

**KAIKOURA DISTRICT COUNCIL MEETING FOLLOWING THE FINANCE AND POLICY COMMITTEE MEETING ON WEDNESDAY 21 JUNE 2006, IN MEMORIAL HALL SUPPER ROOM, ESPLANADE, KAIKOURA.**

**AGENDA**

1. *Apologies*

2. *Matters of Importance to be raised as Urgent Business*

3. **Minutes to be Confirmed:**

■ *Council 17/05/2006*

*page 49*

**Reports to be Adopted:**

■ *Works & Services Committee 17/05/2006*

*page 60*

■ *Environmental Services Committee 17/05/2006*

*page 67*

■ *Finance and Policy Committee 17/05/2006*

*page 70*

■ *Social Services Committee 10/05/2006*

*page 72*

■ *Tourism & Development Committee 10/05/2006*

*page 77*

**Minutes to be received**

■ *Hearings and Applications Committee 02/05/2006*

*page 84*

■ *Hearings and Applications Committee 31/05/2006*

*page 94*

4. *Matters arising from Confirmed minutes*

5. *Minutes Action List Update*

<b>MEETING</b>	<b>ACTION REQUIRED</b>	<b>BY</b>	<b>DATE ACTIONED</b>
	<b>15 MARCH 2006</b>		
Council	Proceed with plans and resource consent for new wharf	Stuart	In Progress
	<b>17 MAY 2006</b>		
Council	Provide a clear overview/report to Council of Earthquake Prone, Dangerous & Insanitary Buildings Policy	Neville/Dave	Item 14 Page 231
Council	Council staff liaise with RD Hughes Developments and appropriate parties in the drafting of an initial coastal re-vegetation plan	Nicole	Item 9 Page 154

6. *Draft Control of Liquor & Liquor Ban By-Law*

*page 103*

**The Draft Control of Liquor & Liquor Ban By-Law was considered and adopted by Council at its meeting on 20 April 2006. It has been duly advertised and 3 submissions have been received. Two of the submitters will be heard as follows:**

- 1.00pm S Kavanagh
- 1.15pm Community & Public Health

**Recommendation**

*It is recommended that Council adopt the draft Control of Liquor & Liquor Ban By-Law subject to any amendments considered to be necessary as a result of hearing submissions.*

7. *Kaikoura District Council Dog By-Law* *page 111*
8. *Environment Canterbury Resource Consent Application* *page 135*  
*– Prime Pine Kaikoura Ltd*  
**Report from Council’s Asset Manager and Planning Officer. Submissions close 22/06/2006**
9. *Coastal Re-Vegetation Plan* *page 154*
- 10 *Mainpower Trust Ownership Review* *page 156*  
**Submissions close 23/06/2006**
11. *Review of Electoral Representation Arrangements* *page 168*
12. *Amendment to Model Standing Orders* *page 173*  
**Model Standing Orders 9202:2003 Amendment No.1 was issued to Councillors on May. Please bring your copy to the meeting**
13. *Outdoor Walking Access – Consultation Document* *page 228*  
**Copies were distributed to all Councillors early May for comment. Submissions close 30/06/2006.**
14. *Kaikoura District Council Earthquake Prone, Dangerous & Insanitary Buildings Policy 2006* *page 231*  
**For Adoption**
15. *Committee Updates*
16. *Mayor’s Report* *page 244*
17. *Urgent Business*
18. *Council Public Excluded Session*

*Moved, seconded that the public be excluded from the following parts of the proceedings of this meeting, namely*

- a. Confirmation of Minutes of Council Public Excluded meeting on 17/05/2006*
- b. Confirmation of Minutes of Environmental Services Committee Public Excluded Meeting on 17/05/2006*
- c. Purpose Built Building – Beach Road*
- d. Expiration of Lease – Fishermen’s Lockers*
- e. CEO Performance Review 2004-2005*
- f. CEO Salary Review 2005-2006*

*The general subject matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under Section 48(1) and 7(2)(i) of the Local Government Information and Meetings Act 1987 for the passing of this resolution are as follows:*

<b>General subject of each to be considered</b>	<b>Reason for passing this resolution in relation to each matter</b>	<b>Grounds of the Act under which this resolution is made</b>
Minutes of the Council Public Excluded meeting held 17 May 2006.	The exclusion of the public from the whole or the relevant part of the proceedings of the meeting is necessary to enable the Local Authority to deliberate in private on its decision or recommendation.	<b>Section 48(1)(a) and 7(2)(b)</b>
Minutes of the Environmental Services Committee Public Excluded meeting held 17 May 2006.	The exclusion of the public from the whole or the relevant part of the proceedings of the meeting is necessary to enable the Local Authority to deliberate in private on its decision or recommendation.	<b>Section 48(1)(a) and 7(2)(b)</b>
Purpose Built Building – Beach Road.	The exclusion of the public from the whole or the relevant part of the proceedings of the meeting is necessary to enable the Local Authority to deliberate in private on its decision or recommendation.	<b>Section 48(1)(a) and 7(2)(b)</b>
Lease of Fishermen Lockers – Old Wharf.	The exclusion of the public from the whole or the relevant part of the proceedings of the meeting is necessary to enable the Local Authority to deliberate in private on its decision or recommendation.	<b>Section 48(1)(a) and 7(2)(b)</b>
Chief Executive Officer Performance Review 2004-2005	The exclusion of the public from the whole or the relevant part of the proceedings of the meeting is necessary to enable the Local Authority to deliberate in private on its decision or recommendation.	<b>Section 48(1)(a) and 7(2)(b)</b>
Chief Executive Officer Salary Review 2005-2006	The exclusion of the public from the whole or the relevant part of the proceedings of the meeting is necessary to enable the Local Authority to deliberate in private on its decision or recommendation.	<b>Section 48(1)(a) and 7(2)(b)</b>



## **DRAFT CONTROL OF LIQUOR & LIQUOR BAN BYLAW 2006**

The Kaikoura District Council in pursuance of the powers contained in the Local Government Act 2002 (and particular Section 147 of that Act), the Bylaws Act 1910 and any other authority enabling the Council in this behalf hereby makes the following Bylaw.

### **1.0 Title and Commencement**

- (i) This Bylaw shall be known as the Control of Liquor & Liquor Ban Bylaw 2006.
- (ii) The Bylaw shall come into effect on the **1<sup>st</sup> August 2006**

### **2.0 Interpretation**

**Act** – means the Local Government Act 2002.

**Council** – means Kaikoura District Council.

**Enforcement Officer** – means any Police Officer or any person appointed by the Council pursuant to Section 177 of the Local Government Act 2002 to exercise the powers of an Enforcement Officer in relation to offences against these Bylaws.

**Liquor** – means “any fermented, distilled, or spiritous liquor (including sprits, wine, ale beer, porter, honeymead, stout, cider and perry) that is found on analysis to contain 1.15 percent or more alcohol by volume”. Note: This is the meaning given to liquor in the Sale of Liquor Act 1989.

**Offence** – means an offence under Section 239 of the Act and includes the offences in clause 3 of this Bylaw.

**Public Place** – means a place –

- (i) That is under the control of the Council; and
- (ii) That is open to, or being used by, the public, whether or not there is a charge for admission;  
and includes
  - (i) A road, whether or not the road is under the control of a territorial authority; and
  - (ii) Any part of a public place.

**Specified Period** – means a permanent 24 hour period where the liquor ban is in force and any additional period that may be determined by the council by resolution from time to time and publicly notified in accordance with clause 4 of this Bylaw.

**Specified Public Place** – means a public space defined or listed in the attached schedule and such additional place as may be defined by the council by resolution from time to time and publicly notified in accordance with clause 4 of this Bylaw.

This shall include the following areas:

- Beach Road from Alpine View Motels to Ramsgate Street on Esplanade
- Ludstone Road from DOC Building to West End
- Davidson Terrace
- Whaleway Station Road to West End, including carparks & walkways
- Corner Churchill Street/Scarborough Street to West End
- Deal Street including Churchill Park
- Esplanade from West End to Ramsgate Street
- Torquay Street from Killarney Street to Ramsgate Street
- Upper Killarney Street to Scarborough Street/Churchill Street corner
- Takahanga Terrace
- Killarney Street
- Yarmouth Street
- Brighton Street
- Ramsgate Street
- Including the beach and foreshore of the above areas, reserve areas, sports grounds, camp areas and car parks).

### **3.0 Offences**

3.1 It shall be an offence under this Bylaw to:

- Bring liquor into,
  - Possess liquor in, or
  - Consume liquor in
- any Specified Public Place during any Specified Period.

### **4.0 Addition of Specified Periods and Specified Public Places**

4.1 The Council may from time to time by resolution specify additional periods during which the bringing of liquor into a public place and the possession or consumption of liquor in a public place may be prohibited and (in conjunction with such a prohibition) the presence or use of vehicles may be regulated or controlled. The council may make such a resolution in relation to any planned public event, function or social gathering to be held in a public place or in relation to a period when the congregation of a large number of people in a public place is anticipated.

4.2 The Council may from time to time by resolution specify additional public places that are to be defined as Specified Public Places and in relation to which the provisions of the Bylaw relating to the prohibition, regulation or control of liquor and vehicles may apply during a Specified Period.

4.3 Every resolution made pursuant to Clause 4.1 of clause 4.2 above shall be publicly notified at least 14 days before it shall take effect.

### **5.0 Exemptions**

5.1 This Bylaw does not prohibit, in the case of liquor in an unopened bottle or other unopened container –

- (a) The transport of that liquor from premises that adjoin a public place during any period when, under the Sale of Liquor Act 1989, it is lawful to sell liquor on those premises for consumption off the premises, provided the liquor is promptly removed from the public place.
- (b) The transport of that liquor from outside a public place for delivery to premises that adjoin the public place, provided the premises are licensed for the sale of liquor under the Sale of Liquor Act 1989.
- (c) The transport of the liquor from outside a public place to premises that adjoin a public place:
  - (i) by, or for delivery to, a resident of those premises or by his or her bona fide visitors; or
  - (ii) from those premises to a place outside the public place by a resident of those premises, provided the liquor is promptly removed from the public place.

5.2 This Bylaw does not apply to any area that is the subject of a special licence issued pursuant to the Sale of Liquor Act 1989.

## **6.0 Powers of Arrest Search and Seizure**

6.1 In accordance with Section 169 & 170 of the Act a member of the Police may, without warrant,

- (a) for the purpose of ascertaining whether liquor is present, search -
  - (i) a container (for example, a parcel, package, bag, or case) in the possession of a person who is in, or entering, a public place:
- (b) seize and remove liquor and its container if the liquor is in a public place in breach of a bylaw:
- (c) arrest a person whom the member of the police finds committing an offence against this bylaw.
- (d) arrest a person who has refused to comply with a request by a member of the police -
  - (i) to leave the public place; or
  - (ii) to surrender to a member of the police the liquor that, in breach of a bylaw, is in that person's possession.

6.2 Before a member of the police may exercise the power of search in Clause 6.1 the Council must –

- (a) specify the public place where, this power may be exercised by the Police by public notice given at least 14 days in advance of the ban taking effect:
- (b) indicate the location of the public place by 1 or more clearly legible notices affixed in 1 or more conspicuous places on, or adjacent to, the place to which the notice relates, unless it is impracticable or unreasonable to do so.

- 6.3 If the council has not so specified a place and indicated its location under Clause 6.2, then before exercising the power of search under Clause 6.1 in relation to a container or a vehicle, a member of the police must –
- (a) inform the person in possession of the container or the vehicle, as the case may be, that he or she has the opportunity of removing the container or the vehicle from the public place; and
  - (b) provide the person with a reasonable opportunity to remove the liquor or the vehicle, as the case may be, from the public place.
- 6.4 In accordance with Section 169 of the Act, liquor or a container seized under clause 6.1 is forfeited to the Crown if the person from whom the liquor or container is seized is convicted of breaching the bylaw.
- 7.0 Breach of Bylaw and Penalty**
- 7.1 Any person who commits any offence listed in clause 3 of this Bylaw or acts in breach of any provision of this Bylaw commits an offence and on summary conviction is liable to the penalty set out in Section 242(a) of the Act (a fine not exceeding \$20,000).

#### **EXPLANATORY NOTES**

1. The Council has considered this Bylaw in relation to the Bill of Rights Act 1990 and deemed is not to be contrary to the provisions of the Act.
2. This Bylaw shall be reviewed within five years of the day from which the bylaw is made.

## **7. Kaikoura District Council Dog Control By-Law**

### **Background:**

Changes to the Dog Control Act 1996 have been made in the interests of public safety and to give dog owners a clear understanding of their responsibilities. A requirement of the changes to the Act was that Councils revise their Dog Control Policies, applying strengthened criteria which places greater emphasis on public safety.

The Kaikoura District Council Dog Control Policy 2006 was adopted by Council at its meeting of 17 May 2006.

A further legal requirement of the adoption of the policy is that the territorial authority must give effect to a policy adopted under section 10 of the Dog Control Act 1996 by:

“(a) by making the necessary bylaws, which must come into force no later than the 60<sup>th</sup> day after the adoption of the policy; and

(b) by repealing, before the 60<sup>th</sup> day after the adoption of the policy, any bylaws that are inconsistent with the policy.”

