

**NOTICE IS HEREBY GIVEN THAT THE MONTHLY MEETING OF THE REGULATORY AND PLANNING COMMITTEE, WILL BE HELD IN THE COUNCIL CHAMBERS, 29 CIVIC AVENUE, GORE, ON TUESDAY 14 MARCH 2006 AT THE CONCLUSION OF THE OPERATIONS COMMITTEE MEETING**

**Steve Parry  
CHIEF EXECUTIVE**

**8 March 2006**

## ***A G E N D A***

1. Managing Flood Risk – Draft New Zealand Protocol  
(Pages 1-2)
2. Pigs in Dorset Street, Mataura  
(Pages 3-5)
3. Dangerous, Insanitary and Earthquake Prone Buildings Policy  
(Pages 6-12)
4. Regulatory Bulletin  
(Pages 13-16)

## REGULATORY AND PLANNING COMMITTEE AGENDA

MARCH 2005

### 1. MANAGING FLOOD RISK – DRAFT NEW ZEALAND PROTOCOL

(Memo from Planning Consultant – 28.02.06)

The Flood Risk Management Governance Group comprising representatives of local and central government and the Institute of Professional Engineers has developed a draft protocol aimed at improving the management of flood risks in New Zealand. The document stresses that strong leadership is required at a political and managerial level in government and local government to give direction and provide the resources that are necessary to manage flood risk in an integrated manner. Within local authorities this requires consideration of risks in all levels of Council activities, including administration of statutory responsibilities, undertaking of Council works and in non-regulatory dealings with the general public.

The key contribution of the Protocol is a framework through which “better flood risk management decisions” can be made. The important elements of this framework are identified as:

- Natural river and catchment processes as non-negotiable constraints on river modifications
- Interaction of natural and social systems, under the emerging umbrella of sustainability – floodplain management
- Context based decision making
- Continuing community engagement
- Appropriate forms and levels of protection
- Recognition and treatment of residual risks
- Adaptive management principles

The draft protocol is written in an official central government style, for example:

*Both levels of government realise the importance of a seamless approach to managing their respective responsibilities, thereby enabling holistic responses to flood risk and providing clarity of decision making to communities and individuals.*

As a consequence, the real intent of the authors is at times lost in rhetoric and euphuisms. The draft protocol also lacks guidance as to how it should be implemented in a practical way

at the local authority/public interface. Until this is better addressed it is difficult to envisage how best to implement the protocol in an effective way at a local authority level. Notwithstanding that, the intent of the protocol is supported, and provided the final outcome is practical to implement then it is likely that Council will be recommended to adopt it.

At the Council/public interface, the Council's District Plan is consistent with the approach that appears to be promoted in the draft protocol. The Plan identifies areas subject to flooding and imposes varying degrees of management, ranging from rules to supplying land owners with information and leaving them to make a decision on how they use their land.

The protocol also promotes a catchment wide response, and this will require co-ordination on issues with the Southland District Council and Environment Southland.

At this time no action is required of the Council. The protocol is in a draft format for comment and consultation. Other than drawing the matter to the attention of the Council it is not intended to take any further action at this time. Should the protocol be finalised a further report will be provided to the Council. A recommendation can be made at that time as to whether the Gore District Council becomes a party to the protocol.

## **RECOMMENDATION**

**THAT the report be received.**

## 2. PIGS IN DORSET STREET MATAURA

(Memo from General Manager, Community Services – 06.03.06)

On 26 December 2005, the Council's animal control contractor received a call out in response to two pigs causing damage to gardens in Dorset Street, Matura and roaming in the vicinity of the NRM Feeds Factory.

The call-out was the third such incident involving the same pigs, with previous call-outs received by the animal control contractor in June and August 2005. A chronology of events is attached herewith.

It is pertinent to draw the Council's attention to the fact that over the last 12 months, the reports of pigs wandering in Matura may be attributed to a sole individual.

Since 27 December 2005, the Council has not received complaints from the Matura area concerning pigs and the Animal Control Contractor's subsequent contacts with tenants of the Dorset Street flats, suggest that the problem has been resolved.

