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

Date:	**Wednesday, 24 November 2021**
Time:	**9am**
Meeting room:	**Council Chamber, Level 2**
Venue:	**20 Don Street, Invercargill**

Regulatory and Consents Committee Agenda
OPEN

MEMBERSHIP

Chairperson	Paul Duffy
	Mayor Gary Tong
Councillors	Darren Frazer
	Julie Keast
	Christine Menzies
	Margie Ruddenklau

IN ATTENDANCE

Group manager infrastructure and services	Matt Russell
Committee advisor	Alyson Hamilton

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Website: www.southlanddc.govt.nz

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.

Health and safety – emergency procedures

Toilets – The toilets are located outside of the chamber, directly down the hall on the right.

Evacuation – Should there be an evacuation for any reason please exit down the stairwell to the assembly point, which is the entrance to the carpark on Spey Street. Please do not use the lift.

Earthquake – Drop, cover and hold applies in this situation and, if necessary, once the shaking has stopped we will evacuate down the stairwell without using the lift, meeting again in the carpark on Spey Street.

Phones – Please turn your mobile devices to silent mode.

Recording - These proceedings are being recorded for the purpose of live video, both live streaming and downloading. By remaining in this meeting, you are consenting to being filmed for viewing by the public.

Covid QR code – Please remember to scan the Covid Tracer QR code.

Terms of Reference – Regulatory and Consents Committee

TYPE OF COMMITTEE	Council committee
RESPONSIBLE TO	Council
SUBCOMMITTEES	None
LEGISLATIVE BASIS	Committee constituted by Council as per schedule 7, clause 30 (1)(a), LGA 2002. Committee delegated powers by Council as per schedule 7, clause 32, LGA 2002.
MEMBERSHIP	The Regulatory and Consents Committee will comprise of six members.
FREQUENCY OF MEETINGS	Six weekly or as required
QUORUM	Three
SCOPE OF ACTIVITIES	The Regulatory and Consents Committee is responsible for overseeing the delivery of regulatory services and statutory functions that fall with the scope of, but limited to, the following legislation: • 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 • Southland Land Drainage Act 1935 • Southland Land Drainage Amendment Act 1938. The committee is responsible for hearing and determining regulatory matters including but not limited to: • resource consents • public work requirements • objections against the construction of public works on private land • objections to decisions made by the committee and/or delegated staff • administration of Council bylaws • proposed variations to the District Plan.
DELEGATIONS	Council delegates to the Regulatory and Consents Committee the following functions: **Power to Act**

	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 ie - pursuant to the RMA) 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 resource management hearing commissioners (from whom a commissioner can be selected) at regular intervals and the chief executive be authorised to appoint individual commissioners for a particular hearing f) make decisions on applications required under Southland District Council's Development and Financial Contribution Policy for remissions, postponements, reconsiderations and objections i) receive and approve Council's Annual Reports on dog control and alcohol licensing j) hear and determine objections to officer decisions under the Dog Control Act 1996 k) hear objections and decide on matters under the Southland Land Drainage Act 1935 and Southland Land Drainage Amendment Act 1938. The Regulatory and Consents Committee shall be accountable to Council for the exercising of these powers (Local Government Act 2002, Schedule 7, Clause 32). **Power to Recommend** 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.
FINANCIAL DELEGATIONS	Council authorises the following delegated authority of financial powers to Council committees in regard to matters within each committee's jurisdiction. **Contract Acceptance:** • accept or decline any contract for the purchase of goods, services, capital works or other assets where the total value of the lump sum contract does not exceed the sum allocated in the Long Term Plan/Annual Plan and the contract relates to an activity that is within the scope of activities relating to the work of the Finance and Assurance Committee • accept or decline any contract for the disposal of goods, plant or other assets other than property or land as provided for in the Long Term Plan