**Objectives:**

Changes to the Kaikoura District Council (Control of Dogs) Bylaw 1997 as underlined have been made to bring the bylaw in line with the Kaikoura District Council Dog Control Policy 2006 and meet Council obligations as required by changes to the Dog Control Act 1996.

**Recommendation:**

*That Council review the draft bylaw and add any amendments at its meeting of 21 June 2006 with the view that Council will adopt the bylaw by Special Order at the meeting on Wednesday 16 August 2006*

**Kaikoura District Council Existing By-Law**

**Dog Control Bylaw - Special Order**

**KAIKOURA DISTRICT COUNCIL**

**MAKING OF KAIKOURA DISTRICT (CONTROL OF DOGS)**

**BYLAW 1997**

The Kaikoura District Council hereby makes by special order the following bylaw in accordance with the powers conferred upon it by the Dog Control Act 1996 and the Local Government Act 1974 and any other Act enabling it in that behalf.

***Short Title***

The title of this bylaw shall be the Kaikoura District (Control of Dogs) Bylaw 1997.

***Commencement***

This bylaw shall come into force on 23rd July 1997.

***Application of Bylaw***

Except as herein expressly provided, this Bylaw shall apply to the whole District.

### ***Principles of Interpretation***

Every provision in this bylaw shall be deemed to have been adopted to provide for the regulation and control of dogs within the Kaikoura District. This shall be taken into account in interpreting this bylaw, which shall receive such fair, large and liberal construction or interpretation as will best ensure the attainment of the public good and the achievement of the foregoing purposes and objects according to their true intent, meaning and spirit.

### ***Interpretation***

In this bylaw, unless the context otherwise requires, the terms used in this bylaw shall have the meaning given to them in the Dog Control Act 1996, save that for the purposes of this Bylaw, the following terms shall have the following meanings:

**"Designated Dog Exercise Area"** means a Public Place or Public Area designated for the exercise of dogs in accordance with clause 2.4 of this bylaw.

**"District"** means the Kaikoura District.

**"Prohibited Public Place"** means a place in which dogs are prohibited in accordance with clause 2.1 of this bylaw.

**"Temporary Prohibited Public Place"** means any area so designated in accordance with clause 2.2 of this bylaw.

Words importing the singular include the plural and vice versa. Words importing the masculine include the feminine and vice versa.

The headings to the clauses are intended for the convenience of reference and shall not affect the construction or interpretation thereof.

### ***Bylaws Revoked***

All bylaws made by the Kaikoura District Council or its predecessors in force in the district at the time of the coming into force of this bylaw, which relate to any matter or thing to which this bylaw relate, or any bylaws inconsistent with this bylaw are hereby revoked as from the date of the coming into force of this bylaw, so that any bylaw revoked by this bylaw shall remain in force so far as it relates to anything done or any offence committed, prosecution or proceeding commenced, right or liability accrued, licence issued, notice given or order made under or against any of the provisions thereof, before the coming into force of this bylaw. All licences issued under any revoked bylaw shall, after the coming into operation of this bylaw, be deemed to have been issued under this bylaw and be subject to the provisions hereof.

### ***Serving of Orders and Notices***

Except where otherwise expressly provided for in any Act, in any case in which it is provided by this bylaw that an order may be made on any person or that a notice be given to any person requiring that person to do or abstain from doing anything, or any notices are required by this bylaw to be given or sent to any person, such order or notice may be delivered to that person either personally or by sending the same, by post, to the last known place of abode or business of that person or in

the case of a person shown as the owner of a dog on a dog's register for the time being in force, by post to the address shown in the register.

### *Offences*

#### **Every person commits an offence against this bylaw who:**

**does**, or causes to be done, or knowingly permits or suffers to be done, or is concerned in doing, anything whatsoever contrary to or otherwise than as provided for by this bylaw; or

**omits** or neglects to do, or knowingly permits, or suffers to remain undone, anything which under this bylaw, ought to be done by that person at the time and in the manner therein provided; or

**does** not refrain from doing anything which under this bylaw that person is required to abstain from doing; or

**knowingly** permits or suffers any condition of things to exist contrary to any provision contained in this bylaw; or

**refuses** or neglects to comply with any notice duly given to that person under this bylaw; or

**obstructs** or hinders any officer or employee of the Council (including any Dog Control Officer or Dog Ranger) in performance of any duty to be discharged by that officer or ranger or employee under or in the exercise of any power **conferred upon that officer, ranger or employee by this bylaw; or**

**fails** to comply with any notice or direction given under this bylaw.

### ***Offenders to Give Names***

Any person who, in the opinion of a Dog Control Officer or a Dog Ranger, is committing or has committed a breach of any of the provisions of this bylaw, shall if so requested by the Dog Control Officer or Dog Ranger, supply his or her full name and address.

### ***Penalties***

Every person who commits a breach of this bylaw shall be liable to a fine not exceeding \$500.00 and where the breach is a continuing one, to a further fine not exceeding \$50.00 for every day or part of the day during which the breach continues.

## **PUBLIC PLACES**

### ***Prohibited Public Place***

No Owner of any dog shall permit their dog to enter or remain in any Prohibited Public Place. This clause shall not apply to Guide Dogs or Companion Dogs carrying out the work for which they have been trained.

The following areas, and as more particularly shown on the plan annexed to this bylaw as Appendix A, are hereby designated Prohibited Public Places:

- Takahanga Domain
- Gooches Beach Recreation Reserve (within 10 metres of play equipment)
- Recreation Reserve (next to Finz Restaurant, South Bay Parade)
- Bayview Street Park
- Churchill Street Park (within 10 metres of play equipment)
- Seal Colony carpark and Peninsula walkway
- Jimmy Amers Beach and Recreation Reserve from 1 November - 31 March each year.
- Walkway from Scarborough Terrace to South Bay
- South Bay Domain (fenced off sports area only)
- Wildlife Reserve adjacent to Lyell Creek (Ludstone Road, opposite Kaikoura Motels)
- South Bay Commercial Boat Park, Moa Point and small craft marine facility area.
- Garden of Memories
- Reservoir Site, Scarborough Terrace
- Kaikoura Cemetery
- Recreation Reserve, Gillings Lane

***Non-Prohibited Public Places***

Dogs are permitted in every area within the Kaikoura District except for:

- a) Those areas designated a prohibited public place (including any Temporary Prohibited Public Place) in accordance with clause 2.1 or 2.3 of this bylaw.

- b) Those areas designated public places where dogs are required to be on a leash in accordance with clause 2.4 of this bylaw.
- c) Any areas designated as controlled or closed areas under the Conservation Act 1987.
- d) Any other area where dogs are prohibited or restricted in accordance with any other applicable enactment, policy or bylaw.
- e) Any private land (except with the consent of the landowner or occupier within the meaning given to that term in the Rating Powers Act 1988).

#### ***Temporary Prohibited Places***

Council may, from time to time, declare by resolution any public place not already a Prohibited Public Place to be a Temporary Prohibited Public Place for a specified time.

Council shall give such reasonable public notice of its intention to declare any public place to be a Temporary Prohibited Public Place, whether by way of advertisement, signage or otherwise as it deems appropriate and circumstances allow.

***Public Places and Areas Where Dogs are Required to be Kept  
Under Control on a Leash***

The Owner of a dog shall keep it under control in a public place, (other than a Designated Dog Exercise Area as specified by Council in clause 2.4 of this bylaw).

For the purposes of this clause "*under control*" means that the dog is effectively secured by leash, chain or lead or otherwise physically restrained so that the dog cannot break loose. This clause shall not apply to any Guide Dog or Companion Dog carrying out the work for which they have been trained.

The following areas and as more particularly shown on the plans annexed to this bylaw as Appendix A, are hereby designated public places where dogs are required to be on a leash:

- West End (between SH1 and Esplanade)
- Lydia Washington Walkway (West End to Deal Street)
- Annie Boyd Walkway (Torquay Street to Killarney Street)
- Takahanga Terrace to Killarney Street Walkway
- Peninsula Walkway (Torquay Street to Scarborough Street)
- Dempseys Track (Torquay Street to Scarborough Street)
- Churchill Street (West End to Scarborough Street)
- Beach Road (Mill Road to Ludstone Road/Churchill Street intersection)

No person, being the Owner of any dog, shall take any diseased or mangy dog onto any public place or allow such dog to enter or remain in a public place.

### ***Designated Dog Exercise Areas***

The Council may, from time to time, declare by resolution any public place to be a Designated Dog Exercise Area.

Within a Designated Dog Exercise Area, the Owner of a dog shall ensure that the dog is at all times under adequate supervision.

For the purposes of this clause "*adequate supervision* " means that although the dog is not required to be secured by leash, chain or lead, it must be controlled by the Owner so as not to be in breach of clause 4.1.1 of this bylaw.

The following areas, and as more particularly shown on the plans annexed to this bylaw as Appendix A are hereby designated dog exercise areas.

- South Bay Recreation Reserve (South Bay foreshore)
- South Bay Recreation Reserve (near start of walkway to Seal Colony but excluding the walkway where dogs are prohibited).
- South Bay Domain (area planted in pine trees from corner of South Bay Parade to Kowhai River)
- Beach Foreshores (except Jimmy Armers Beach and South Bay Commercial Boat Park)
- River beds and the Queens Chain adjoining rivers (Esplanade Reserves or Strips)
- South Bay Domain (except the fenced sportsground area where dogs are prohibited).
- Recreation Reserve (rest area on south bank of the Kowhai River)
- Churchill Park (Dogs are prohibited within 10m of play equipment)

## **OBLIGATIONS OF OWNERS**

### ***Confinement of Dogs***

The Owner of any dog shall provide means of confining the dog upon the Owner's property so that it is unable to gain access to any other private property or to any public place.

### ***Removal of Dog Faeces***

Any person, being the Owner of a dog which defecates in a public place or on land or premises other than that occupied by the owner, shall immediately remove and dispose of the faeces.

### ***Limitation on Number of Dogs***

No person shall keep within the residential areas of the townships of Kaikoura, Oaro, Goose Bay, Peketa, Hapuku, Rakautara, Clarence, and Kekerengu, more than two dogs aged six months or more unless the Owner has an appropriate licence from the Council.

In applying for a licence to keep more than two dogs as required by clause 3.3.1 above, an Owner shall demonstrate that he or she has attained the status of a Responsible Dog Owner in accordance with the criteria outlined in Appendix 1 to the Kaikoura Dog Control Policy 1997.

## **IMPOUNDING OF DOGS**

### ***Impounding of Dogs in Breach of this Bylaw***

Any dog found at large:

in breach of clauses 2.1, 2.3 or 2.4 of this bylaw, whether or not it is wearing a registration label or disc as required by the Dog Control Act 1996; or

on any land or premises other than a public place or a private way without the consent (express or implied) of the occupier or person in charge of that land or premises-

may be seized and impounded by a Dog Control Officer or a Dog Ranger.

As soon as practicable after any dog has been impounded the Council shall:

in the case of a dog wearing a registration label or disc or where the Owner of the dog is known, give written notice to the Owner that the dog has been impounded and that unless the dog is claimed and any fee payable paid within 7 days of the receipt of the notice, it may be sold, destroyed, or otherwise disposed of in such a manner as the Council sees fit; and after the expiry of that period the Council may so dispose of the dog.

where the Owner of the dog is not known or despite reasonable enquiry cannot be identified, the Council may, after the expiration of

7 days after the date of the seizure of the dog, sell, destroy, or otherwise dispose of the dog in such a manner as it thinks fit.

The sale, destruction or disposal of any dog in accordance with this bylaw shall not relieve the Owner of the dog of liability for the payment of any fees or penalties payable under this bylaw.

### **FEES**

*The Council may, from time to time, by resolution, set any fees payable in respect of any matter for which it is authorised to charge pursuant to the:*

**Local Government Act 1974;**

**Dog Control Act 1996; and**

**this bylaw.**

### **ATTESTATION**

This bylaw was made by Special Order passed at a meeting of the Kaikoura District Council held on and (meantime having been publicly notified) confirmed at a meeting of the said Council held on and at the last meeting aforesaid it was ordered to come into force on.

The Common Seal of the Kaikoura District Council  
was hereto affixed in the presence of:

---

Authorised Signatory

---

Authorised Signatory

## **Kaikoura District Council By-Law 2006**

### **KAIKOURA DISTRICT COUNCIL**

#### **KAIKOURA DISTRICT (CONTROL OF DOGS) BYLAW 2006**

The Kaikoura District Council hereby makes by special order the following bylaw in accordance with the powers conferred upon it by the Dog Control Act 1996 and the Local Government Act 2002 and any other Act enabling it in that behalf.

#### **1.1 Short Title**

1.1.1 The title of this bylaw shall be the Kaikoura District (Control of Dogs) Bylaw 2006.

#### **1.2 Commencement**

1.2.1 This bylaw shall come into force on 16th August 2006.

#### **1.3 Application of Bylaw**

1.3.1 Except as herein expressly provided, this Bylaw shall apply to the whole District.

## 1.4 Principles of Interpretation

- 1.4.1 Every provision in this bylaw shall be deemed to have been adopted to provide for the regulation and control of dogs within the Kaikoura District. This shall be taken into account in interpreting this bylaw, which shall receive such fair, large and liberal construction or interpretation as will best ensure the attainment of the public good and the achievement of the foregoing purposes and objects according to their true intent, meaning and spirit.

