building is considered to be immediately dangerous, Council will take steps in accordance with the Act. The Act has specific provisions that state how Council must assess buildings, give notice requiring work or restricting entry, and also as to when Council can step in and carry out work.
- 13 The draft Policy does not propose a significant change in policy content – it is similar to the current Policy.

Factors to Consider

Legal and Statutory Requirements

- 14 Section 131 of the Act requires Council to have a dangerous and insanitary buildings policy. Council is required to state the approach that it will take in performing its function, its priority in performing those functions, and how the policy will apply to heritage buildings.
- 15 A dangerous and insanitary buildings policy must be adopted, amended or replaced in accordance with the Special Consultative Procedure outlined in section 83 of the Local Government Act 2002. After a dangerous and insanitary buildings policy is adopted it must be reviewed at intervals of not more than 5 years, but it does not cease to have effect because it is due for review.

Community Views

- 16 Council is required to undertake consultation on the policy, in accordance with the Special Consultative Procedure. This means there would be a consultation period of at least one month where anyone interested in the policy will have the opportunity to present their views. With this consultation process, people also have the opportunity to present their submission orally to Council.

Costs and Funding

- 17 There would only be minor costs associated with progressing the draft Policy, including the costs associated with staff time and advertising. These costs would be met within current budgets.

Policy Implications

- 18 As only minor amendments have been made to Council’s policy approach to dangerous and insanitary buildings, if the draft Policy is adopted in its current form, it would not substantially alter the way Council identifies and manages dangerous and insanitary buildings.
- 19 The draft policy is quite closely aligned with the policies adopted by Invercargill City Council, Queenstown Lakes District Council and the Gore District Council. This has been done to help

ensure there is a consistent approach throughout the southern region, which should make implementation easier and more consistent.

- 20 If Council was to adopt the draft Policy in its current form, there would be no impact on fees as the draft Policy would not impact the day-to-day actions of Council.

Analysis

Options Considered

- 21 The Committee could either:
- a) Consider the draft Policy, support the approach taken and provide any feedback; or
 - b) Consider the draft Policy and propose a different way forward.

Analysis of Options

Option 1 – Consider the draft Policy, support the approach taken and provide any feedback

<i>Advantages</i>	<i>Disadvantages</i>
<ul style="list-style-type: none">• Staff will know the Committee's view on the draft Policy.• Replacing the current Policy with the draft Policy would prevent Council having an operative policy that is, in part, obsolete.• The draft Policy would be legally compliant.• Feedback would still be obtained on the draft Policy, through the public consultation process.	<ul style="list-style-type: none">• No known disadvantages

Option 2 – Consider the draft Policy and propose a different way forward

<i>Advantages</i>	<i>Disadvantages</i>
<ul style="list-style-type: none">• Would provide clarity on the Committees preferred approach.	<ul style="list-style-type: none">• Council would still be legally required to have a dangerous and insanitary buildings policy that takes into account affected buildings.• A change in approach may mean it takes longer for Council adopt a new policy and replace the current Policy that is, in part, obsolete.

Assessment of Significance

- 22 It has been identified that this matter has a lower level of significance, in relation to Council's Significance and Engagement Policy and the Local Government Act 2002.

Recommended Option

- 23 Staff recommend Option 1 - that the Committee considers the draft Policy, supports the approach taken and provides any feedback.

Next Steps

- 24 If the Committee support the approach taken in the draft Policy, staff will make any amendments/changes recommended by the Committee, and present the draft Policy to Council. Council will be asked to endorse the draft Policy (with any desired changes), and to put the draft Policy out for consultation in accordance with the Special Consultative Procedure.
- 25 It is proposed that the consultation process will take place in the middle of this year, after Council has finished engaging with the community on the Long Term Plan 2018-28 and the Representation Review.