	Budget Reallocation. The committee is authorised to reallocate funds from one existing budget item to another. Reallocation of this kind must not impact on current or future levels of service and must be: • funded by way of savings on existing budget items • within the jurisdiction of the committee • consistent with the Revenue and Financing Policy.
LIMITS TO DELEGATIONS	Matters that must be processed by way of recommendation to Council include: • making operative District Plan changes • decision to notify the reviewed District Plan and make operative amendments to fees and charges relating to all activities. Powers that cannot be delegated to committees as per the Local Government Act 2002 and sections 2.4 and 2.5 of this manual. Delegated authority is within the financial limits in section 9 of this manual.
STAKEHOLDER RELATIONSHIPS	This committee shall maintain relationships including, but not limited to the following organisations: • Each of the nine community boards • Southland Museum and Art Gallery • Southland Heritage Building Preservation Trust • Emergency Management Southland • Southland Regional Heritage Committee • Public Health South • New Zealand Police • Ministry of Business, Innovation and Employment • Alcohol Regulatory and Licensing Authority. The committee will also hear and receive updates to Council from these organisations, as required.
CONTACT WITH MEDIA	The committee chairperson is the authorised spokesperson for the committee in all matters where the committee has authority or a particular interest. Committee members, including the chairperson, do not have delegated authority to speak to the media and/or outside agencies on behalf of Council on matters outside of the committee's delegations. The group manager, environmental services will manage the formal communications between the committee and its constituents and for the committee in the exercise of its business. Correspondence with central government, other local government agencies or other official agencies will only take place through Council staff and will be undertaken under the name of Southland District Council.

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REPORTS

7.1 Resource Management Act 1991 - Section357B - objection to the additional charges associated with resource consent RMA/2021/53219 - 43-45 Newburn Street, Waikaia. 15

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 12noon at least one clear day before the meeting. Further information is available at www.southlanddc.govt.nz or by 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, 26 August 2021

Regulatory and Consents Committee

OPEN MINUTES

UNCONFIRMED

Minutes of a meeting of Regulatory and Consents Committee held via Zoom (digital technology) on Thursday, 26 August 2021 at 9.02am.

PRESENT

Chairperson	Paul Duffy
	Mayor Gary Tong
Councillors	Darren Frazer
	Julie Keast
	Christine Menzies
	Margie Ruddenklau

IN ATTENDANCE

Group manager infrastructure and services	Matt Russell
Committee advisor	Alyson Hamilton

1 Apologies

There were no apologies.

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 Ruddenklau, seconded Cr Menzies **and resolved:**

That the minutes of Regulatory and Consents Committee meeting held on 14 July 2021 be confirmed as a true and correct record of that meeting.

Reports

7.1 32 Irwin Street - notified consent - no hearing

Record No: R/21/8/47779

Planner Resource Management, Consents – Howard Alchin was in attendance for this item.

Mr Alchin advised the purpose of the report is to advise the Regulatory and Consents committee of a subdivision decision prepared following public notification of a six-lot rural subdivision to be undertaken in two stages along with an associated land use consent to establish building platforms for future residential development.

The committee noted the site is adjacent to the urban zone of Riverton with the proposed lots ranging in size from 1,536m^2 to 2,254m^2 with the balance lot being 6.87 hectares after stage 2 is completed.

Resolution

Moved Cr Menzies, seconded Cr Frazer **recommendation a, with a new b (as indicated) and resolved:**

That the Regulatory and Consents Committee:

a) receives the report titled "32 Irwin Street - notified consent - no hearing" dated 20 August 2021.

New b)approves the resource consents RMA/2020/53253 and RMA/2020/53259 RMA/2021/53148 BGR Holdings Limited - Six lot rural subdivision in two stages, land use to establish 6 building platforms, and approval to cancel a consent notice – 32 Irwin Street, Riverton, subject to the schedule of consent conditions, and an insertion of the 'accidental discovery protocol' condition.

7.2 Alcohol Licensing Annual Report and Income and Costs Report

Record No: R/21/7/39491

Environmental health manager – Michael Sarfaiti was in attendance for this item.

Mr Sarfaiti advised the purpose of the report is to meet Council's alcohol licensing reporting requirements under alcohol legislation.

The committee was advised that the application lodged by Otautau Hotel 2017 limited for an off license outlet in Riverton to be known as "Riverton Beer, Wine & and Spirits", which was declined by the Licensing Committee, has been appealed by the applicant.

Resolution

Moved Mayor Tong, seconded Cr Menzies **and resolved:**

That the Regulatory and Consents Committee:

a) Receives the report titled "Alcohol Licensing Annual Report and Income and Costs Report" dated 20 August 2021.