## 1.5 Interpretation

- 1.5.1 In this bylaw, unless the context otherwise requires, the terms used in this bylaw shall have the meaning given to them in the Dog Control Act 1996, save that for the purposes of this Bylaw, the following terms shall have the following meanings:

"Designated Dog Exercise Area" means a Public Place or Public Area designated for the exercise of dogs in accordance with clause 2.4 of this bylaw.

"District" means the Kaikoura District.

"Prohibited Public Place" means a place in which dogs are prohibited in accordance with clause 2.1 of this bylaw.

"Temporary Prohibited Public Place" means any area so designated in accordance with clause 2.2 of this bylaw.

"Leash" means an adequate restraint not exceeding 2 meters in length and held by a person physically capable of restraining the dog.

- 1.5.2 Words importing the singular include the plural and vice versa. Words importing the masculine include the feminine and vice versa.
- 1.5.3 The headings to the clauses are intended for the convenience of reference and shall not affect the construction or interpretation thereof.

## 1.6 Bylaws Revoked

- 1.6.1 All bylaws made by the Kaikoura District Council or its predecessors in force in the district at the time of the coming into force of this bylaw, which relate to any matter or thing to which this bylaw relate, or any bylaws inconsistent with this bylaw are hereby revoked as from the date of the coming into force of this bylaw, so that any bylaw revoked by this bylaw shall remain in force so far as it relates to anything done or any offence committed, prosecution or proceeding commenced, right or liability accrued, license issued, notice given or order made under or against any of the provisions thereof, before the coming into force of this bylaw. All licenses issued under any revoked bylaw shall, after the coming into operation

of this bylaw, be deemed to have been issued under this bylaw and be subject to the provisions hereof.

## **1.7 Serving of Orders and Notices**

1.7.1 Except where otherwise expressly provided for in any Act, in any case in which it is provided by this bylaw that an order may be made on any person or that a notice be given to any person requiring that person to do or abstain from doing anything, or any notices are required by this bylaw to be given or sent to any person, such order or notice may be delivered to that person either personally or by sending the same, by post, to the last known place of abode or business of that person or in the case of a person shown as the owner of a dog on a dog's register for the time being in force, by post to the address shown in the register.

## **1.8 Offences**

1.8.1 Every person commits an offence against this bylaw who:

- (a) does, or causes to be done, or knowingly permits or suffers to be done, or is concerned in doing, anything whatsoever contrary to or otherwise than as provided for by this bylaw; or
- (b) omits or neglects to do, or knowingly permits, or suffers to remain undone, anything which under this bylaw, ought to be done by that person at the time and in the manner therein provided; or
- (c) does not refrain from doing anything which under this bylaw that person is required to abstain from doing; or
- (d) knowingly permits or suffers any condition of things to exist contrary to any provision contained in this bylaw; or
- (e) refuses or neglects to comply with any notice duly given to that person under this bylaw; or
- (f) obstructs or hinders any officer or employee of the Council (including any Dog Control Officer or Dog Ranger) in performance of any duty to be discharged by that officer or ranger or employee under or in the exercise of any power conferred upon that officer, ranger or employee by this bylaw; or
- (g) fails to comply with any notice or direction given under this bylaw.

## **1.9 Offenders to Give Names**

1.9.1 Any person who, in the opinion of a Dog Control Officer or a Dog Ranger, is committing or has committed a breach of any of the provisions of this bylaw, shall

if so requested by the Dog Control Officer or Dog Ranger, supply his or her full name and address.

## **1.10 Penalties**

1.10.1 Every person who commits a breach of this bylaw shall be liable to a fine not exceeding \$500.00 and where the breach is a continuing one, to a further fine not exceeding \$50.00 for every day or part of the day during which the breach continues.

## **2. PUBLIC PLACES**

### **2.1 Prohibited Public Place**

2.1.1 No Owner of any dog shall permit their dog to enter or remain in any Prohibited Public Place. This clause shall not apply to Guide Dogs or Companion Dogs carrying out the work for which they have been trained.

2.1.2 The following areas, and as more particularly shown on the plan annexed to this bylaw as Appendix A, are hereby designated Prohibited Public Places:

- Takahanga Domain
- Gooches Beach Recreation Reserve (within 10 metres of play equipment)
- South Bay Recreation Reserve (next to Finz Restaurant, South Bay Pde)
- Bayview Street Park
- Churchill Street Park (within 10 metres of play equipment)
- Seal Colony carpark and Peninsula walkway
- Jimmy Armers Beach and Recreation Reserve (from 1 Nov - 31 Mar)
- Walkway from Scarborough Terrace to South Bay
- South Bay Domain (fenced off sports area only)
- Wildlife Reserve adjacent to Lyell Creek (Ludstone Road, opposite Kaikoura Motels)
- South Bay Commercial Boat Park, Moa Point and small craft marine facility area
- Garden of Memories
- Reservoir Site, Scarborough Terrace
- Kaikoura Cemetery
- Recreation Reserve, Gillings Lane
- Gillings Lane/ Beach Road playground (within 10 meters of play equipment)

### **2.2 Non-Prohibited Public Places**

2.2.1 Dogs are permitted in every area within the Kaikoura District except for:

- a) Those areas designated a prohibited public place (including any Temporary Prohibited Public Place) in accordance with clause 2.1 or 2.3 of this bylaw.
- b) Those areas designated public places where dogs are required to be on a leash in accordance with clause 2.4 of this bylaw.
- c) Any areas designated as controlled or closed areas under the Conservation Act 1987.
- d) Any other area where dogs are prohibited or restricted in accordance with any other applicable enactment, policy or bylaw.
- e) Any private land (except with the consent of the landowner or occupier within the meaning given to that term in the Local Government (Rating) Act 2002).

## **2.3 Temporary Prohibited Places**

- 2.3.1 Council may, from time to time, declare by resolution any public place not already a Prohibited Public Place to be a Temporary Prohibited Public Place for a specified time.
- 2.3.2 Council shall give such reasonable public notice of its intention to declare any public place to be a Temporary Prohibited Public Place, whether by way of advertisement, signage or otherwise as it deems appropriate and circumstances allow.

## **2.4 Public Places and Areas Where Dogs are Required to be Kept Under Control on a Leash**

- 2.4.1 The Owner of a dog shall keep it under control in a public place, (other than a Designated Dog Exercise Area as specified by Council in clause 2.4 of this bylaw).

For the purposes of this clause "under control" means that the dog is effectively secured by leash, chain or lead or otherwise physically restrained so that the dog cannot break loose. This clause shall not apply to any Guide Dog or Companion Dog carrying out the work for which they have been trained.

- 2.4.2 The following areas, and as more particularly shown on the plan annexed to this bylaw as Appendix A, are hereby designated public places where dogs are required to be on a leash:
  - West End (between SHI and Esplanade)

- Lydia Washington Walkway (West End to Deal Street)
- Annie Boyd Walkway (Torquay Street to Killarney Street)
- Takahanga Terrace to Killarney Street Walkway
- Peninsula Walkway (Torquay Street to Scarborough Street)
- Dempseys Track (Torquay Street to Scarborough Street)
- Churchill Street (West End to Scarborough Street)
- Beach Road (Mill Road to Ludstone Road/Churchill Street intersection)

2.4.3 No person, being the Owner of any dog, shall take any diseased or mangy dog onto any public place or allow such dog to enter or remain in a public place.

## **2.5 Designated Dog Exercise Areas**

2.5.1 The Council may, from time to time, declare by resolution any public place to be a Designated Dog Exercise Area.

2.5.2 Within a Designated Dog Exercise Area, the Owner of a dog shall ensure that the dog is at all times under adequate supervision.

For the purposes of this clause "adequate supervision" means that although the dog is not required to be secured by leash, chain or lead, it must be controlled by the Owner so as not to be in breach of clause 4.1.1 of this bylaw.

2.5.3 The following areas, and as more particularly shown on the plan annexed to this bylaw as Appendix A, are hereby designated dog exercise areas.

- South Bay Recreation Reserve (South Bay foreshore)
- South Bay Recreation Reserve (near start of walkway to Seal
- Colony but excluding the walkway where dogs are prohibited).
- South Bay Domain (area planted in pine trees from corner of South Bay Parade to Kowhai River)
- Beach Foreshores (except Jimmy Armers Beach and South Bay Commercial Boat Park)
- River beds and the Queens Chain adjoining rivers (Esplanade Reserves or Strips)
- South Bay Domain (except the fenced sports ground area where dogs are prohibited).
- Recreation Reserve (rest area on south bank of the Kowhai River)
- Churchill Park (Dogs are prohibited within 10m of play equipment)

## **3. OBLIGATIONS OF OWNERS**

### **3.1 Confinement of Dogs**

- 3.1.1 The Owner of any dog shall provide means of confining the dog upon the Owner's property so that it is unable to gain access to any other private property or to any public place.

### **3.2 Removal of Dog Faeces**

- 3.2.1 Any person, being the Owner of a dog which defecates in a public place or on land or premises other than that occupied by the owner, shall immediately remove and dispose of the faeces.

### **3.3 Limitation on Number of Dogs**

- 3.3.1 No person shall keep within the residential areas of the townships of Kaikoura, Oaro, Goose Bay, Peketa, Hapuku, Rakautara, Clarence, and Kekerengu, more than two dogs aged six months or more unless the Owner has an appropriate license from the Council.
- 3.3.2 In applying for a license to keep more than two dogs as required by clause 3.3.1 above, an Owner shall demonstrate that he or she has attained the status of a Responsible Dog Owner in accordance with the criteria outlined in Appendix I to the Kaikoura Dog Control Policy 2006.

## **4. IMPOUNDING OF DOGS**

### **4.1 Impounding of Dogs in Breach of this Bylaw**

- 4.1.1 Any dog found at large:
- (a) in breach of clauses 2.1, 2.3 or 2.4 of this bylaw, whether or not it is wearing a registration label or disc as required by the Dog Control Act 1996; or
  - (b) on any land or premises other than a public place or a private way without the consent (express or implied) of the occupier or person in charge of that land or premises-
- may be seized and impounded by a Dog Control Officer or a Dog Ranger.
- 4.1.2 As soon as practicable after any dog has been impounded the Council shall:
- (a) in the case of a dog wearing a registration label or disc or where the Owner of the dog is known, give written notice to the Owner that the dog has been impounded and that unless the dog is claimed and any fee payable paid within 7 days of the receipt of the notice, it may be sold, destroyed, or otherwise disposed of in such a manner as the Council sees fit; and after the expiry of that period the Council may so dispose of the dog.
  - (b) where the Owner of the dog is not known or despite reasonable enquiry cannot be identified, the Council may, after the expiration of 7 days after

the date of the seizure of the dog, sell, destroy, or otherwise dispose of the dog in such a manner as it thinks fit.

- 4.1.3 The sale, destruction or disposal of any dog in accordance with this bylaw shall not relieve the Owner of the dog of liability for the payment of any fees or penalties payable under this bylaw.

## **5. FEES**

- 5.1 The Council may, from time to time, by resolution, set any fees payable in respect of any matter for which it is authorized to charge pursuant to the:

- 5.1.1 Local Government Act 2002;
- 5.1.2 Dog Control Act 1996; and
- 5.1.3 this bylaw.

## **6. ATTESTATION**

This bylaw was made by Special Order passed at a meeting of the Kaikoura District Council held on 21th June 2006 and (meantime having been publicly notified) confirmed at a meeting of the said Council held on 9th August 2006 and at the last meeting aforesaid it was ordered to come into force on 16th August 2006.

The Common Seal of the  
Kaikoura District Council  
was hereto affixed in the  
presence of-

Authorised Signatory

Authorised Signatory

## **8. Submission to Environment Canterbury Resource Consent**

### **PRIME PINE KAIKOURA LTD**

#### **Introduction**

This report is aimed to provide background to the Council as to if a submission should be made on an application for the changes to an existing discharge permit held by Prime Pine Kaikoura, given Councils commitment to Green Globe, Community for Climate Protection and also to the Community. If a submission is required then what the submission should include.

#### **Background**

Prime Pine Kaikoura Ltd is Kaikoura's sole sawmill. It is located at 222 Beach Rd Kaikoura and produces dry treated and untreated timber for the New Zealand, local market and export a number of timber products overseas. Prime Pine Kaikoura formally traded as V L Smith and Sons which has been established in Kaikoura since approximately 1950.

The sawmill site has been recognised as predominant use (permitted activity) since approximately 1976 under the Transitional Plan. Two kilns have been permitted to be erected by the Kaikoura District Council, both kilns allow value to be added to the existing timber product. The first was approved in 1999, at this time it was considered that a kiln was seen as part of a typical sawmill operation and therefore not requiring a resource consent. The second kiln was erected in 2003. Council staff agreed to the erection of this kiln based on information supplied from Lane Neave, Resource Management Group and Gascoigne Wicks. The second kiln was required due to the building industry demand for treated dried timber. Demand for treated timber was largely based concerns associated with "leaky homes". The second kiln was seen as part of a working sawmill, and the effects of the sawmill operation were not to be increased by the additional kiln. Lane Neave stated that *"The additional kiln will not increase timber production from the site but rather more of the existing production will be dried."*

In 2004 an appeal was made to the Environment Court by Mr & Mrs Sweeney. The appeal related to an enforcement order sought by the Sweeney's to cease the sawmills operation as in their view it did not meet the requirements of the Kaikoura District Plan nor have resource consent or existing use rights. At this time V L Smith and Sons had applied for a discharge to air permit from E-can which included the kilns. This application was placed on hold in part pending the outcome of the Environment Court decision. Agreement between the parties was reached at the Environment Court including conditions being placed on the hours of operation for loading and unloading the kilns and conditions relating to noise. The specific matters are addressed in Judge Smith's Decision C53/2004. The air discharge application proceeded and the Kaikoura District Council did not make a submission.