Attachments

- A Draft Dangerous, Affected and Insanitary Buildings Policy 2018 [↓](#)
- B Earthquake-prone, Dangerous and Insanitary Buildings Policy 2011 [↓](#)

Dangerous, Affected, and Insanitary Buildings Policy 2018

Document Control

POLICY OWNER: Building Solutions	RM8 REFERENCE: r/18//2/3527	EFFECTIVE DATE: XX 2018
APPROVED BY: Council	DATE APPROVED: XX	NEXT REVIEW DATE: XX 2023
		COUNCIL POLICY

1. Purpose

The purpose of this policy is to identify and manage dangerous and affected, and insanitary buildings in the Southland District.

This policy meets the requirements of sections 131, 132 and 132A of the Building Act 2004 (the Act). This is a review of existing policy under Section 132 of the Act.

This policy supersedes Council's Earthquake-Prone, Dangerous and Insanitary Building Policy 2011.

This policy sets out:

- The approach that Council will take in performing its functions under the Act in relation to dangerous, affected and insanitary buildings;
- Council's priorities in performing these functions; and
- How the policy will apply to heritage buildings.

2. Objective

The overall objective of this policy to ensure that people who use buildings can do so safely and without endangering their health.

This policy fulfils Council's responsibilities under the Act, with respect to dangerous, affected, and insanitary buildings. Council's responsibility is to ensure that when:

- dangerous and affected buildings are found, that the danger is appropriately reduced or removed in an acceptable timeframe.
- insanitary conditions are found, that appropriate measures are undertaken to remedy the conditions within an acceptable timeframe.

3. Scope

This policy is to outline the approach the Council will take towards dangerous and affected, and insanitary buildings.



This policy clarifies Council's priorities in performing its functions under the Building Act 2004.

This policy applies to all buildings in the Southland District, even though a code compliance certificate may have been issued previously, as the current use and/or maintenance of the building can impact on the safety of occupants.

Earthquake-prone buildings are addressed under the Act, and are therefore excluded from this policy.

Part 1 – Dangerous and Affected Buildings

4. Definitions

The following definitions are used in Part 1 of this policy.

- Affected building - has the meaning outlined in section 121A of the Act.
- Council – means Southland District Council.
- Dangerous building - has the meaning outlined in section 121 of the Act.
- Heritage building – means a building which is on the New Zealand Heritage List/Rārangī Kōrero in accordance with the Heritage New Zealand Pouhere Taonga Act 2014 and identified in Schedule 5.2 of the Southland District Plan 2018.

5. Identifying and Assessing Dangerous and Affected Buildings

Council will:

- Investigate all information received about dangerous and affected buildings (this includes when Council receives reports from members of the public or building occupants, or if a Council officer observes a potentially dangerous or affected building through their usual duties);
- Assess and identify any dangerous or affected buildings in accordance with sections 121 and 121A of the Act;
- Liaise with the Fire and Emergency New Zealand when Council deems it is appropriate, in accordance with section 121(2) of the Act.

When an assessment is undertaken and a building is not deemed to be a dangerous or affected building, Council may not take action under this policy or the Act.

6. Taking Action on Dangerous and Affected Buildings

When a building is deemed to be a dangerous building, but it is not immediately dangerous, Council will, before taking action under the Act, liaise and consult with the affected owners and encourage the owners to produce a mutually acceptable formal proposal on how the problem will be rectified. If, after a reasonable time-period, a mutually acceptable formal proposal has not been achieved, Council will take further steps to address the problem by following the procedures set out in the Act.



When a dangerous or affected building is deemed to be immediately dangerous, Council will act immediately, by following the procedures set out in the Act.

When Council undertakes work to address problems relating to a dangerous building, pursuant to either a Court Order or Chief Executive Warrant, the Council reserves the right to appoint an independent contractor to carry out the required work.

The Council will hold the owner of any dangerous building liable for the cost of any work required to reduce or eliminate the danger posed by that building to its occupants or to the public. (The work may include the demolition of the building and clearance of the site at the owner's cost).

7. Part 1 of this Policy and the Act

Under section 41 of the Act, building consents are not required in certain cases. Where a building is assessed as being immediately dangerous the Council may not require that a building consent be obtained for any of the immediately necessary building work. However, prior to any action being taken, Council will require a discussion with owners, and a written scope of the work.