However, the Council may wish to consider its options for dealing with any future incident involving the rearing of pigs or other livestock within residential or urban areas, for the following reasons:

- There appears to be no specific Council Bylaw pertaining to this issue. The Council's staff have been using the New Zealand Standard Model General Bylaw (Part 13, para. 1301) which prohibits the rearing of pigs in "any area which has a predominantly urban character under the District Plan prepared by the Council".
- Enforcement action by the Animal Control Contractor is limited to seizure and impoundment of the animal (as per section 164 of the Local Government Act 2002)'.
- In practice, it is difficult to seize or effectively impound a pig. Apart from being difficult to catch, the Council would need to up-grade or reinforce the existing pound in order to securely impound pigs and other large livestock.
- The Council may be more effective in deterring people from keeping pigs in urban areas if it was able to issue infringement notice and/or levy a fine. However this would require the Council to enact a new Bylaw on this issue.

With regard to possible options, the Council may:

- Choose to retain the current status quo
- Wish to explore the need for a new Bylaw to deal with pigs and (non-domesticated ) animals/livestock in urban areas
- Decide to review the issue after six months, to see if there are any further incidents related to pig rearing in Mataura township.

**RECOMMENDATION**

**THAT the report be received,**

**AND THAT the Council decide which option it wishes to pursue.**

<b>Date</b>	<b>Incident</b>	<b>Action Taken</b>
May 2005	Animal control contractor discovers two small pigs in Garden Street, belonging to the owner.	<p>The animal control contractor explains to the owner that pigs were not allowed to be kept within the town boundary and of the problems they cause.</p> <p>The animal contractor made a subsequent check at the same address and the pigs had been removed.</p>
June 2005	Animal control contractor was contacted by the NRM Foods factory and tenants of the Dorset Street flats, who complained that two pigs were digging up gardens and being a general nuisance.	<p>The animal control contractor was unable to catch the pigs</p> <p>The animal control contractor spoke to the owner who admitted the pigs were his and said that he would shoot the pigs.</p>
15 August 2005	Another complaint was received about pigs roaming in the Dorset Street area.	<p>The animal control contractor spoke to the owner, who once again said that he would shoot the pigs.</p> <p>The Council issued a letter to the owner, which was hand delivered by the animal control contractor.</p>
26 December 2005	<p>A further complaint was made by tenants of the Dorset Street flats, regarding pigs causing damage to their gardens.</p> <p>The animal control contractor was told that the pigs were being kept by another person, who said he was keeping the pigs for the owner.</p>	<p>The animal control contractor informs the caretaker of the pigs that they must be removed "once and for all". <u>Note</u>: the owner could not be reached at the time.</p> <p>A visit was made to the property/area the following day and the pigs had been removed.</p>

### 3. DANGEROUS, INSANITARY AND EARTHQUAKE PRONE BUILDINGS POLICY

(Memo from Building Control Manager – 07.03.06)

#### **1. PURPOSE OF REPORT**

This report is to present the required policy on Dangerous, Insanitary and Earthquake Prone to be adopted by 31 May 2006 for approval for public consultation.

#### **2. STATEMENT ON APPROACH**

The policy statement adopts a minimalist approach based primarily on two factors : the low level of seismic activity and the low risk nature of the buildings in our district.

The policy statement regarding dangerous and insanitary buildings reinforces current practice and legislative process. The earthquake prone building policy statement applies only where there is a building consent application pertaining to structural work on a building or a change of use. The level of required strengthening is the minimum required by legislation.

#### **3. BACKGROUND**

##### 3.1 Legislation

The relevant sections from the Act are:

*121. Meaning of dangerous building –*

*(1) A building is dangerous for the purposes of this Act if, -*

- (a) in the ordinary course of events (excluding the occurrence of an earthquake), the building is likely to cause –*
  - (i) injury or death (whether by collapse of otherwise) to any persons in it or to persons on other property; or*
  - (ii) damage to other property; or*
- (b) in the event of 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.*

*(2) For the purpose of determining whether a building is dangerous in terms of subsection (1)(b), a territorial authority –*

- (a) 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*
- (b) if the advice is sought, must have due regard to the advice.*

122. *Meaning of earthquake-prone building –*

- (1) *A building is earthquake prone for the purposes of this Act if, having regard to its condition and to the ground on which it is built, and because of its construction, the building –*
  - (a) *will have its ultimate capacity exceeded in a moderate earthquake (as defined in the regulations); and*
  - (b) *would be likely to collapse causing –*
    - (i) *injury or death to persons in the building or to persons on any other property; or*
    - (ii) *damage to any other property.*
- (2) *Subsection (1) does not apply to a building that is used wholly or mainly for residential purposes unless the building –*
  - (a) *comprises 2 or more storeys; and*
  - (b) *contains 3 or more household units.*