In 2004 resource consent was granted to allow for 600m<sup>3</sup> of treated timber to be dried annually. This consent contained conditions based on information supplied within the application. Discharges were based on the volumes of treated timber to be dried. Since then it is said that the market demand has changed resulting in more demand for dry treated timber. On this basis Prime Pine Kaikoura has now applied for a change in resource consent conditions. If granted the change in conditions will effectively:

- Allow Prime Pine Kaikoura to produce more than 600m<sup>3</sup> of dry treated timber annually. The production of dry treated timber will only limited by the kiln and mills capacity.
- Remove the requirement for Prime Pine Kaikoura to report the amount of dry treated timber produced
- Allow the use of different brands of timber treatment chemicals containing the same active ingredients and
- Allow the discharge from the kiln vents to be at 45° and not vertical.

Prime Pine Kaikoura in their initial application for resource consent addressed the environmental effects of the operations and concluded that these were minor. The application for the change of conditions also conclude that these changes will not prevent the operations from complying with the New Zealand Ambient Air quality Guidelines. The assessment contained in this report is based solely on the AEE report and not on any analysis of data gathered from existing operations. Also the assessment is limited to the change for consent conditions as there is an existing consent in place.

## **Analysis of Application**

From a literature review the major pollutants resulting from drying of treated timber are Arsenic compounds, chromium compounds, copper, volatile organic compounds (VOCs) and formaldehyde to name a few. It is considered that the more emphasis should now be placed on the impact from the dried treated timber as this is what is required to be increased.

The application has requested that the following be done:

1. Remove the limit on the volume of treated timber that can be dried in the kiln in any 12 month period.
2. Remove the requirement to report the volume of the treated timber dried per year
3. Allow the use of different brands of timber treatment chemicals containing the same active ingredients
4. Allow the discharge from the kiln vents to be at 45 degrees and not vertical.

Each of these aspects will now be examined.

### **1. Remove the limit on the volume of treated timber that can be dried in the kiln in any 12 month period.**

Currently the consent allow for the drying of 600m<sup>3</sup>/year of treated timber. Based on a drying time of 30 hours approximately 12 times more timber could be dried within a year than the present 600m<sup>3</sup>. The contaminants concentrations released per drying are unlikely to increase but the total cumulative concentrations of each contaminant per year may increase. If timber is dried more often in a set time period then greater potential exists for contaminants to accumulate. Thus although the existing consent limits the volume of timber which is to be dried it does not limit the time period over which it can be dried. This makes it difficult to determine if any potential cumulative effects exist. This becomes more complicated as pollutants can linger depending on the prevailing environmental conditions.

If the maximum volume of dried treated timber is to be removed from the consent conditions the assessment of effects should be based on the maximum amount of dried treated timber that can be produced by Prime Pine. Doing so allows for the potential of cumulative effects to be more accurately addressed.

In addition it is noted that the initial assessment of effects on the environment (AEE) report was done based on various assumptions inputted into a computer model without actual measurements of the surrounding environment were carried out. Given that drying of treated timber is presently occurring it is reasonable for the assessment of effects to be based on real data, rather than assumed data put into a model. Concerns exist that data could become skewed and it may not recognise existing background levels of contaminants if model data is used. These background levels could be affected by surrounding activities such as household fires.

In conclusion it is difficult for Council to determine what if any effect exists by removing the 600m<sup>3</sup> limit, increased potential does however exist for cumulative effects to arise. It is therefore recommended that Kaikoura District Council submits on this aspect of the change of conditions to ensure that the operation complies with appropriate air quality guidelines. These guidelines shall be used as the basis for the maximum amount of treated timber which can be dried.

**2. Remove the requirement to report the volume of the treated timber dried per year.**

As discussed above air quality guidelines shall be used as the basis for the maximum amount of dried treated timber produced. It will be necessary for E-can to monitor how air quality guidelines will be met. It is immaterial as to if this is undertaken by the volume of dried treated timber produced or other means. It is however important that monitoring occurs to ensure that both kilns are not used for the drying of treated timber.

**3. Allow the use of different brands of timber treatment chemicals containing the same active ingredients.**

The Resource Management Act is concerned with effects and cannot take trade or competition into consideration. Therefore provided the effects the chemical remain the same it is immaterial if the brands change. Although treatment chemical may contain the same active ingredients the ratio of these ingredients may differ. If a range of brands are to be used, these brands should be assessed and approved by E-can, thus ensuring additional effects beyond what is currently permitted from existing brands does not result.

It is therefore recommended that a submission be made to E-can to reinforce this matter.

**4. Allow the discharge from the kiln vents to be at 45 degrees and not vertical.**

The original application was assessed on velocity to reflect 45 degrees vents as the vent of the kiln do not open vertical. Based on the original assessment the level of contaminants does not appear affected by the angle of discharge.

**Recommendation**

It appears appropriate for the Kaikoura District Council to make a submission on the application given the uncertainty which exists within the application and the applications potential to result in conflict with other council initiatives. It is therefore recommended that the following submission be made on this application to ensure that the proposed changes does not result increased impacts on the surrounding environment.

Prepared by  
Marlene Roberts and Matt Hoggard

**Draft Submission**

22 June 2006

Consents Administration Section  
Environment Canterbury  
PO Box 345  
CHRISTCHURCH

**IN THE MATER OF CO6C/22908 GRP 425 – PRIME PINE KAIKOURA LIMITED – CRC031017.2**

Kaikoura District Council, PO BOX 6, KAIKOURA wish to make a submission on the above application.

1. The Kaikoura District Council neither supports nor opposes the application for a change of conditions by Prime Pine Kaikoura.

2. The Kaikoura District Council's reasons for making the submission are as follows:

- The Kaikoura District Council has made a commitment to a number of non regulatory organizations. It is a Green Globe Certificated Community and a member of Community for Climate Protection. Both these originations are working towards minimising greenhouse gas emissions.
- The Kaikoura District Council has a function under the Resource Management Act to control any actual or potential effects of the use and development of land.
- The Kaikoura District Council understands that the application is for a change of existing consent conditions. The application is for changes to a discharge to air application.
- The application does not increase overall timber production, however allows for more of the current timber being produced to be treated.
- The existing discharge permit has been based on modeled data and not real data samples. Given that drying of treated timber is presently occurring it is reasonable for the assessment of effects to be based on real data, rather than assumed data put into a model. Concerns exist that data could become skewed and it may not recognise existing background levels of contaminants if model data is used. These background levels could be affected by surrounding activities such as household fires.
- If the maximum volume of dried treated timber is to be removed from the consent conditions the assessment of effects should be based on the maximum amount of dried treated timber that can be produced by Prime Pine. Doing so allows for the potential of cumulative effects to be more accurately addressed.
- Different branded treatment chemical may contain the same active ingredients however the ratio of these ingredients may differ.

3. The Kaikoura District Council wish the consent authority to make the following decision.

- To ensure any decision requires contaminants generated from the drying of treated timber to remain within national guidelines and standards.
- To seek additional information including using actual measurements to determine potential effects rather than using assumed modeled data. Thus allowing for background levels of contaminants to be included within the assessment.
- To determine the effects of no maximum volume of timber including recognising that cumulative effects may exist with increased operation, and to evaluate the potential of cumulative effects based on the maximum of dried treated timber which can be produced by Prime Pine Kaikoura.
- To ensure that if the drying of a certain volume of treated timber results in discharges above national guidelines and standards that conditions are imposed so that only a less volume of treated timber can be dried. In which case monitoring shall be established for this volume of timber.
- To ensure that all brands of timber treatment chemicals are assessed by Environment Canterbury to ensuring no additional effects beyond what is currently permitted by the existing brands.
- To ensure that the decision take into account the past Environment Court Decision C53/2004 which relates to the operation of the kilns.

- Ensure that appropriate conditions exist to allow effective monitoring of the consent activity

4. The Kaikoura District Council wish to be heard in support of this decision.

\_\_\_\_\_  
Signed

Dated

Copy to

Prime Pine Kaikoura  
C/- Lane Neave  
PO Box 13 149  
CHRISTCHURCH  
Atten: David Caldwell

Attached Copy of Environment Court Decision C53/2004

Environment Court, Christchurch, C53/2004

22 April 2004

Judge Smith

(10pp)

ORAL DECISION ON APPLICATION FOR ENFORCEMENT ORDER

Introduction

[1] Mr and Mrs Sweeney sought orders under section 314(1)(a)(i) and (ii) for the cessation of aspects of the operation of V L Smith and Sons Limited at 222 Beach Road, Kaikoura, that do not, in their view, meet the requirements of the Kaikoura District Plan nor have resource consents or existing use rights. The issues arise as to what elements of the compound operation at 222 Beach Road (the sites) are not allowed.

## Issues

[2] The key issue in this case turns on application of the Transitional Plan. This Plan was made operative in around 1990 and permits a sawmill on the various sites occupied by V L Smith at 222 Beach Road. The sites have a retail ITM store on them which holds a resource consent. There are various storage sheds which also hold resource consents. The case turned on whether a timber treatment plant, two kilns and the cutting of bee boxes and bed slats are within the definition of a sawmill or otherwise are an existing use.

[3] Shortly after the opening of this case for the applicant and after we had begun to hear evidence, the parties entered into discussions. These discussions were later assisted by Commissioner Menzies after agreement by the parties as to the particular provisions under section 268(2), namely:

- (a) that the parties agreed that Commissioner Menzies could resume her role and decide the matter as part of this Court, if necessary; and
- (b) that Commissioner Menzies and the balance of the Court were satisfied that in the circumstances of this case it was appropriate to do so.

[4] After Commissioner Menzies facilitated several meetings between the parties, the Court was advised that progress was being made. During earlier discussions the parties had also agreed that the discharge to air issues included in the application for enforcement orders were better dealt with as part of the Canterbury Regional Council application for resource consent. This application was to be dealt with within a month of the hearing date.

[5] Subsequently the parties have continued negotiations and now present to the Court a draft order for enforcement which represents a common agreed position of all parties, including the Kaikoura District Council. That document is annexed hereto and marked "A" and could be broadly said to consist of four overall elements:

(1) Hours of operation. It is intended that these will be controlled, largely to hours of 7.00am to 6.30pm Monday to Friday and 8.00am to 4.30pm on Saturdays. The specific provisions are set out in the draft order.

(2) Filleting operation. This is the operation that separates the wood both prior to and subsequent to its kiln drying. It requires the handling of the wood to assemble into appropriate packets and then to change the form of those packets. It is agreed between the parties that this operation should not occur closer than a particular area marked on the plan annexed to the draft order and marked "A". It may, of course, be further away from the Sweeney property than that shown on the map.

(3) The kiln operation. There are two aspects to this: one is the hours of operation and the other is the noise. Essentially the intention is to seek to minimise the operation of the kiln during the night and particularly avoid change-over where the kiln is emptied and a new load put in during night hours. The basis of this is set out in the draft order. The second aspect is to provide noise limits to ensure that the operation of the kiln itself and any associated change-overs or other words do not exceed an acceptable level. It is clear that the intention is to maintain a lower overall noise level at night compared with day-time operations. There is also some provision for what might be regarded as shoulder periods at certain times of the week and evenings.

(4) The question of costs. The parties have essentially reached a position and have agreed that there should be no cost consequences at all.

## Jurisdiction

[6] The application was originally made under section 314(1)(a). However, as a result of the agreement reached between the parties, Ms Steven has sought to amend the application so that the application is now made under section 314(1)(c), with the orders being sought essentially under the same provision. Mr Hunt, for the Council, and Mr Caldwell, for V L Smith, are agreed that such an amendment can be made by consent. We are satisfied that the amendment to the application is appropriate in the circumstances of the case, and particularly in light of the agreement reached between the parties as to a method to resolve this matter. The amendment gives the Court a wide flexibility as to the appropriate approach and response rather than just the cessation sought in the original application. There is a strong argument, in any event, that it would still be one of the responses that the Court could consider, particularly

in light of the decision of the High Court in *Russell v Manukau City Council* [fn1 [1996] NZRMA 35 at 47-48].

[7] We now turn to the appropriateness of the order sought. The overall responsibility of this Court in considering any enforcement action is the question of sustainable management as that term is described in section 5. In this case the order is seeking to enable the various parties and allows for their legitimate expectations to be met in a way that sustains not only the environment but the ability of the community and parties to function into the future. There is, on the one hand, the legitimate expectation of the residents as to the level of amenity they should receive, and on the other the legitimate expectation of the operators to be able to operate their business in an effective and efficient manner.

[8] This draft order seeks to achieve a reasonable balance. It will allow V L Smith to continue to operate their successful business on the site. It also recognises the appropriateness of the Sweeneys having certain hours during which the impact from the neighbouring operation will be non-existent or minimal. To that extent it represents the type of order that this Court would normally be contemplating in such cases. The draft order follows closely in form a series of Court decisions, not only on noise issues but on general enforcement matters, that not only this division, but all the divisions of this Court, have considered in the past.