8. Recording Dangerous Buildings

Where a building is identified as a dangerous, there will be a notice placed on the building file for the property where the building is situated. This notice will remain on the file, along with any further information showing the danger is remedied. In addition, this same information will be placed on any LIM produced for the property.

9. Economic impact of policy

The volume of buildings defined as being dangerous or affected in any one year, (with the exception of a significant event such as flooding or an earthquake) is likely to be relatively minor. It is therefore expected that the economic impact of this policy is negligible. There is effectively very little change to the manner in which dangerous building occurrences have been treated in the past, and this process is primarily a documentation of the policy.

10. Access to Dangerous Building information

Information concerning dangerous buildings will be contained on the relevant building property file held by Council, and will be provided on any LIM produced for that land.

In granting access to information concerning dangerous buildings, the Council will conform to the requirements of the Local Government Official Information and Meeting Act 1987 and the Local Government Act 2002.



11. Priorities

Council will act on buildings deemed to be immediately dangerous, as a matter of urgency. In these circumstances immediate action may be required to remove the danger and could include prohibiting any person occupying or using the building and, where needed, boarding the building up to prevent entry, or erecting a suitable barrier.

Buildings that are determined to be dangerous, but not immediately dangerous, will be subject to the minimum timeframes for reduction or removal of the danger (i.e. not less than 10 days) as set out in Act.

12. Heritage Buildings

Part 1 of this policy will apply regardless of whether or not the dangerous or affected building is a heritage building.

However, in assessing a heritage building, Council will consult with Heritage New Zealand provided that the time required for consultation will not materially increase the physical danger to the public.

When considering heritage buildings under this policy, account will be taken of:

- The importance of recognising any special traditional and cultural aspects of the intended use of the building.
- The need to facilitate the preservation of buildings of significant cultural, historical or heritage value.
- The circumstances of each building and whether the building has undergone any previous strengthening work.

When considering what action to take on heritage buildings that have become dangerous, Council will take into account the heritage values of the building in determining possible courses of action and seek to avoid demolition where possible. The skills of suitably qualified professionals with heritage expertise will be engaged where possible to advise and offer recommendations for action.

Part 2 – Insanitary Buildings

13. Definitions

- Insanitary building - has the meaning outlined in section 121A of the Act.
- Council – means Southland District Council.
- Heritage building – means a building which is on the New Zealand Heritage List/Rārangī Kōrero in accordance with the Heritage New Zealand Pouhere Taonga Act 2014 and identified in Schedule 5.2 of the Southland District Plan 2018.

14. Identifying and Assessing Insanitary Buildings

Council will:



- Investigate all information received about insanitary buildings (this includes when Council receives reports from members of the public or building occupants, or if a Council officer observes an insanitary building through their usual duties); and
- Assess and identify insanitary buildings in accordance with the Act or the Health Act 1956 (the Health Act). As part of this process, Council will investigate:
 - if the building is occupied; and
 - what the building is currently being used for, and its legally established use; and
 - whether the insanitary conditions pose a risk to the health of any occupants, or other people.

In determining what an insanitary building is, Council may consult with other agencies and Council staff.

When an assessment is undertaken and a building is not deemed to be an insanitary building, Council may take no further action under this policy, the Act or the Health Act.

15. Taking Action on Insanitary Buildings

When a building is deemed to be an insanitary building, Council will, before taking action under the Act or Health Act, liaise and consult with the affected owners and encourage the owners to produce a mutually acceptable formal proposal on how the problem will be rectified. If, after a reasonable time-period, a mutually acceptable formal proposal has not been achieved, Council will take further steps to address the problem by following the procedures set out in the Act or the Health Act.

Where, pursuant to the Act, Council undertakes work to address problems relating to an insanitary building, pursuant to either a Court Order or Chief Executive Warrant, Council reserves the right to appoint an independent contractor to carry out the work required.

Council will hold the owner of any insanitary building liable for the cost of any work required to eliminate the risk posed by the building to its occupants or to the public because it is insanitary.

16. Part 2 of this Policy and the Act

Under section 41 of the Act, building consents are not required in certain cases. Where a building is assessed as being insanitary, the Council may not require that a building consent be obtained for any of the immediately necessary building work. However, prior to any action being taken, Council will require a discussion with owners, and a written scope of the work.