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) Receives the Annual Report and authorises it to be forwarded to the Alcohol Regulatory and Licensing Authority and to be made publicly available on Council's website.

e) Receives the financial information and authorises it to be made publicly available on Council's website.

7.3 Dog Control Annual Report

Record No: R/21/8/46237

Environmental health manager – Michael Sarfaiti was in attendance for this item.

Mr Sarfaiti advised the purpose of the report covers the administration of the Southland District Council's Dog Control Policy and its associated practices.

The committee noted Section 10A of the Dog Control Act 1996 provides that every territorial authority shall report on the administration of its Dog Control Policy and dog control practices, and submit it to the Secretary of Local Government, and give public notice of the report in a daily newspaper.

Resolution

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

That the Regulatory and Consents Committee:

a) Receives the report titled "Dog Control Annual Report " dated 20 August 2021.

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) Adopts the Annual Report and authorises it to be forwarded to dogs@dia.govt.nz by the Manager of Environmental Health, and that the report be publicly notified as required by the Dog Control Act 1996.

The meeting concluded at 10.01am

CONFIRMED AS A TRUE AND CORRECT RECORD AT A MEETING OF THE REGULATORY AND CONSENTS COMMITTEE HELD ON THURSDAY, 26 AUGUST 2021

DATE:.....

CHAIRPERSON:.....

Resource Management Act 1991 - Section357B - objection to the additional charges associated with resource consent RMA/2021/53219 - 43-45 Newburn Street, Waikaia.

Record no: R/21/10/57244
Author: Tracy Excell, Resource Management Planner
Approved by: Matt Russell, Group manager infrastructure and environmental services

☒ Decision ☐ Recommendation ☐ Information

Purpose

1 The purpose of this report is for the Regulatory and Consents Committee to determine an objection pursuant to Section 357b of the Resource Management Act 1991 (RMA). The objection was received from Gilbert and Carolyn Kay (the applicant) and relates to costs associated with resource consent RMA/2021/53219 (resource consent 21/219).

Executive summary

2 Resource consent 21/219 sought Council approval for a boundary adjustment of 43 Newburn Street and 45 Newburn Street to rationalise the Record of Title arrangement of Section 8-9 Block XIV Town of Waikaia and Section 9 Block XIV Town of Waikaia in order to resolve the discrepancy between the mineral titles and surface titles of the two allotments.

3 This type of boundary adjustment activity had not been seen before by Council's resource management staff or other Council staff whom the application was referred to for comment. The application submitted to Council did not address background information regarding the legal process to rectify the ownership of the surface title and mineral title of Sections 8 and 9. The applicant's agent was emailed (21/16768) for clarification on the legal process of this application on 9 October 2021 and the applicant's agent did not provide a response to Council.

4 Resource consent 21/219 was granted on 23 September 2021 and an electronic copy of this resource consent was emailed to the applicant's agent. Resource consent 21/219 contained a breakdown of the costs associated with processing the consent.

5 In accordance with Council's Schedule of Fees and Charges (effective 1 July 2021), all costs associated with processing an application for resource consent are borne by the applicant, irrespective of the outcome. The total fees associated with this application amounted to $1,952.50, inclusive of the $1000 lodgement fee. The applicant formally objected to the processing costs on 24 September 2021, in accordance with Section 357b of the RMA. The applicants agent stated that the applicants wish to object to the additional charges associated with this consent and that the reason for this objection is that the charges are disproportionately high for a minor boundary adjustment, however the applicants agent did not specify a proposed deduction.

6 This report considers the objection and recommends that no deduction to the costs be given.

Recommendation

That the Regulatory and Consents Committee:

a) Receives the report titled "Resource Management Act 1991 - Section357B - objection to the additional charges associated with resource consent RMA/2021/53219 - 43-45 Newburn Street, Waikaia." dated 15 November 2021.

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) Declines the request for a deduction of costs associated with Resource Consent 21/219.

Background

7 Resource consent 21/219 was lodged with Council on 31 August 2021, seeking approval from Council for a boundary adjustment in order to resolve the discrepancy between the mineral titles and the surface titles of the two allotments.