[9] One particular issue that should be recorded is that Mr Caldwell in accepting the Court must find that there are grounds made out for the establishment of this order wishes to make it clear that in the event that further orders are sought or any party seeks to vary this order, then V L Smith do not accept that the Court would necessarily find that the grounds were made if the case were fully argued. Mr Caldwell accepts clearly that the Court must conclude that the grounds are made out to make the order sought today. However he wishes to reserve the position in case further orders are sought in the future. On that basis he proposes that, for the purpose of this decision only, and without prejudice to the right of V L Smith and Sons Limited to argue whether grounds are established in the future, V L Smith accept that the grounds are made out in this particular case for the order sought.

[10] In the circumstances of this case we cannot say whether or not we would have found the grounds to have been made out because we have not heard all the evidence. Accordingly, we are largely dependent upon the agreement of the parties and their assessment that this represents a reasonable resolution of matters. We have no difficulty accepting the jurisdiction to make these orders on the basis set out by Mr Caldwell. Ms Steven, for her part, accepts that this is a reasonable constraint on the acceptance of jurisdiction in this case. Mr Hunt, although he had concerns at the outset of the case, accepts that in terms of the agreement reached the proviso now proposed by Mr Caldwell is reasonable.

[11] For our part we are unanimous that such a constraint to this decision is not unreasonable in all the circumstances. Accordingly, we determine that for the purposes of this particular hearing only the grounds are made out for an order under section 314(1)(c). The Court may properly proceed to consider an appropriate enforcement order under the Act.

[12] There are a wide range of conclusions that are open to the Court, even where grounds are made out for an order. It is not necessary that the Court issue an order and there are a number of steps that the Court can and has taken in the past to try and regularise or ensure that appropriate environmental outcomes are met. The driving concern of this Court is to achieve a sustainable environmental outcome.

[13] From our recent experience with such issues, that is best achieved by appropriate dialogue between the parties. That is precisely what has occurred here and the fact that this draft order is presented to the Court is testimony to the desire of the parties to find a workable solution. That is the sort of outcome this Court would be seeking to achieve in an application of this sort. Accordingly, we have no hesitation in reaching the conclusion that it is appropriate that the orders as sought be made and that those be incorporated as a final order of this Court.

[14] No party has sought costs and that again appears entirely appropriate in light of the way in which the parties have reached a resolution of this matter.

[15] Accordingly, the orders as sought and annexed in Appendix "A" are made by the Court.  
Final comments

[16] We would like to comment to the parties that the Court is pleased to see that the parties have sought, even at this late stage, to reach an appropriate solution. This type of problem can only be overcome by a constructive approach by both parties. It requires a solution that enables both parties to live and operate in an effective way. On the one hand we have the legitimate expectations of the Sweeneys; on the other hand the legitimate expectations of the company. Unfortunately, we have two activities which are always going to have compatibility problems being right next to each other. The only way to overcome them is to find a long-term solution.

[17] We think this order is a very good and positive start to that. We are pleased to see the parties are looking at long-term screening and buffering, which is a long-term solution to this situation. We can only hope that the parties will continue to work through that process, sort out any ongoing problems and find a long-term solution. I want to particularly thank both Commissioner Menzies and also all counsel because I realise this has involved a lot of time in finding an acceptable solution. We commend both the parties and counsel for this resolution.

“A”

#### SWEENEY AND ANOR V V L SMITH AND SONS LTD

Environment Court, ENF0092/03

4 April 2004

Terms of Enforcement Order

The respondent V L Smith and Sons Ltd (and their successors in title in relation to the site at 222 Beach Road, Kaikoura as defined in the Kaikoura Transitional Plan) shall be subject to an enforcement order in relation to all activities on the site (excluding the ITM consent no 96007 dated 21 February 1996 issued by the Kaikoura District Council or any activity for which separate resource consent is obtained in relation to the site) on the following terms:

Hours of Operation

1. Subject to the terms of this order the Hours of operation shall be no more than

7am to 6:30pm Monday to Friday inclusive

8am to 4:30pm Saturdays

There are to be no operations other than as expressly provided for in this order on Sundays or statutory holidays.

2. The hours of operation of the shredding machinery being the WEIMA machine or its replacement shall be limited to 8.00am to 4.30pm Monday to Friday inclusive and 8.00am to 12.00 noon on Saturdays

Emergency/Repair/Maintenance

2. The provisions relating to hours of operation are subject to the proviso that they should not apply in relation to;

2.a. Emergencies provided that all emergencies shall be recorded in an emergency register, which shall be maintained and kept on site by V L Smith and sons Ltd, and shall be available at any time requested by Kaikoura District Council.

2.b. Repairs and Maintenance of Equipment and Machinery

Filleting Operations

3. The filleting of timber for the kiln (which is intended to cover manual preparation of timber fillets for the purposes of kiln drying the timber) shall be conducted generally in the area marked A and cross-hatched on the attached plan provided that in any event the area for the filleting operation shall not be closer to the Northern boundary of the V L Smith site as is marked on the attached plan.

4. V L Smith and Sons Limited shall within two weeks of the making of this order modify the filleting jig by the installation of and/or fixing of sound suppressing materials to the exposed metal surfaces of the end stop of the frame.

Kiln

5. The hours of operation provisions shall not apply in relation to the boiler and kilns which may operate 24 hours a day, 7 days a week on the following terms:

- a. Between the hours of 10pm and 6am there shall be no changeovers (being the loading or unloading of the kiln)
- b. There shall be no more than one change over for each kiln on Sundays and each statutory holiday.
- 6.a. Between the hours of 10pm and 6am the noise level from the kilns shall not exceed 45dBA Leq within the Sweeney property (being that parcel of land comprised and described in certificate of title 4B/72 and 4B/1222 Marlborough registry)
- 6.b. Between the hours of 6.30pm to 10.00pm Friday, Saturday, and Sunday the noise level from the kiln shall not exceed 45dBA Leq within the Sweeney property.
7. That between the hours of 6:30pm and 10:00pm Monday to Thursday inclusive and on Sundays from 6:00am to 6:30pm the noise level from the kilns shall not exceed 55dBA Leq within the Sweeney property.
8. For the purposes of clauses 6a, 6b and 7 of this order the noise limits as specified shall apply to that part of the Sweeney property which is contained with an area not less than one meter from southern boundary and not less than 10 meters from the seaward boundary
- 9.a. The point of measurement for the purposes of the noise limit specified in clauses 6 and 7 shall be a point approximately 3 meters from the southern boundary of that property and 15 meters from the seaward boundary of the property.
- 9.b. All measurements are to be made in accordance with NZS 6801:1999.
- Costs
- No orders as to costs are made and each party shall bear their own costs.

## **9. Coastal Re-Vegetation Plan**

At its meeting of 20 April 2006 Council received a presentation from RD Hughes Limited on its Ocean Ridge development adjacent to the Kaikoura Golf Course. The company sought support from Council for the redevelopment of the coastal strip between the Kowhai River and the Maori Leap Caves.

A report was provided to Council at its meeting of 17 May where Council agreed to a Restoration Management Plan for the coastal strip between the Kowhai River and the Maori Leap Caves being developed and that Council Staff liaise with RD Hughes Developments Ltd and appropriate parties in the drafting of an initial plan.

Council's Environmental Development Officer liaised with Councillors seeking input on the re-vegetation concept plan. The following items were suggested by Councillors to be included in the concept plan:

- Public toilets
- Playground facility
- Reduction in size of pockets of remaining pine trees

As a result options for siting a public toilet facility and playground facility have been included in the amended concept plan. As part of the re-vegetation programme it is necessary to leave some pine trees in

order to provide wind break and soil stabilization to the area of new planting. It is envisaged the pockets of pine trees would be removed once new plantings have stabilized.

In terms of the area of coastal strip being re-vegetated, it was suggested by the Environmental Development Officer, at the time of liaising with Councillors, that the area from the Maori Leap Caves to the South Bay turnoff also be included in the concept plan in order to fit with Council's Coastal Management Strategy and provides a logical flowing walkway between South Bay and the Kowhai River.

The amended concept plan is now focused towards the restoration of this area while also incorporating options for locating a public toilet facility, a playground facility, extending the walkway to provide a link from the Kowhai River to the South Bay corner. The location of facilities, user requirements, development and funding of the concept plan will be determined upon its acceptance in principal. (NB: It is noted that the concept map shows three possible locations for a toilet facility/playground area with the most appropriate location to be determined at a later date, as noted above).

**Recommendation:**

***It is recommended that Council approve the amended Coastal Re-vegetation Concept Plan for the coastal strip between the Kowhai River and the South Bay turnoff subject to funding and management being agreed to by RD Hughes and Council.***

## **10. Mainpower Trust –Ownership Review and Proposed Capital Distribution**

In terms of the Trust Deed for the Mainpower Trust, a 3 yearly review of the ownership of the Trust is required along with the preparation of a Capital Distribution Plan for 60% of its capital.

If the 60% distribution was made:

- 39.5% of the value of the capital of the Trust would be distributed to qualifying customers
- 0.5% of the value would be distributed to the Trustees of the yet to be formed Entitlements Trust
- 20% of the value would be distributed to the Trustees of the Mainpower Foundation (yet to be formed)

Mainpower Trust would retain the remaining 40%.

The Mainpower Foundation would consist of 3 members from Waimakariri; 2 from Hurunui; 1 from Kaikoura and one appointed by Mainpower Trust.

To date both the Directors of Mainpower New Zealand Ltd and the 3 Mayors of Kaikoura, Hurunui and Waimakariri districts have publicly favoured the 'status quo' i.e. no distribution.

The report prepared by Price Waterhouse Coopers paints an uncertain future in the electricity industry especially the potential for technology bypass and the final decision by Central Government on its inquiry into electricity reform, especially if price controls are introduced. As consumers however price controls may appeal.

Council currently has 24 power accounts with Mainpower and if a distribution was made it would be entitled a substantial number of which this would provide Council with a short term capital gain.

It is argued that a 60% distribution would result in the rebates currently enjoyed by consumers being lost. That argument however doesn't stack up when you will have 2 major shareholders, Mainpower Trust (40%) and Mainpower Foundation (20%) holding 60% of the shares and presumably the balance of power on the Board of Directors.

The problem with a share giveaway is that the small shareholders don't actually receive full value for the shares they obtain so in fact you are doing the shareholders a disservice by having a share giveaway.

'If it ain't broke why fix it'. Mainpower has a reputation of providing a reasonable service with electricity prices being at the lower end of the national pricing spectrum. What therefore is the advantage of altering its ownership? There does not appear to be a great upswelling of consumers clamouring for a share giveaway therefore the status quo should be endorsed.

It is recommended that Council endorse the status quo and not support a share giveaway.

## **11. Review of Representation Arrangements for Elections of Territorial Authorities**

In 2006, the Council is requested to undertake a review of the representation arrangements for the upcoming Triennial Election in 2007.

Section 19H of the Local Electoral Act 2001 states:

### **19H Review of representation arrangements for elections of territorial authorities –**

- (1) A territorial authority must determine by resolution, and in accordance with this Part, -
  - (a) whether the members of the territorial authority (other than the mayor) are proposed to be elected
    - (i) by the electors of the district as a whole; or
    - (ii) by the electors of 2 or more wards; or
    - (iii) in some cases by the electors of the district as a whole and in the other cases by the electors of each ward of the district; and
  - (b) in any case to which paragraph (a)(i) applies, the proposed number of members to be elected by the electors of the district as a whole; and
  - (c) in any case to which paragraph (a)(iii) applies, -

- (i) the proposed number of members to be elected by the electors of the district as a whole; and
  - (ii) the proposed number of members to be elected by the wards of the district; and
- (d) in any case to which paragraph (a)(ii) or paragraph (a)(iii) applies, -
- (i) the proposed name and the proposed boundaries of each ward; and
  - (ii) the number of members proposed to be elected by the electors of each ward.
- (2) The determination required by subsection (1) must be made by a territorial authority, -
- (a) on the first occasion, either in 2003 or in 2006; and
  - (b) subsequently, at least once in every period of 6 years after the first determination.
- (3) This section must be read in conjunction with section 19ZH and Schedule 1A

Section 19(L) goes on to say that:

**19L Distribution of copies of resolution**

If a territorial authority or regional Council makes a resolution under section 19H or section 19I or 19J, that territorial authority or region Council must, as soon as practicable after making that resolution, -

- (a) send a copy of that resolution to –
  - (i) the Commission, and
  - (ii) the Surveyor-General; and
  - (iii) The Government Statistician; and
  - (iv) The Higher Salaries Commission or the Remuneration Authority.
- (b) In the case of a resolution made by a regional Council, send a copy of that resolution to every territorial authority whose district or a part of whose district is within the region; and
- (c) in the case of a resolution made by a territorial authority, send a copy of that resolution to any regional Council for a region in which the district of the territorial authority or any part of that district is situated.

**Section 19A Membership of territorial authorities states:**

Every governing body of a territorial authority is to consist of not fewer than 6 members nor more than 30 members, including the mayor, who are the members of the territorial authority.

**Section 19C Basis of election of members of territorial authority sets out that:**

- (1) A district of a territorial authority may be divided into wards for electoral purposes.
- (2) If a district is divided into wards, some of the members of the territorial authority may be elected by the electors of the district as a whole, but, in that case, the other members of the territorial authority must be elected by the electors of each ward of the district.