17. Recording Insanitary Buildings

Where a building is identified as insanitary, there will be a notice placed on the building file for the property where the building is situated. This notice will remain on the file, along with any further information showing the insanitary conditions have been remedied. In addition, this same information will be placed on any LIM produced for the property.



18. Economic impact of Policy

The volume of buildings defined as being insanitary in any one year, is relatively minor. It is therefore expected that the economic impact of this policy is negligible. There is effectively very little change to the manner in which insanitary buildings have been treated in the past, and this process is primarily a documentation of the policy.

19. Access to Insanitary Building information

In granting access to information concerning insanitary buildings, the Council will conform to the requirements of the Local Government Official Information and Meeting Act 1987 and the Local Government Act 2002.

20. Heritage Buildings

Part 2 of this policy will apply regardless of whether or not the insanitary building is a heritage building. However, in assessing a heritage building, Council will consult Heritage New Zealand provided that the time required for consultation will not materially increase the risk to occupants or the public.

When considering heritage buildings under this policy, account will be taken of:

- The importance of recognising any special traditional and cultural aspects of the intended use of the building.
- The need to facilitate the preservation of buildings of significant cultural, historical or heritage value.
- The circumstances of each building.

When considering what action to take on heritage buildings that have become insanitary, Council will take into account the heritage values of the building in determining possible courses of action. The skills of suitably qualified professionals with heritage expertise will be engaged where possible to advise and offer recommendations for action.

21. Revision Record

DATE	VERSION	REVISION DESCRIPTION
XX 2018	R/18/2/3527	Earthquake-prone parts removed/affected buildings included.
18 May 2011	R/11/4/5204	Revised policy
31 May 2006	R/09/9/13491	



Southland District Council

EARTHQUAKE-PRONE

DANGEROUS AND INSANITARY BUILDING POLICY – 2011



Southland District Council Earthquake-prone Dangerous and Insanitary Building Policy - 2011

1 Policy Approach

1.1 Policy Principles

The Building Act 2004 is the legislative expression of the government's policy objective for earthquake strengthening of New Zealand buildings. The legislation relating to earthquake-prone buildings seeks to reduce the level of earthquake risk to the public over a specified timeframe, targeting the most vulnerable buildings. The measures in the legislation also recognise that the local economic, social and other circumstances have an impact on the implementation of these provisions under the New Zealand Building Act. Council acknowledges that strengthening of susceptible buildings involves cost to building owners, but supports the underlying principles of enhancing life safety through a systematic approach of identifying at risk buildings, determining user group categories and prioritising the timeframe for upgrade.

1.2 Definitions

Earthquake-prone building

Under Section 122 of the Building Act the meaning of earthquake-prone building is:

- 1) A building is earthquake-prone for the purposes of this Act if, having regard to its condition and to the ground on which it is built –
 - a) Will have its ultimate capacity exceeded in a moderate earthquake (as defined in the regulations) and
 - b) Would likely to collapse causing –
 - i. injury or death to persons in the building or to persons on any other property or
 - ii. damage to any other property.
- 2) Subsection (1) does not apply to a building that is used wholly or mainly for residential purposes unless the building –
 - a) Comprises two or more storeys and
 - b) Contains three or more household units.

Moderate earthquake

Moderate earthquake is defined in Regulation 7 in the Building (Specified Systems, Change of Use and Earthquake-prone Buildings) Regulations 2005 where –

"Moderate earthquake means in relation to a building, an earthquake that would generate shaking at the site of the building that is of the same duration as, but that is one third as strong as the earthquake shaking (determined by normal measures of acceleration, velocity and displacement) that would be used to design a new building at that site".

Buildings will need to be assessed to determine whether they are earthquake-prone. As a general guide – an earthquake-prone building will have strength that is 33% or less of the seismic loading standard in NZS 1170.5 2004.