123. *Meaning of insanitary building –*

*A building is insanitary for the purposes of this Act if the building –*

- (a) *is offensive or likely to be injurious to health because –*
  - (i) *of how it is situated or constructed; or*
  - (ii) *it is in a state of disrepair; or*
- (b) *has insufficient or defective provisions against moisture penetration so as to cause dampness in the building or in any adjoining building; or*
- (c) *does not have a supply of potable water that is adequate for its intended use; or*
- (d) *does not have sanitary facilities that are adequate for its intended use.*

131. *Territorial authority must adopt policy on dangerous, earthquake-prone, and insanitary buildings –*

- (1) *A territorial authority must, within 18 months after the commencement of this section, adopt a policy on dangerous, earthquake-prone, and insanitary buildings within its district.*
- (2) *The policy must state –*
  - (a) *the approach that the territorial authority will take in performing its functions under this Part; and*
  - (b) *the territorial authority's priorities in performing those functions; and*
  - (c) *how the policy will apply to heritage buildings.*

132. *Adoption and review of policy*

- (1) *A policy under section 131 must be adopted in accordance with the special consultative procedure in section 83 of the Local Government Act 2002.*
- (2) *A policy may be amended or replaced only in accordance with the special consultative procedure, and this section applies to that amendment or replacement.*
- (3) *A territorial authority must, as soon as practicable after adopting or amending a policy, provide a copy of the policy to the chief executive.*

- (4) *A territorial authority must complete a review of a policy within five years after the policy is adopted and then at intervals of not more than five years.*
- (5) *A policy does not cease to have effect because it is due for review or being reviewed.*

#### **4. CONSULTATIVE PROCESS**

It is Council's intention to provide opportunity for owners of buildings affected by this policy to discuss future plans for the buildings and to what extent the policy may impact on them.

#### **5. RISK ANALYSIS**

- 5.1 The policy essentially falls into two parts. The first being related to dangerous and insanitary buildings carries little risk to Council as it allows the current procedures in respect of such buildings to continue. The process is largely dictated by statute with the exception of timeframes for work to be carried out. The discretion criteria formalises current practice.
- 5.2 The second part, being related to earthquake-prone buildings, does carry an identified risk to the District. The Act does not specify a strengthening level to which buildings must be upgraded to comply. The minimum is 33% of the requirement for a new building, but Council has discretion in setting any level from 33% to 100%. The risk is that higher costs associated with higher compliance levels will stifle any development of the existing building stock.

#### **6. SUMMARY**

- 6.1 The choices concerning earthquake-prone buildings centre around two main issues:
  - How proactive should Council be in establishing which buildings are actually earthquake-prone?
  - To what level should strengthening be required?
- 6.2 Both these issues relate back to the estimated earthquake risk for the district and estimated risk to life, injury or property damage or collapse.
- 6.3 In regard to the building stock the buildings are those built prior to 1976, when NZ4203 : NZ Structural Design and Loadings Code was introduced, and excluding residential unless they are multi-storey / multi unit developments. Our Districts commercial building stock is

restricted to mainly one and two storeys with low occupancy rate.

- 6.4 Both of these factors point to a low key approach to requiring the upgrading of buildings. The cost of upgrading buildings to a higher level is likely to be disproportionate to the actual risk reduction achieved.
- 6.5 The way in which compliance is achieved is also at Council's discretion. The range of approaches is from the combination of initial desktop classification of buildings and formal engineering assessments. Council does not have the in house expertise to carry out a classification of risk with any acceptable degree of accuracy, principally because most of the older building stock has never been surveyed. The approach is therefore to require a qualified assessment of all older buildings which have not had recent work carried out on them, but these assessments would only be triggered by a change of use or structural work being proposed.
- 6.6 The policy is required by statute and will not require any additional resources to implement, primarily because it is based on current practice and the minimum legal requirement.

## **7. DECISION REQUIRED**

The decision required is the approval of the policy for public consultation.

The recommended policy statement is a pragmatic approach to the legislative requirements based on low level of seismic activity and the lower risks due to relative small scale of the building stock in the district.