8 The subject site is located at 43 Newburn Street, legally described as Section 8-9 Block XIV Town of Waikaia, held in Record of Title SL159/72 and 45 Newburn Street, legally described as Section 9 Block XIV Town of Waikaia, held in Record of Title SL9B/850. The site is located in the urban zone, as defined by the Southland District Plan, 2018 (the District Plan). 45 Newburn Street is also subject to Designation D224: Telecommunication and radio communication and ancillary purposes of which Chorus are the requiring authority.

9 The resource consent application submitted to Council detailed that Section 9 Block XIV TN of Waikaia was taken by Gazette Notice 012324.1 under the Public Works Act in 1976 for the purpose of a telephone exchange. Prior to this Sections 8 and 9 had been held in a single Record of Title (SL159/72) and upon the taking of the land for the telephone exchange, the new Record of Title for Section 9 was issued as being "fee simple – surface only" leaving the mineral rights to Section 9 within Section 8, held in Record of Title (SL159/72).

10 The application submitted to Council stated that Chorus removed a telephone exchange from Section 9 Block XIV TN of Waikaia and in 2018 transferred the "fee simple – surface only" Record of Title (SL9B/850) to the owners of Record of Title SL159/72. This has created a situation where despite the allotments being restored to common ownership, the surface title of Section 8 and the mineral title of Sections 8 and 9 are held in Record of Title SL159/72, while Record of Title SL9B/850 holds only the surface title for Section 9. The proposed boundary adjustment sought to rectify this issue.

11 Council's staff had not previously seen this type of boundary adjustment application before. The application submitted to Council did not address background information regarding the legal

process to rectify the ownership of the surface title and mineral title of Sections 8 and 9. The applicant's agent was emailed (21/16768) for clarification on the legal process of this application on 10 September 2021 and the applicant's agent did not provide a response to Council. The nature of the boundary adjustment meant that the applications vetting, interdepartmental communication and assessment of the application required detailed consideration and input from senior resource management staff members.

12 On 23 September 2021 Council followed up with the applicant's agent and phoned to clarify that a boundary adjustment was the correct legal process to resolve the discrepancy between the mineral titles and surface titles of the two allotments. The applicant's agent stated that the applicant's solicitor spoke to Land Information New Zealand who advised that the applicants would need to go through the subdivision process to resolve the discrepancy between the mineral titles and surface titles of the two allotments.

13 Council's signatory building officer, Leslie Ladbrook reviewed the application to ensure that the proposed boundary adjustment would not create an adverse effect on the existing structures on the properties.

14 Council's roading contract manager, Nick Lewis reviewed the application to determine if the subdivision complied with the Southland District Council's Subdivision, Land Use and Development Bylaw 2018.

15 Resource consent 21/219 was granted on 23 September 2021 and an electronic copy of this resource consent was emailed to the applicant's agent. Resource consent 21/219 contained a breakdown of the costs associated with processing the consent. The applicant was charged for the time Council staff spent working on the application. The nature of the application resulted in the resource management department spending 11.25 hours on the application, the roading department spending 0.5 hours on the application and the building department spending 0.5 hours on the application. It should be noted that there has already been a deduction in the processing costs associated with this resource consent, as the time spent communicating with Council's building department and roading department to clarify what the resource consent was seeking authorisation for and the follow up required with the applicant's agent was not included in the final costing sheet for resource consent 21/219.

16 In accordance with Council's Schedule of Fees and Charges and Section 36 (1) (b) of the RMA, all costs associated with the processing of an application for resource consent are chargeable to the applicant. Staff time is charged at an hourly rate, ensuring the total costs are based entirely on the time spent processing the application.

17 The applicant was invoiced a total of $952.50 for the processing of the application. This was exclusive of the $1000 lodgement and processing fee. A copy of the resource management costing sheet is included as Attachment A.

18 The applicant's agent formally advised Council on 24 September 2021 that the applicants were disputing the costs. The applicant's agent stated that the costs were disproportionately high for a minor boundary adjustment. No specific deduction in costs was proposed by the applicant's agent.