1.3 Policy History

2006 - Original policy:

- 15 March 2006 - Council approval to consult.
- 28 April 2006 - Submissions closed.
- No submissions lodged.
- 31 May 2006 - Council approval

2011 - Policy review:

- 27 October 2010 - Council approval to consult.
- 28 January 2011 - Submissions closed.
5 submissions lodged.
- 06 April 2011 - Council selects preferred option 7
- 18 May 2011 - Council approval.

2016 - Policy review:

- October 2015 - Council approval to consult.
- January 2016 - Submissions close.
..... submissions lodged.
- 2016 - Council selects preferred option ...
- 2016 - Council approval.

1.4 Overall Approach

Earthquake-prone buildings

There are a number of active faults within the Southland region most of which could present the sites of future large, shallow earthquakes. The Alpine fault, which extends down through Fiordland, has the potential to produce M8 shaking in an earthquake event with other more minor faults having potential to generate up to M7 shaking.

Earlier established rural townships such as Riverton, Tuatapere, Otautau, Edendale, Wyndham, Winton, Mossburn and Lumsden comprise a portion of unreinforced masonry buildings, some of which have parapets which could be categorised as potentially earthquake-prone.

The following table provides an indication of the general seismic risk for several Southland townships in comparison to other areas of New Zealand. The table illustrates some areas for Southland having comparable as well as greater seismic risk than Christchurch (2010 - M7.1) and Gisborne (2007 - M6.6). Factors such as the structures oscillation period and supporting soil conditions come into the equation as well, but the table provides an indication of the seismicity of the Southland region in relation to other areas.

Figures taken from Table 3.3 - NZS 1170.5:2004					
* 19/05/11 upgraded from 2.2 to 3.0 following Sep 10 / Feb 11 earthquakes					
1	Invercargill	0.17	7	Kaitiaki (NZ low)	0.22
2	Gore	0.18	8	Christchurch	0.30*
3	Winton	0.20	9	Gisborne	0.36
4	Riverton	0.20	10	Napier	0.38
5	Te Anau	0.36	11	Hastings	0.39
6	Milford	0.54	12	Hanmer (NZ high)	0.55

Categories and timeframes

The Southland District Council will establish timeframes for earthquake strengthening of buildings that have been identified as "potentially earthquake-prone buildings" or where engineering assessment has confirmed the building does not meet 34% of the current Building Code requirements. The strengthening timeframes for buildings identified as a Potentially Earthquake-prone Building will be introduced on 1 July 2012.

The buildings will be categorised depending on the importance of the building and timeframes for strengthening set in accordance with the Department of Building and Housing's guidelines ranging from 15 to 30 years.

The Southland District Council will categorise potentially earthquake-prone buildings as follows:

Refer Appendix 1 - detailed importance level list	
Category A:	Buildings with special post-disaster functions as defined in AS/NZS 1170.0 2002 - importance level 4. Strengthen within 15 years from 1 July 2012.
Category B:	Buildings that contain people in crowds or contents of high value to the community as defined in AS/NZS 1170.0 2002 - importance level 3. Strengthen within 20 years from 1 July 2012.
Category C:	Buildings with an importance level less than 3 as defined in AS/NZS 1170.0 2002 - importance level 3. Strengthen within 30 years from 1 July 2012.

Any building that falls within more than one category will be assigned to the highest category level. Attached to this policy is the current version of table 3.1 of AS/NZS 1170.0 2002, which lists the importance levels and shows the above categories overlaid.

Where a building owner is unable to meet the timeframes listed, but has made substantial progress towards undertaking earthquake strengthening work, they may make application to Council for an extension of time of up to three years. Written application is to include explanation for the upgrade delay and the revised date for completion of work within the three year timeframe.

Dangerous and insanitary buildings

The Southland District Council is committed to ensuring the safety and wellbeing of its public. The Building and Health Act provide the means to ensure that buildings which become dangerous or insanitary are remedied or the hazard mitigated by removal.

Heritage buildings

Heritage buildings will be categorised and assessed in the same way as other buildings and subject to the same timeframes for earthquake strengthening. In determining an acceptable approach for earthquake strengthening or in remedying dangerous or insanitary conditions, Council will take into consideration the heritage values of the building as set out in Section 3.0 of this policy.