- (3) Each ward must elect at least 1 member of the territorial authority.
- (4) If a district is not divided into wards, the members of the territorial authority must be elected by the electors of the district as a whole.
- (5) If a district is divided into wards, each member of the territorial authority representing a ward must be elected by the electors of that ward.

Since its formation, the Kaikoura District Council has had its members elected at large, i.e. by the district as a whole. Prior to its formation, the former Kaikoura County Council had elections by Ward. The district currently has only 2538 residential electors on its role therefore it is difficult to justify the district being split into wards. We currently have 1 Mayor and 7 Councillors elected at large.

If Council must resolve the basis of the 2007 election then it must give public notice of the proposals and call for submissions and distribute copies of the resolution.

The review must be carried out in 2006 and the notice of the proposal advertised prior to 8 September 2006.

In undertaking the review as set out in 19H, Council must ensure it takes account of Sections 19T and 19V of the Act. These sections are set out below:

**19T Requirement for effective representation and other factors in determination of membership and basis of election of territorial authorities**

In determining the matters specified in paragraphs (a) to (d) of section 19H(1), the territorial authority and, where appropriate, the Commission must ensure –

- (a) that the election of members of the territorial authority (other than the mayor), in 1 of the ways specified in subparagraphs (i) to (iii) of section 19H(1)(a), will provide effective representation of communities of interest within the district; and
- (b) that ward boundaries coincide with the boundaries of the current statistical meshblock areas determined by Statistics New Zealand and used for parliamentary electoral purposes; and
- (c) that, so far as is practicable, ward boundaries coincide with community boundaries.

**19V Requirement for fair representation and other factors in determination of membership for wards, constituencies, and subdivisions**

- (1) In determining the number of members to be elected by the electors of any ward or constituency or subdivision, the territorial authority or regional council and, where appropriate, the Commission must ensure that the electors of the ward or constituency or subdivision receive fair representation, having regard to the population of every district or region or community and every ward or constituency or subdivision within the district or region or community.
- (2) For the purposes of giving effect to subsection (1), the territorial authority or regional council and, where appropriate, the Commission must ensure that the population of each

ward or constituency or subdivision, divided by the number of members to be elected by that ward or constituency or subdivision, produces a figure no more than 10% greater or smaller than the population of the district or region or community divided by the total number of elected members (other than members elected by the electors of a territorial authority as a whole, if any, and the mayor, if any).

- (3) Despite subsection (2), -
  - (a) If the territorial authority or the Commission considers that the effective representation or communities of interest within island communities or isolated communities situated within the district of the territorial authority so requires, wards and subdivisions of a community may be defined and membership distributed between them in a way that does not comply with subsection (2):

The Local Government Commission has produced a set of guidelines for local authorities to use in undertaking their representation review. There is no legal requirement of Councils to comply with the guidelines however Councils are required to have regard to those guidelines.

Section 4 of the Local Electoral Act 2001 sets out the principles of the Act which are as follows:

- (1) The principles that this Act is designed to implement are the following:
  - (a) fair and effective representation for individuals and communities;
  - (b) all qualified persons have a reasonable and equal opportunity to –
    - (i) cast an informed vote;
    - (ii) nominate 1 or more candidates;
    - (iii) accept nomination as a candidate.
  - (c) public confidence in, and public understanding of, local electoral processes through –
    - (i) the provision of a regular election cycle;
    - (ii) the provision of elections that are managed independently from the elected body;
    - (iii) protection of the freedom of choice of voters and the secrecy of the vote;
    - (iv) the provision of transparent electoral systems and voting methods and the adoption of procedures that produce certainty in electoral outcomes;
    - (v) the provision of impartial mechanisms for resolving disputed elections and polls.
- (2) Local authorities, electoral officers, and other electoral officials must, in making decisions under this Act or any other enactment, take into account those principles specified in subsection (1) that are applicable (if any), so far as is practicable in the circumstances.
- (3) This section does not override any other provision in this Act or any other enactment.

Section 3 of the Local Government Act 2002 provides that:

The purpose of this Act is to provide for democratic and effective local government that recognizes the diversity of New Zealand communities; and to that end, this Act –

- (a) states the purpose of local government; and
- (b) provides a framework and powers for local authorities to decide which activities they undertake and the manner in which they will undertake them; and
- (c) promotes the accountability of local authorities to their communities; and
- (d) provides for local authorities to play a broad role in promoting the social, economic, environmental, and cultural well-being of their communities, taking a sustainable development approach.

In determining representation issues, Council needs to consider 3 factors:

- Community of interest
- Effective representation, and
- Fair representation

Do we have any specific communities of interest that should be clearly represented?

Does the number of elected members we have and how they are elected provide effective representation?

Finally, does the existing election at large provide fair representation?

In terms of the Kaikoura District, the whole district has 2563 on its electoral role. This equates to 366 electors per elected councillor.

Specific communities of interest in the Kaikoura District could be identified as Oaro, Goose Bay, Puketa, Kaikoura Urban, Hapuku, Rakoutara, Clarence, and Kekerengu. Each of these specific areas would generally have permanent populations ranging from tens to less than 200.

Council needs to consider whether effective representation for those communities would be best provided by an at large system, as at present:

- A ward system, as per pre 1989, or
- A mixed system with election partly at large and partly by ward.

With only 2538 electors in the district as a whole, it seems unreasonable to consider changing the existing election at large system. If wards were reintroduced then from a representation perspective each elected member would need to represent an area with similar number of residents, generally + or – 10%. It does not appear to be warranted in Kaikoura's case due to the existing level of representation per resident.

The existing system and number of elected members appears to work well and has done so since 1989. Any change now would appear to be change for changes sake rather than a mechanism to genuinely improve on representation.

***In light of the above, it is recommended that for the 2007 and 2010 local body elections for the Kaikoura District Council:***

- ***The election of members continue to be made on an at large basis, and***
- ***The number of members continue to be 1 Mayor plus 7 members.***

## 12. Model Standing Orders

### *Amendment 1*

#### **Introduction**

The revision of Council's Standing Orders has been necessitated by amendments made in 2004 to the Local Government Act 2002 and the Local Government Official Information and Meetings Act 1987. This report outlines changes to the current Model Standing Orders NZS9202:2003 which was adopted by Council on 21 April 2004.

Model Standing Orders NZS9202 Amendment 1 reflects the changes made in 2004 to the Local Government Act 2002 and the Local Government Official Information and Meetings Act 1987.

This Council is fortunate in only having to make rare reference to Standing Orders in the conducting of its business, and has always avoided being unnecessarily pedantic in their application.

#### **Recommendation**

*It is recommended that Council adopt NZS9202:2003 New Zealand Standard Model Standing Orders for Meetings of Local Authorities & Community Boards incorporating Amendment No.1 to replace NZS9202:2003 adopted by Council on 21 April 2004.*

#### **Changes Made**

The page references are for the page numbering shown at the bottom of the attached Model Standing Orders NZS9202:2003 adopted by Council in 2004.

1. Replacement throughout of "ordinary meeting" to "meeting".
2. **Page 11: 2.3.1** – Replace "deputy chairperson" in last paragraph with "mayor or chairperson".
3. **Page 11: 2.3.2** – Replace "deputy chairperson" in last paragraph with "chairperson".
4. **Page 12: 2.4.3** – "Definition of quorum for local authority" has been extended to include joint committee meetings.
5. **Page 13: 2.5.1** – Remove "Unless otherwise provided in [the Local Government Act] or in any standing orders".

The following additions have been made to this section:

#### **Casting vote**

- (2) "For the purposes of [2.5.1(1)], the mayor or chairperson or other person presiding at the meeting:
  - a) Has a deliberative vote; and
  - b) In the case of an equality of votes, does not have a casting vote (and therefore the act or question is defeated and the status quo is preserved).

NOTE -This is based on the legislative default position of there being no casting vote. Where a local authority wishes to have a casting vote it should refer to Appendix H for alternative wording for this section. When adopting, amending or suspending Standing Orders to provide for a casting vote clause 27, schedule 7 of the Local Government Act 2002 applies.

**Open voting**

- (3) "An act or question coming before the local authority must be done or decided by open voting."

**Mandatory requirements**

- (1) and (2) apply unless the Local Government Act 2002 provides otherwise.

6. **Page 13: 2.6.1** – Delete this clause and substitute with the following: "[This Standing Order applies to] -
- (a) the election or appointment of the chairperson and deputy chairperson of a regional council; and
  - (b) the election or appointment of the deputy mayor; and
  - (c) the election or appointment of the chairperson and deputy chairperson of a committee; and
  - (d) the election or appointment of a representative of a local authority.

If this [Standing Order] applies, a local authority or a committee (if the local authority has so directed) must determine by resolution that a person be elected or appointed by using one of the following systems of voting:

- (a) [System A]; or
- (b) [System B].

**System A**

- (a) requires that a person is elected or appointed if he or she receives the votes of a majority of the members of the local authority or committee present and voting; and
- (b) has the following characteristics:
  - I. there is a first round of voting for all candidates; and
  - II. if no candidate is successful in that round there is a second round of voting from which the candidate with the fewest votes in the first round is excluded; and
  - III. if no candidate is successful in the second round there is a third, and if necessary subsequent round of voting from which, each time, the candidate with the fewest votes in the previous round is excluded; and
  - IV. in any round of voting, if 2 or more candidates tie for the lowest number of votes, the person excluded from the next round is resolved by lot.

**System B**

- (a) requires that a person is elected or appointed if he or she receives more votes than any other candidate; and
- (b) has the following characteristics:
  - I. there is only 1 round of voting; and
  - II. if 2 or more candidates tie for the most votes, the tie is resolved by lot."

7. **Page 14: 2.8.2** – Remove “(subject to the law applicable to the committees of that other local authority or public body).”
8. **Page 14: 2.8.3** – Delete and substitute with:  
“Part 1 of Schedule 7 of the Local Government Act applies to a joint committee except that -
- (a) The powers to discharge any individual member and appoint another in his or her stead must be exercised by the local authority or public body that made the appointment; and
  - (b) The meeting quorum is as outlined in 2.4.3; and
  - (c) The committee may appoint and remove its own chairperson or deputy chairperson.”

9. **Page 14: 2.8.4** – Insertion of new clause:  
**2.8.4 Application to a public body that is not a local authority**

For the purposes of a public body that is not a local authority, Standing Orders 2.8.2 and 2.8.3 apply to the extent that they are not inconsistent with the law applicable to committees of the public body.

10. **Page 16: 2.10.1** – Removal of (g).

11. **Page 19: 2.14.5** – Delete and replace with the following  
**Public notice of resolutions of extraordinary meetings**

– "A local authority must, as soon as practicable, publicly notify any resolution passed at an extraordinary meeting of the local authority unless -

- a) the resolution was passed at a meeting or part of a meeting from which the public was excluded; or
- b) the extraordinary meeting was publicly notified at least 5 working days before the day on which the meeting was held.

For the purposes of this [Standing Order] resolution means the resolution on the matter or matters for which the extraordinary meeting was held."

12. **Page 26: 3.4.3** - “Definition of quorum for local authority” has been extended to include joint committee meetings.

13. **Page 27: 3.6.4** – Insert “other than extraordinary meetings”.

14. **Page 27: 3.7.5** – Delete and replace with:

**Major items not on the agenda may be dealt with**

"An item that is not on the agenda for a meeting may be dealt with at the meeting if -

- (a) the local authority by resolution so decides; and
- (b) the presiding member explains at the meeting at a time when it is open to the

- public, -
  - (i) the reason why the item is not on the agenda; and
  - (ii) the reason why the discussion of the item cannot be delayed until a subsequent meeting."
- 15. **Page 28: 3.7.5.1** – Delete clause number and title and substitute with:  
“3.7.6 – Minor items not on the agenda may be discussed”
- 16. **Page 28: - 3.7.6** – Delete clause number and substitute with clause number “3.7.7”.
- 17. **Page 35: 3.14.1** – Delete and substitute with:  
"[Unless the Local Government Act 2002 provides otherwise], the acts of a local authority must be done, and the questions before the local authority must be decided, at a meeting by  
-  
(a) vote; and  
(b) the majority of members that are present and voting."
- 18. **Page 35: 3.14.2** – Delete and substitute with:  
“Unless the Local Government Act 2002 provides otherwise, for the purposes of Standing Order 3.14.1, the mayor or chairperson or other person presiding at the meeting -  
(a) Has a deliberative vote; and  
(b) In the case of an equality of votes, does not have a casting vote (and therefore the act or question is defeated and the status quo is preserved).

NOTE -This is based on the legislative default position of there being no casting vote. Where a local authority wishes to have a casting vote it should refer to Appendix H for alternative wording for this section. When adopting, amending or suspending Standing Orders to provide for a casting vote, clause 27, schedule 7 of the Local Government Act applies.”

- 19. **Page 40: Appendix A2(g)** – Delete and substitute clause (g) with:  
“(g) Maintain the effective conduct of public affairs through the protection of members, officers or employees of any local authority from improper pressure or harassment”.
- 20. **Page 43: Appendix C3** – Delete and substitute with:  
**“Items not on the agenda**  
Major items not on the agenda may be dealt with at that meeting if so resolved by the local authority and the chairperson explains at the meeting at a time when it is open to the public the reason why the item was not listed on the agenda and the reason why discussion of the item cannot be delayed until a subsequent meeting.