Issues

19 In my opinion the key matters for the committee to consider when making a decision on this objection are:

a) Section 36 of the RMA enables Council to fix charges in relation to applications for resource consent.

b) Council's approved Schedule of Fees and Charges for 2021/2022 charges resource management staff at $160 per hour, roading contract managers at $120 per hour, and building control staff at $185.00 per hour.

c) All costs of a resource consent are borne by the applicant irrespective of the outcome of the application.

d) The total time spent processing this application is, in my opinion, a fair reflection of the nature and complexity of the application.

e) This objection relates entirely to the costs associated with the application.

f) The applicant's agent has stated that the applicants dispute the processing cost of the application as they are disproportionately high for a minor boundary adjustment but has not proposed a suggested deduction to the total cost.

g) Approval of this objection has the potential to set a precedent for future cost objections.

20 Overall in consideration of the above objection, I do not consider that the overall charges were excessive. Attachment A confirms that due to the nature of the application that extra time was spent on the vetting of the application and that consultation with the manager of environmental planning was required to process this resource consent application.

Factors to consider

Legal and statutory requirements

21 Section 36 (1) (b) of the RMA enables Council to fix charges payable by applicants for the carrying out of any 1 or more of its functions in relation to the receiving, processing and granting of resource consents.

Community views

22 There is the potential for community interest in the outcome of an objection of this nature, as it could potentially influence the likelihood of future objections being approved.

Costs and funding

23 The costs associated with this application reflect the time spent by Council processing the application.

Policy implications

24 There are no direct policy implications, though it is noted that there is potential for a precedent to be set in relation to costs associated with future applications.

Analysis

Options considered

25 There are two options for the committee to consider:

a) option 1 – reject the objection to the costs associated with the processing of resource consent 21/219.

b) option 2 – approve the objection and provide a reduction to the costs. Noting that no reduction amount has been proposed, the nature of the reduction should be reflective of what the committee considers appropriate.

Option 1 – Reject the objection to the additional charges associated with resource consent 21/219

Advantages	*Disadvantages*
• the costs will stand as appropriate • maintains the integrity of Council's Schedule of Fees and Charges • sets a guideline for future applicants, that all costs associated with an application for resource consent will be borne by the applicant • emphasises that the onus is on the applicant to satisfactorily address all background information associated with a resource consent application and to reply to emails from Council seeking clarification on an application submitted to Council.	• potential to discourage future applications for subdivision • potential for there to be a perception that Council is placing undue financial constraint on the applicant.

Option 2 – Approve the objection to the additional charges associated with resource consent 21/219. Noting that no reduction amount has been proposed, the nature of the reduction should be reflective of what the committee considers appropriate.

Advantages	*Disadvantages*
• benefits will sit entirely with the applicant and will be financial in nature.	• the time taken to process a resource consent application may not be fully recovered from the applicant. Therefore, such costs would need to be covered in part by the resource management department budget, and ultimately the ratepayers. • potential to establish a precedent that will encourage similar objections in the future. • potential to establish a precedent that could see future applicants receive an undue discount in relation to processing costs.

Assessment of significance

26 The objection sits under the Resource Management Act 1991 and is therefore not considered significant in terms of the Local Government Act 2002.

Recommended option

27 That the committee resolves to reject the objection to the processing costs associated with resource consent 21/219.

Next steps

28 Should the committee determine to reject the objection, the applicant will be required to pay all costs associated with resource consent 21/219.

Attachments

A Costing Sheet 43 and 45 Newburn Street ⇩

Resource management

Costing sheet - non-notified application (all costs are inclusive of GST)

NAME	ADDRESS	CONSENT NO.
Gilbert and Caroline Kay	**43 & 45 Newburn Street, Waikaia**	**RMA/2021/53219**
	Hours	**Total**
Resource Management staff • vetting of application (0.45 hrs) • lodgement of application (0.5 hrs) • assessment of application (2.0 hrs) -inclusive of Senior Planner and Manager of Environmental Management time. • drafting decision (6.0 hrs) • editing draft (1.0 hrs) • senior review (0.5 hrs) • issuing consent (0.5 hrs)	11.25 hours @ $160.00 per hr	$1,800.00
Roading contract manager	0.5 hour @ $120.00 per hr	$60.00
Building control staff	0.5 hour @ $185.00 per hr	$92.50
	Total	$1952.50
	Deposit	$1000.00
	Invoice	**$952.50**