1.5 Identification Process

Earthquake-prone buildings

The Southland District Council will undertake a review of property files commencing on 1 July 2011, to determine buildings that can be identified as "potentially earthquake-prone buildings" and undertake inspection where necessary. Identified "potentially earthquake-prone buildings" could include but are not limited to:

- **Category A** (importance level 4) buildings constructed prior 1976 NZS 4203 loadings code introduction.
- **Category B** (importance level 3) buildings incorporating unreinforced masonry construction.
- **Category C** (importance level 2) buildings incorporating unreinforced masonry construction.

Buildings that will not require assessment include:

- Designed or strengthened to the NZS 4203 1976 or subsequent structural codes, unless they have a critical structural weakness.

- Isolated structures unlikely to collapse causing injury or death to person or damage to other property (refer Section 122 (1) (b) of the Building Act 2004).
- Used wholly or mainly for residential purposes, unless the building comprises two or more storeys and contains three or more household units (refer Section 122 (2) of the Building Act 2004).
- Infrastructure assets covered by an Asset Management Plan such as infrastructure assets owned or controlled by the Southland District Council or NZ Transport Agency or the owner of "works" as defined in the Electricity Act.

Dangerous and insanitary buildings

The Southland District Council will identify dangerous and insanitary buildings by way of advice from the general public through the complaints process or advice from the NZ Fire Service.

1.6 Assessment Criteria

Earthquake-prone buildings

The definition of an earthquake-prone building is given in Section 122 of the Building Act and the definition of a moderate earthquake is given in the Building (Specified Systems, Change of Use and Earthquake-prone Buildings) Regulations.

The Southland District Council will use the NZ Society of Earthquake Engineers recommendation as its preferred basis for defining technical requirements and criteria. These recommendations are designed to be used in conjunction with AS/NZS 1170 Loading Standard, NZS 3101 Concrete Structures Standard, NZS 3404 Steel Structural Standard and other material standards.

Dangerous and insanitary buildings

The Southland District Council will assess dangerous buildings in accordance with Section 121 (1) of the Building Act. Insanitary buildings will be assessed in accordance with Section 123 of the Building Act or section 39 of the Health Act.

1.7 Taking Action on Earthquake-prone, Dangerous and Insanitary Buildings

The Southland District Council, on being satisfied that a building is earthquake-prone, dangerous or insanitary will:

- Advise and liaise with owners of buildings identified as "potentially earthquake-prone buildings" dangerous or insanitary to determine action to be taken.
- Encourage owners of buildings identified as "potentially earthquake-prone buildings" to have an independent assessment of the structural performance undertaken by a Chartered Professional Engineer.
- The level of earthquake strengthening for earthquake-prone buildings shall be set at **minimum 34%** of current design capacity with a **recommendation for building owners to consider 67%** strengthening level.
- Liaise with the NZ Fire Service on proposed action where instances of dangerous buildings are reported by the NZ Fire Service.
- Use Section 124 of the Building Act to take action regarding dangerous, earthquake-prone or insanitary building to serve formal notice in accordance with the Building Act and also erect hoardings, fencing or warning signs where necessary.

- Section 39, 41 and 42 of the Health Act may use with respect to insanitary buildings.
- When setting timeframes for earthquake-prone building action, take into account previous strengthening and/or any contractual or statutory obligations which the owner may be subject to.
- Where considered that action is necessary to avoid immediate danger or to remedy insanitary conditions, powers under Section 129 of the Building Act will be actioned.
- In the case of a building that due to its structural condition is considered to be dangerous, because it is likely to collapse in whole or part with potential to cause injury to occupants or persons in adjacent areas, immediate evacuation including the fencing off of the buildings, shoring up of structure and the preparation and implementation of a Temporary Protection Plan to ensure security of any vacant buildings will be required.
- On being advised of conditions that are alleged to be insanitary under the provisions of Section 123 of the Building Act, the building will be inspected and a determination made as to whether action is required under Sections 124 or 129 of the Building Act.
- Note: Provisions exist in the Health Act to deal with nuisance conditions relating to certain matters associated with housing under Section 29 (f) where overcrowding is likely to be injurious to health under Section 42, because of insanitary conditions likely to cause injury to the health of persons or are dwellings unfit for human habitation.