Minor matters not on the agenda relating to the general business of the local authority may be discussed if the chairperson explains at the beginning of the meeting, at a time when it is open to the public, that the item will be discussed at that meeting, but no resolution, decision or recommendation may be made in respect of that item except to refer it to a subsequent meeting.

21. **Page 43: Appendix C6** – Delete and substitute with:  
**“C6 Chairperson's voting**  
The chairperson at any meeting has a deliberative vote and, in the case of equality of votes, does not have a casting vote unless expressly provided for in these standing orders.
- NOTE - Where a local authority wishes to have a casting vote it should refer to Appendix H for alternative wording for this Standing Order. When adopting, amending or suspending Standing Orders to provide for a casting vote clause 27, Schedule 7 of the Local Government Act 2002 applies.”
22. **Page 44: Appendix C14** – Replace “tedious repetition” with “needless repetition”.
23. **Page 51:** Insert new Appendix H as follows:  
**Appendix H Provision for casting vote** (Normative)
- Where a local authority wishes to have a casting vote **replace** Standing Order 3.14.2(b) with "in the case of equality of votes the chairperson has a casting vote."
- NOTE - When adopting, amending or suspending Standing Orders to provide for a casting vote clause 27, Schedule 7 of the Local Government Act 2002 applies.

## **14. Draft Earthquake Prone, Dangerous and Insanitary Buildings Policy**

The Building Act 2004 requires Kaikoura District Council to adopt policy on how to deal with earthquake prone, dangerous and insanitary buildings.

The draft has been prepared and has been presented for public comment in accordance with the special consultative procedures described in section 83 of the Local Government Act 2002.

The consultation period attracted three submissions;

Transit New Zealand  
Department of Conservation  
New Zealand Fire Service

Both Transit NZ and DOC requested exclusions for some of their buildings however Council cannot give exclusions by policy over the requirements of the Building Act 2004. Rather any consideration for this to take place should be in the procedures side of the policy. This will take place by application giving valid reasons why council should offer exclusions. Such consideration would be based on verification methodology with an accent on limiting risk exposure to Council.

Council staff have worked with the New Zealand Fire Service who are now satisfied that their objectives have been met within the amended policy document and have therefore withdrawn their submission. **Those amendments have been highlighted in italic print.**

Council should adopt the policy prior to 31<sup>st</sup> May 2006 . This date has now passed however the Department of Building and Housing have been notified. There are no specific penalties but the Department has an expectation that the final document will be in their hands by the end of June.

### **Purpose of This Report**

The purpose of this report is to seek Councils approval and adoption of the subject Policy following the consultation procedures of the Local Government Act s.83.

### **The Objective**

The objective is to ensure that Council complies with the requirements of the Building Act 2004 in addition to a safer community.

### **The Options**

- 1. To adopt the Policy**
- 2. Not adopt the report**

### **The Cost**

**The building owners** will be affected by building upgrades where their building has been identified as being earthquake prone dangerous or insanitary. In all but severe cases the owners will have a number of years to comply with notices served by Council.

**The community at large** may be affected should a significant number of buildings be identified as being EQP although with a small number of building stock Kaikoura's community generally would see little change in terms of cost.

**Council's** cost would be involved with the following resources:

- A desk top review of potential EQP, dangerous / insanitary building files
- Contact with subject building owners and follow-ups

- Enforcement potential

**The Result**

Council will have complied with the Building Act 2004 requirement.  
The community can be assured of a safer environment.

**Recommendation**

*It is therefore recommended that Council adopt the draft Earthquake Prone, Dangerous & Insanitary Policy.*

**Kaikoura District Council**

**Building Act 2004**

Proposal Statement  
And Draft To Formulate  
**Earthquake – Prone, *Dangerous* and Insanitary  
Buildings  
Policy 2006**

---

May  
Draft #02 – 22 May 2006

Introduction

The Building Act 2004 (“the Act”) requires Council to adopt an earthquake-prone *dangerous* and insanitary buildings policy to ensure that all earthquake prone *dangerous* and insanitary buildings are identified, assessed, corrected or strengthened to at least the minimum prescribed standard to reduce the potential of injury, illness, loss of life and damage to other property in the event of a moderate earthquake or *dangerous* / insanitary building identification. This consideration could in some cases result in the demolition of a building.

It is a mandatory requirement of the Act S. 131 that Council implements specific Policy and S. 132 sets out the procedures in terms of the introduction and formulation of the Policy.

The policy is required to state:

1. the approach that Kaikoura District Council will take in performing its functions under the Building Act 2004
2. Kaikoura District Councils priorities in performing those functions
3. how the policy will apply to heritage buildings

In developing and adopting this policy Kaikoura District Council will have followed the consultative procedure as defined by section 83 of the Local Government Act 2002.

The Building Act 2004 requires this Policy to be in place before 31<sup>st</sup> May 2006

This policy is required to be reviewed at least every five years thereafter.

### Local Seismic Indicators

Kaikoura District is directly involved with seismic futures having numerous faults and thrusts within its boundaries. The formation of the seaward and inland ranges and valleys stand testament to this fact.

A pictorial demonstration of the multiple seismic influences can be seen in the A3 map attached to the Woodward – Clyde Seismic Hazard Evaluation Report prepared for Kaikoura District Council and dated September 1995.

Clearly defined strike-slip and thrust faults have been identified to the extent that our Kaikoura District is the most seismically active area of New Zealand.

The Woodward – Clyde evaluation of seismic hazard in the Kaikoura district has recommendations that should be considered in terms of the Long Term Council Community (LTCCP) Plan and the future direction of building activity. This consideration could assist to minimize damage to buildings and associated risk to the occupants by recognizing key indicators such as a buildings location and design.

Using the Modified Mercalli (MM) Scale, demonstrated in the Woodward – Clyde report, and the likely earthquake event intensity expectation of the New Zealand Society of Earthquake Engineers any development in the region should be influenced and designed accordingly.

This policy does not enter into tsunami events being as a result of seismic activity.

### Background

The previous Building Act 1991 specifically targeted “un-reinforced masonry” structures.

This ring fenced seismic concerns to that type of building without addressing the wider issues of potentially unsafe structures, rather using other sections of the 1991 act such as “Dangerous or Insanitary Buildings” jointly with the enforcement sections to achieve safer buildings in our community. Whereas the Building Act 2004 is focused in purpose by section 3:

- a. People who use buildings can do so safely and without endangering their health.

And connectively:

- b. People who use a building can escape from the building if it is on fire
- c. People who use a building can be assured of a safe environment.

More specifically section 4 of the Act sets out an extensive list of matters that Council must have regard for in the performance of its functions and discharge of its duties.

Pertinent provisions include:

- a. the need to ensure that any harmful effect on human health resulting from the use of particular building methods or products or of a particular building design, or from building work, is prevented or minimized:
- b. the importance of ensuring that each building is durable for its intended use: and others.

Previous efforts throughout New Zealand to strengthen earthquake prone buildings initiated strong debate in terms of social and economic effects within the community with an emphasis on long term safer buildings versus affordability. This is reflected and somewhat appeased in the duration for remediation works on buildings confirmed as being earthquake prone as demonstrated in the policy.

## **Earthquake-prone *Dangerous and Insanitary Buildings Policy***

### **1. Policy Approach**

Conversions of existing buildings, lack of maintenance, lack of appropriate facilities, overcrowding and un-consented building works have the potential to create unsatisfactory health and safety environments within buildings.

The failure to obtain building consents or for the use of buildings without cognizance of building code practices can give rise to insanitary conditions, a risk of building component failure, total collapse or the compromise of fire safety requirements.

The development of the New Zealand building code and associated New Zealand / Australian standards set mandatory performance requirements that must be met by owners and licensed building practitioners.

The focus of this policy is to maintain procedures to ensure that existing buildings ( prior to the application of this policy ) are safe, healthy and fit for purpose. This can be achieved by adhering to acceptable standards whilst ensuring community acceptance in terms of costs are considered

### **1.1 Meaning of an Earthquake-prone Building**

**s. 122 of the Act:-**

- (1) A building is earthquake prone for the purposes of the Act if, having regard to its condition and to the ground on which it is built, and because of its construction, the building –
- (2)

- a. will have its ultimate capacity exceeded in a moderate earthquake ( as defined in the regulations,); and
- b. would be likely to collapse causing –
  - (iii) injury or death to persons in the building or to persons on any other property; or
  - (iv) damage to any other property

- (3) Subsection (1) does not apply to a building that is used wholly or mainly for residential purposes unless the building –
  - a. comprises 2 or more stories: and
  - b. contains 3 or more household units

Moderate earthquake has the same meaning as section 7 in the Building 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.”

## 1.2 Liquefaction

Much of Kaikoura has a foreshore with a pea shingle subsurface that may attract liquefaction status. Liquefaction occurs where the subsurface soils react to seismic movement by behaving in a similar manner to liquid in terms of its ability to support a building with subsequent structural damage or catastrophic collapse as a possibility.

Liquefaction is normally a greater risk when shallow ground water is present and is in conjunction with the aforementioned pea shingle. Whilst there have been a number of reports relating to seismic activity in the district liquefaction has not been extensively investigated. The Institute of Geological and Nuclear Science in Wellington have no specific detail on this subject for Kaikoura. Similarly Environment Canterbury have little to offer on the subject within Kaikoura.

## 1.3 Earthquake Prone Buildings - Identification

Kaikoura has few buildings over two floors in height that do not have a proven record of service but that alone does not mean assessment is not necessary for even minor buildings.

The New Zealand Building Code clause B1 ‘Structure’ demands a performance:

*Buildings, building elements and site work shall have a low probability of rupturing, becoming unstable, losing equilibrium, or collapsing during construction or alteration and throughout their lives.*

Clause B1 specifies a number of factors for consideration including earthquake, differential movement, earth pressure and adverse effects due to insufficient separation from other buildings.

There are numerous considerations and structural engineering principles to apply both in terms of seismic loadings and other natural hazards. It would be safe to say that the required expertise for an overall assessment of buildings could be sourced from consultants in conjunction with Councils in house engineers.

It would be prudent to note at this point that whilst NZS4203 is current (March 2006) at this date for the purposes of determining whether a building is earthquake prone or not the Department of Building and Housing is considering its replacement. The latter, possibly during 2006, standard AS/NZ 1170 part 5: 2004 calls for an increase in the threshold value.

The giving of information through land information memoranda and any requisition of Council should consider AS/NZ 1170 as “the means of assessment” to avoid any potential of upgrading recent required building works on an earthquake – prone structure being carried out under the outgoing lesser standard NZS4203.

The result of this of course may require a second upgrade for the structure to comply as NZS1170 is some 20% higher than its expected predecessor the current NZS4203.

#### 1.4 Meaning of a Dangerous Building

*The Building Act 2004 s. 121 defines a dangerous building as one which in the ordinary course of events ( excluding earthquakes ) is likely to cause -*

- (i) injury or death ( whether by collapse or otherwise ) to any persons in it or to persons on other property; or*
- (ii) damage to other property; or in the event of a fire, injury or death to any persons in the building or to persons on other property is likely because of fire hazard or the occupancy of the building.*

*For the purpose of determining whether a building is dangerous, a territorial authority may seek advice from members of the New Zealand Fire Service who have been notified to the territorial authority by the Fire Service National Commander as being competent to give advice: and if the advice is sought, must have due regard to the advice.*

#### 1.5 Meaning of an Insanitary Building

*The Building Act 2004 s. 123 defines an insanitary building if a building –  
Is offensive or likely to be injurious to health because –*

- (i) of how it is situated or constructed; or*
- (ii) is in a state of disrepair; or*
- (iii) has insufficient or defective provisions against moisture penetration causing dampness in the building or in any adjoining building; or*
- (iv) does not have a supply of potable water that is adequate for its intended use; or*
- (v) does not have adequate sanitary facilities for its intended use; or*
- (vi) has been neglected by lack of maintenance to a state of dilapidation.*

#### 1.6 Dangerous and Insanitary Buildings - Identification

Council will identify *dangerous* or insanitary buildings by:

- Complaints from the public or users of a building
- Council staff monitoring
- Notification from other agencies such as *New Zealand Fire Service personnel*, Director general of Health and other agencies
- Carrying out a review of Council property files when buildings are suspect.

#### 1.7 Short Term Notation

The Building Act 2004 and associated Building Regulations define the meaning of an “earthquake prone building”. As a general guidance, an earthquake prone building will have a strength that is 33% or less of the current loadings code. The current loadings code is NZS4203:1992 “Code of Practice for General

Structural Design Loadings for Buildings”. That document is to be replaced by NZS1170.5:2004 “Structural design Actions”. That latter standard has been published and is expected to be cited in the Compliance Documents for the New Zealand Building Code in 2006 but not before the mandatory adoption of this policy.

It should be noted that the test for whether a structure is earthquake prone or not is in terms of the *current loadings code* (presently NZS4203).

Once a building has been classified as earthquake prone it will need to be strengthened, or if appropriate demolished. There is no specific provision that Council can rely on to insist that a particular capacity be attained, the legislation has not addressed the upgrading process in a definitive way, rather that Council should encourage the owner to strengthen the structure to the greatest extent possible.