## **RECOMMENDATION**

**THAT the proposed Policy on Dangerous, Insanitary and Earthquake-prone Buildings as attached to this report, be approved for public consultation.**

# **DANGEROUS, INSANITARY AND EARTHQUAKE-PRONE BUILDING POLICY**

## **1. INTRODUCTION**

Section 131 of the Building Act 2004 (the Act) requires that the Gore District Council must adopt a policy on how it intends to discharge its powers, duties and functions under Sub-part 6 of the Act. The policy must consider:

- The overall approach to be taken in respect of dangerous, insanitary and earthquake-prone buildings; and
- The priorities of the Council in performing its functions concerning such buildings; and
- How it will approach heritage buildings.

## **2. PURPOSE OF POLICY**

The purpose of the policy is to describe the manner in which buildings deemed to be potentially dangerous, insanitary or earthquake-prone will be identified, categorised and what action shall be taken.

## **3. POLICY PRINCIPLES**

### **3.1 Earthquake Risk**

The Southland Civil Defence Emergency Management Group Plan States : while on the basis of history floods appear to be the most significant hazard it is likely earthquakes, particularly an earthquake on the Alpine Fault present the most risk. There is a fifty percent chance of a magnitude 8 plus fault occurring on the Alpine Fault in the next fifty years (source – Professor Richard Norris, University of Otago in “Stirred and Shaken”, Otago Daily Times).

This will be a significant South Island wide event that will be particularly noticeable in Fiordland and Northern Southland. It is not unrealistic to expect that it will occur in the lifetime of at least 50% of the Southland population. Not surprisingly the tectonics and climate that have shaped Fiordland, the Southland Plains and the surrounding hills and ranges also represent significant hazards to the regions population and infrastructure.

### 3.2 Policy Approach

In regard to dangerous and insanitary buildings, the Council will respond to complaints and determine the appropriate course of action based on the circumstances of each individual case.

In regard to earthquake-prone buildings the policy is at a minimum level regarding building assessments, due to the low occupancy levels and building types in the District and minimal strengthening level due to the lower level of seismic activity and types of buildings in the District.

## **4. DANGEROUS AND INSANITARY BUILDINGS POLICY STATEMENT**

4.1 On receipt of a complaint or as a result of other information being made available to the Council that a building may be dangerous or insanitary, the Council must first be satisfied that the building is dangerous or insanitary. Any assessment shall be on the basis:

- Building and site inspection by the Building Control Officer.
- If required by the Building Control Officer, the advice of the NZ Fire Service, registered engineer, Environmental Health Officer or Health Protection Officer.

4.2 A notice pursuant to Section 134(1)(c) of the Act shall be issued in respect of any building deemed to be either dangerous or insanitary.

4.3 The time for a building consent to be applied for and the extent of required work or other action required of the Council shall be determined by the Council taking the following matters into consideration:

- Potential risk to human life.
- The location of the building in relation to other buildings and public places.
- The level of use of the building and its immediate environs.
- The size of the building.
- The complexity of the building.

- The current or likely future use of the building, including any specific cultural or traditional or historic values.
- The reasonable practicality of any work.
- Any matters that the Council considers to be relevant, taking into account the specific circumstances of the case.

## **5. EARTHQUAKE-PRONE BUILDINGS POLICY STATEMENT**

5.1 Assessments of buildings may be required for buildings which:

- Are not excluded by Section 122(2) of the Act; and
- Were built prior to 1976; and
- Have not had a building consent issued under the Building Act 1991 for a structural alteration.

5.2 The owner(s) of any building included in 5.1 above will be required to have an appropriately qualified engineer assess the building, and provide a copy of the report to the Council, when either a change of use notification or a building consent application for any alteration that affects the structure of the building is submitted to the Council.

5.3 The time for a building consent to be applied for in respect of any strengthening work shall be determined by the Council taking the matters listed in 4.3 above into consideration.

5.4 The minimum level to which strengthening work must be carried out under 5.3 above is the trigger level set by regulation under the Building Act 2004.

5.5 The criteria set out in 5.1 above applies whether or not the building is of potential historic significance, is listed as a Heritage Resource in the Gore District Plan or is registered with the NZ Historic Places Trust. Any work carried out on such a building must, however, comply with the rules, standards, conditions and terms of the Gore District Plan.

## **6. POLICY REVIEW**

6.1 This policy must be reviewed by May 2011.

4. REGULATORY BULLETIN

(Memo from Chief Executive – 06.03.06)

Attached is a schedule of building consents issued for December February 2006, together with comparisons with the previous two years.

Also attached are schedules of resource consents issued to 28 February 2006.

**RECOMMENDATION**

**THAT the information be received.**