Taking action on buildings damaged by an earthquake that are considered to be earthquake-prone or dangerous after an earthquake has occurred.

- Buildings may suffer damage in a seismic event. Application for building consent to repairs will be required to include structural strengthening work to restore the building to the level it was designed to before or to a **minimum 34%** (recommend 67%) of the current Building Code, whichever is greater.
- If a building consent application for repairs is not made and/or the repair work is not completed within a timeframe that the Council considers reasonable, Council reserves the right to serve notice under Section 124 (1)(c) of the Building Act to require the work done.

1.8 Interaction between earthquake-prone building policy and related sections of the Building Act

When an application for a building consent involving a change of use is received, the requirements of Section 115 of the Building Act will be followed requiring strengthening to **as near as reasonable practical to 100%** of the current Building Code as part of the building work.

1.9 Dealing with building owners

Before taking action under Section 124 of the Building Act, Council will consult with affected building owners within a reasonable timeframe with the view to obtaining a mutually acceptable approach in dealing with the earthquake-prone, dangerous or insanitary building situation. The objective being to obtain cooperation by way of receipt of a formal proposal from the owner for strengthening or removal of earthquake-prone buildings or otherwise dealing with a dangerous or insanitary situation by altering, removal of the building or taking action under the Health Act.

In the event that the consultation does not yield a mutually acceptable approach or proposal, Council will serve a formal notice on the owner in accordance with Section 124 of the Building Act.

1.10 Recording a building's earthquake-prone status

The Southland District Council will keep a register of all buildings identified as a "potentially earthquake-prone building" noting the status of requirements for improvement or results of structural performance carried out by a Chartered Professional Engineer on behalf of the owner.

The following information will be provided in a Land Information Memorandum (LIM) Notification attached to the relevant property address for the building:

- Address and legal description of the land and building.
- The building category and importance level.
- Buildings identified as a "potentially earthquake-prone building" through the property file review or inspection process shall have that status recorded.
- Where a structural assessment identifies the buildings structural capacity at 33% or less of current capacity, the building will be identified as earthquake-prone.
- Where a structural assessment identifies the buildings capacity at greater than 33% of current capacity, the percentage capacity shall be recorded.
- Date by which strengthening or demolition of an identified "potentially earthquake-prone building" must be undertaken.
- Statement that further information is available on the property file.

1.11 Economic impact of policy

There will be a direct financial impact to owners of buildings identified as "potentially earthquake-prone buildings" in that budgeting will be necessary for upgrade or demolition within the specified timeframe, but also indirectly in that such costs would more than likely be factored into any offer to purchase if the building were offered for sale without the structural upgrade having been carried out.

The direct economic impact to the wider community is restricted to the cost of the initial property file review and where necessary inspections by Council staff in identifying "potentially earthquake-prone buildings". There is potential for indirect economic benefit to the wider community in that there would significantly less disruption and potential damage to at risk buildings in the event of an earthquake such as experienced in Christchurch in 2010/2011 and the resulting damage to the central business area.

Experience gained from reviewing upgraded buildings reactions in the Christchurch earthquakes, may bring about legislative change for an increase in the definition of an earthquake-prone building. Whilst Council recommends consideration be given to earthquake strengthening beyond the minimum 34% to 67% of current design capacity, it believes this is a commercial decision for the building owner to make around such considerations as additional life safety, property protection, business continuity and potential for future legislative to require greater strengthening levels.

The economic implications of requiring strengthening beyond the minimum 34% could result in some building owners deferring building work that requires consent for as long as possible.

This could be detrimental to the maintenance of the district's building stocks and lead to situations of demolition by neglect with the associated costs often falling back to the general ratepayer.

Earthquake strengthening has potential to impact on building rentals as owners seek to recover the upgrade costs. Should increased rentals become unsustainable, then there is potential for such buildings to left vacant.