## 2. Timeframes for Remediation

Five and ten years seems to be a widely accepted remediation timeframe for buildings identified as insanitary *and or dangerous* buildings in terms of the Building Act 2004. Buildings assessed as having a more urgent remediation program because of pending structural failure during an earthquake event, or serious *dangerous or* insanitary conditions may need a stated lesser time span. In this case each subject building not attracting the five or ten year category should be taken on merit after consultation with the appropriately qualified engineer using the importance levels defined in clause 5.5 herein, the Director General of Health and where applicable New Zealand Historic Places Trust.

For the purposes of this policy each building deemed to be earthquake prone *dangerous* or insanitary by Council engineers shall be remedied by the application of section 12 “Priorities” of this policy or a shorter time span as qualified by Council engineers.

Council engineers shall consider;

- the condition of the subject building
- the use of the building
- occupant density
- location of the building
- heritage buildings / sites
- NZ Fire Service recommendations
- Risks to persons and property on the site and adjacent sites -

in addition to widely accepted engineering principles, the New Zealand building code and the New Zealand National Society for Earthquake Engineering, 1985; *Recommendations and Guidelines for Classifying , Interim Securing and Strengthening*.

Any recommendation involving building work as defined in the Building Act 2004 will attract the need for a building consent in terms of section 40 of the Act notwithstanding emergency procedures to remove a hazardous situation. Emergency procedures will include consultation with not only the building owner but other stakeholders including but not limited to New Zealand Fire Service, New Zealand Historic Places Trust and Te Runanga o Kaikoura.

## 3. Heritage Buildings

Nothing in this policy will negate Councils recognition of the importance of the regions cultural, historical and heritage values and the need for specialist input to protect against invasive actions by any party who signals an interest in any building, structure or site.

Kaikoura District Council is committed to offering heritage buildings within its boundaries a good chance of surviving a major earthquake. However Council does not wish to see the intrinsic heritage values of these buildings adversely affected by structural improvement measures.

Heritage buildings will be assessed in the same way as other potentially earthquake prone buildings and discussions held with owners and the Historic Places trust to identify a way forward. Focused efforts will be made to meet heritage objectives.

Following this consultation period, notices will be served requiring improvements or demolition within a stated (preferably agreed) timeframe. In some cases Council may deem it necessary to consult with the general public.

#### 4. Overall Approach

##### Kaikoura District Council will:

4.1 review its whole building stock to identify buildings that fall within the scope of potential earthquake prone, *dangerous* or insanitary buildings as defined within the Building Act 2004

4.2 assess broadly the performance of those buildings in relation to the new building standard. Having regard to the standard defined for earthquake prone buildings and the New Zealand Building Code. Council may consult with the *New Zealand Fire Service*, Te Runanga o Kaikoura and Historic Places Trust. This broad assessment will be carried out at Councils cost.

4.3 determine from this assessment a list of buildings that are *dangerous*, insanitary or earthquake-prone in terms of the Building Act 2004.

4.4 advise owners of the affected buildings of Councils findings and invite them, within a stated timeframe, to meet with and or obtain further detail from Council on future requirements. From this juncture the subject buildings owners will be charged for Council input.

4.5 serve notice to all owners of identified buildings once the stated timeframe for meeting with Council has passed and, subject to the results of discussions, to carry out work to reduce or remove the danger or demolish the building within a specified timeframe.

4.6 allow owners a right of appeal as defined by the Building Act 2004 which can include an application for a determination in terms of section 177 of the Act.

#### 5. Identification of Earthquake - prone *Dangerous* or Insanitary Buildings

Kaikoura District Council will undertake an initial desktop review of Council files in an effort to locate subject buildings and;

5.1 follow up with a site inspection where deemed necessary

5.2 carry out initial evaluation of performance in an earthquake based on information obtained by using the NZSEE Initial Evaluation Method for EQP sites. *Dangerous* and insanitary buildings evaluations will be on merit as described herein.

5.3 require identified EQP, *dangerous* and insanitary building owners to carry out detailed assessments on their buildings unless otherwise agreed

5.4 maintain a list of subject buildings according to the results of assessment

5.5 categorize the EQP buildings according to the following:

5.5.1. Buildings with special post disaster functions as defined in AS/NZ 1170.0:2002. Importance Level 4.

5.5.2. Buildings that contain people in crowds or contents of high value to the community as defined in AS/NZ1170.0 : 2002, Importance level 3.

5.5.3 Buildings with a heritage classification of A or B under Councils register.

5.5.4 Buildings with an Importance Level less than 3 as defined in AS/NZ 1170.0: 2002

## 6. Assessment Criteria – Earthquake – prone Buildings

For practical purposes, Kaikoura District Council will define EPB's as those that, when subjected to a moderate earthquake, do not meet nor exceed the criteria for ultimate limit state as defined in the loadings and materials Standards for new buildings.

Council will use the NZSEE recommendations as its preferred basis for defining technical requirements and criteria. These recommendations are designed to be used in conjunction with AS/NZ1170 Loadings Standard, NZS 3404 Steel Structures Standard and other materials standards.

## 7. Taking Action on Earthquake –prone Buildings

**Kaikoura District Council will:**

7.1 advise and liaise with owners of buildings identified as being earthquake prone

7.2 encourage owners to carry out an independent assessment of the structural Performance of those buildings

7.3 serve formal notices on owners of earthquake prone buildings in accordance with the Building Act 2004 s.124 requiring them to remove the danger.

7.4 allow owners to appeal against the classification within 12 months of the receipt of notice

## 8. Interface between the Building Act 2004 and EPB

8.1 The Building Act 2004 section 112 Alterations to an Existing Building.

Whenever a building consent application is received for significant upgrading or alteration of a building that is or could be earthquake prone, then, irrespective of the general priorities set by Council for dealing with EQP buildings, Councils Building Consent Authority will not issue a building consent unless it is satisfied that the building is not earthquake prone and that the building work will not detrimentally affect the buildings compliance with the building code.

If the building is shown to be earthquake prone, then council will require that the building be strengthened to comply as nearly as is reasonably practicable with the provisions of the building code.

Similarly where the building has been identified as being *dangerous* or insanitary Councils Building Consent Authority will not issue a building consent unless it has been satisfied that the subject building will, after the proposed alterations meet all of the provisions of the NZ building code.

## 9. Building Act Section 115 : Change of Use

Whenever a building consent is received for a change of use of a building that is or could be earthquake prone, then, irrespective of the general priorities set by Council for dealing with EQP buildings, it will be a requirement of the building consent that the owner initiates a detailed assessment of the earthquake performance of the building to determine whether or not it is an EQP building in its existing condition.

If the building is shown to be earthquake prone then the Council will require that the building be strengthened to comply as nearly as is practicable with every provision of the building code that relates to structural performance as is required by the Building Act 2004 section 115(b) (i) (A) (In this instance the requirement for EQP buildings would be the same as that for non-earthquake buildings.)

Identified *dangerous* and insanitary buildings that are to be upgraded or subjected to an alteration proposal will be managed in similar fashion. No consent will be issued by Council's Building Consent Authority unless the proposal will meet all of the required sections of the building code. *This may require consideration of the New Zealand fire Service who may be approached in a consultative capacity by the Council or its Building Consent Authority.*

## 10. Dealing With Building Owners

10.1 Before exercising its powers under the Building Act 2004 section 124, Council will seek, within a defined time-frame, to discuss options for action with owners with a view to obtaining from the owner a mutually acceptable approach for dealing with the danger, leading to receipt of a formal proposal from owners for strengthening or demolition.

10.2 In the event that discussions do not yield a mutually acceptable solution Council will serve a formal notice on the owner to strengthen or demolish the building.

## 11. Recording a Buildings EQP Status

A register of all EQP *dangerous* and/or insanitary buildings shall be kept by Council noting the status, any requirements for improvements or the results of improvements as applicable.

In addition, the following information will be placed on any Land Information Memoranda produced by Council under the Building Act 2004:

- i. an address and legal description of land and building
- ii. a statement that the building is on the council register of EQP, *dangerous* or insanitary buildings
- iii. the date by which strengthening, remediation or demolition is required if known
- iv. a statement that further details are available from the Council for those who can demonstrate a genuine interest in the property.

In granting access to information concerning earthquake-prone, *dangerous* and insanitary buildings the Council will conform to the requirements of relevant restrictive legislation.

## 12. Priorities

Kaikoura District Council has prioritized both the identification and the requirement to strengthen or demolish buildings as follows.

Figures in brackets indicate the latest date for identification and notification and the maximum times for strengthening or demolition respectively. Times required for strengthening or demolition commence on the date of issue of formal notice. Specific times will be assigned for action according to the assessment of structural performance and the nature of the concerns.

### The order will be as follows:

12.1 Buildings with special post-disaster functions as defined in AS/NZ 1170.0: 2002, Importance Level 4  
(December 2008) **15 years**

12.2 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  
( December 2009) **20 years**

12.3 Buildings with a heritage classification of A or B under the Councils register (December 2010) **25 years**

12.4 Buildings with an Importance Level of less than 3 as defined in AS/NZ 1170.0: 2002  
( December 2011) **30 years**

## 13. Heritage Buildings

Heritage buildings will be assessed and categorized as with other buildings in terms of EQP, *dangerous or* insanitary building procedures however Council and the owners or owner's agents must have regard to the heritage status of a subject building.

The Building Act 2004 section 4 (2) (1) recognizes the – “ need to facilitate the preservation of buildings of significant cultural, historical or heritage value”

Kaikoura District Council is mindful that any building work or ground disturbance must recognize the heritage fabric of the site and minimize any intrusion thereon.

Council accepts that should any heritage building ( as defined by both the Kaikoura District Plan and the NZ Historical Places Trust) requiring strengthening, alteration or demolition following the assessment processes of this policy, all stake holders will be invited to take part in the consultation process. In normal circumstances resource consent from Kaikoura District Council would be required to significantly alter, strengthen or demolish a heritage building. An archaeological authority may also be required from Environment Canterbury and New Zealand Historic Places Trust in the event of earthworks associated with a pending demolition of an EQP building

Consultation where an heritage building is deemed to be earthquake prone *dangerous or* insanitary may include representatives from but not limited to:

- New Zealand Historical Places Trust
- Te Runanga o Kaikoura
- The building owners
- Kaikoura District Council
- *New Zealand Fire Service*
- Department of Conservation
- Interested community groups

Consideration to waiving resource consent fees for heritage building enhancement may be available through the Kaikoura District Council by application.

## 16. Mayor's Report

### **Community Recognition Award**

I have been working with Mayor's Taskforce for Jobs and the Social Services Committee to initiate a *Kaikoura Community Recognition Awards Evening*.

This is designed to celebrate success throughout our district involving formal Council recognition of successes, volunteers, input, graduations etc of all ages and groups across our community.

It is intended to incorporate the tri annual Community Awards.

Social Services have agreed to be the driving committee and I would appreciate Councils formal support and ratification, as it will be a council initiative and driven by a Mayor's committee.

### **Recommendation**

*That council agree to the pursuance by the Social Services committee of investigating and, if acceptable, the presenting of (at the least bi-annual) Kaikoura District Council driven Community Recognition Awards Evening.*

### **Visit to St John**

A visit to St Johns Christchurch with Mike Kennedy and MP Colin King was completed where we were given a presentation on the organization and its strategies regarding Kaikoura services.

A number of not-yet public initiatives are under way that St Johns Kaikoura and I believe will assist to some degree the pressure our station and staff are under to guarantee a full time emergency service.

### **Youth Employment Co-Ordinator**

As you will be aware the "SEEK" worker has been appointed and WINZ and MTFJ's have approved funding for that position for the first 6 months of employment at least.

It should be reiterated that the position is NOT to find Jobs for Kids.

Ultimately the position should be

- Creating a tracking system of school leavers
- Providing support and initiatives for youth seeking meaningful, sustainable work.
- Encouraging employers to initiate recognized training opportunities for young employees within their workplace.

Initially the SEEK worker will be researching the youth employment and training situation in our district to identify where and with whom the needs are.

Council has supported this position by being the contracted employer of the SEEK person.

### **Easter Sunday Trading Bill**

The opportunity has arisen (as the Easter Sunday Trading Bill heads to the select committee) for anyone to make a submission while considerations are being made.

This is a conscience issue, so the chance of this Bill going through will probably be affected by members business community submissions.

This means to Kaikoura that we can try to get our district onto the exemption list. This list contains Tauranga and Wanaka as being listed as exempt for "Tourism" reasons.

The Bill in its entirety is intended to ensure that retailers can open their doors over Easter Weekend.

*I would ask councils agreement for me to submit to the Bill indicating the Kaikoura Community's support for the bill and at the least try to get our district on the exemption list.*

I have canvassed members of the business community and have gained support to further this from all who have responded.

The members of the T & D committee have been informed of this intended development and have indicated support individually.

A certain urgency is needed as Submissions need to be received by 29 June.

I intend submitting from this Office in any case and am actively encouraging individual and business groups to submit also.

### **Correspondence**

Correspondence received and available for your pleasure:

- Explanation of Micro-chipping by the Minister.
- Invitation to "Digital Earth Summit"
- Card from Mrs Chaffey
- NZ Local Govt work Programme Book.
- Statements of intent from:
  - Dept of labour
  - Dept of Internal affairs
  - Ministry of transport
  - Local government, strategy & communities Book – How are we coping with 2002 Act research.
- Minutes and Agenda CDEM
- Invitation to submit to the discussion document regarding Access.

All inviting reading you would agree!

Cheers

Kevin