1.12 Access to Information

Information concerning the earthquake status of a building will be contained in the property file and in the GIS system. If notice under Section 124 of the Building Act is issued in respect to any earthquake-prone, dangerous or insanitary building then this will be recorded on the property file for inclusion in any relevant LIM request.

2 Priorities

Earthquake-prone buildings

The Southland District Council will prioritise the identification of "potentially earthquake-prone" buildings" beginning at 1 July 2011 for completion before 1 July 2012 implementation of strengthening timeframes.

Preliminary indications from rural township surveys carried out in 2006 would indicate in the region of 200 buildings that could fall within the definition of "potentially earthquake-prone buildings".

The Southland District Council's priority for the strengthening or removal of "potentially earthquake-prone buildings" is as detailed in Section 1.4.

3 Heritage Buildings

The Southland District Council believes it is important that heritage buildings are protected and appropriately upgraded to mitigate the risk of potential loss of life and loss of the District's heritage structures in the event of a major earthquake. For this reason heritage buildings (approx 76) will be categorised and assessed the same way as other buildings and be subject to the same timeframes for strengthening upgrade.

However where a heritage building must be strengthened every effort will be made to protect the heritage values of the building by working with the owners designer in reaching solutions. When considering heritage buildings under the earthquake-prone, dangerous or insanitary policy, account will be taken of:

- The importance of recognising any special traditional and cultural aspects of the intended use of the building.
- The need to facilitate the preservation of buildings of significant cultural, historical or heritage value.
- The circumstances of each building and whether the building has undergone any previous strengthening work.
- Early consultation shall be undertaken with the NZ Historic Places Trust where a listed building is identified as "potentially earthquake-prone" or dangerous or insanitary.

When considering what action to take on listed or scheduled heritage buildings that have become dangerous or insanitary, Council will take into account the heritage values of the building in determining possible courses of action and seek to avoid demolition where possible. The skills of suitably qualified professionals with heritage expertise will be engaged where possible to advise and offer recommendations for action.

Appendix 1 - Table 3.1

Importance Levels for Building Types - AS/NZS1170.0.2002

Building Category	Importance Level	Comment	Examples
C 30 Years	1	Structures presenting a low degree of hazard to other property.	a) Structures with a total floor area of <30 m ² . b) Farm buildings, isolated structures, towers in rural situations. Fences, masts, walls, in ground swimming pools.
	2	Normal structures and structures not in other importance levels.	a) Buildings not included in Importance Levels 1, 3 or 4. b) Single family dwellings. c) Car parking buildings.
B 20 Years	3	Structures that as a whole may contain people in crowds or contents of high value to the community or pose risks to people in crowds.	Building and facilities as follows: a) Where more than 300 people can congregate in one area. b) Day care facilities with capacity > 150. c) Primary or secondary school facilities with capacity > 250. d) Colleges or adult education facilities with capacity > 500. e) Health care facilities with capacity > 50 resident patients but not having surgery or emergency treatment facilities. f) Airport terminal, principal railway stations with > 250. g) Correctional institutions. h) Multi-occupancy residential, commercial (including shops) industrial, office and retail buildings designed to accommodate more than 5,000 people and with more than 10,000 m ² area. i) Public assembly buildings, theatres and cinemas with >1,000 m ² Emergency medical and other emergency facilities not designed as post disaster. Buildings and facilities not designated as post-disaster containing hazardous conditions that do not extend beyond the property boundaries.
A 15 Years	4	Structures with special post disaster functions.	a) Buildings and facilities designed as essential facilities. b) Building and facilities with special post-disaster functions. Medical emergency or surgical facilities, emergency service facilities such as fire, police stations and emergency vehicle garages. c) Utilities or emergency supplies or installation requires as backup for buildings and facilities of importance level 4. d) Designated emergency shelters, designated emergency centres and ancillary facilities. e) Building and facilities containing hazardous materials capable of causing hazardous conditions that extends beyond the property boundary.
N/A	5	Special structures - outside the scope of this standard acceptable probability of failure to be determined by special study.	a) Structures that have special functions or whose failure poses catastrophic risk to a large area (eg: 100 km ²) or a larger number of people (eg 100,000). b) Major dams, extreme hazard facilities.