

HAURAKI DISTRICT COUNCIL

REGULATORY HEARINGS COMMITTEE

MINUTES OF A MEETING OF THE REGULATORY HEARINGS COMMITTEE HELD IN THE COUNCIL CHAMBERS, WILLIAM STREET, PAEROA ON MONDAY, 08 MAY 2023 COMMENCING AT 9.05AM

PRESENT Cr P A Milner (Chairperson), Cr A Spicer (Deputy Chairperson), His Worship the Mayor, D A Adams and Cr A Rattray (via Zoom)

IN ATTENDANCE P Thom (Planning & Environmental Services), M Matich (Regulatory Services Team Leader) and C Black (Council Secretary)

APOLOGIES

There were no apologies.

LATE ITEMS

There were no late items.

DECLARATIONS - CONFLICTS OF INTEREST

There were no declarations.

CONFIRMATION OF MINUTES

RESOLVED

THAT the minutes of the meeting of the Regulatory Hearings Committee held on Monday 20 February 2023 are received and confirmed as a true and correct record.

RHC23/09

Adams/Milner

CARRIED

ENFORCEMENT ACTION TO BE TAKEN IN RELATION TO MANAGING EARTHQUAKE PRONE BUILDING (EPB) BREACHES UNDER SECTION 133AU OF THE BUILDING ACT 2004 (THE ACT) - 3395138

The Regulatory Services Team Leader provided information regarding the management of Earthquake Prone Buildings in the Hauraki District, in terms of what enforcement action Council should take against building owners who do not comply with legislative requirements.

RESOLVED

THAT the report be received.

RHC23/10

Milner/Spicer

CARRIED

The Regulatory Services Team Leader outlined the current process staff are following to address issues of non-compliant building owners of earthquake prone buildings under Section 133au of the Building Act 2004.

The Team Leader sought guidance from the Committee on how they considered Council should be dealing with those owners in breach of Section 133 AU of the Building Act.

The Team Leader advised as a last resort after a soft approach with building owners, that where a property owner is still non-compliant, an infringement fine can be issued and the owner has 56 days to pay the fine to Council in full, and after that time if not paid, will proceed to the Ministry of Justice.

Member suggested that a softer approach than the lodgement with MOJ be adopted. Supported that a reminder letter to address earthquake prone matter is sent out to property owner. The Regulatory Services Team Leader re-iterated, a soft approach is taken initially, but if compliance is still not met, then a harder approach such as an infringement fine be taken.

Member asked if the building owner is required to place a notice on their building stating the building is earthquake prone, or, is it the responsibility of Council to place a notice.

Team Leader advised it is the owner's responsibility under the Building Act to place this notice on their building, but there is provision in the Act for Council to place the notice. However, this would not be preferable.

Team Leader advised that Council have a contractor managing this process. At this stage, they are contacting building owners directly with a follow up phone call. Once a notice is sent to a building owner, Council's building inspectors will check and see if the EPB notice has been placed on the building.

Team Leader stated that her report is seeking from the Committee what agreed steps should be taken if people do not show any intention of complying with the legislation.

Member requested that there should always be verbal contact made with all building owners.

The Team Leader advised the deadline to get engineering assessment reports into Council is the 15 June 2023.

A member emphasised the importance that there must be a timeframe for clarity of the steps. What happens if the building owner does not meet the deadline?

Group Manager – Community Development explained the process currently followed.

Member stated the main concern is more about the follow up process; i.e. after an infringement is issued, can another infringement be issued.

Team Leader advised she would follow up with Brookfield's Lawyers to request clarity and direction from them on what the infringement process involves.

There is a 12-month deadline from the date of 15 June to provide Council with an engineering assessment report, or apply for an extension. The deadline for applying for an extension was 15 April 2023. Owners can only apply for one extension for up to 12 months.

Team Leader sought feedback from the Committee, if the 15 June deadline arrives and regulatory staff have not received all engineering assessments, what should be the next step.

Group Manager stated that Councils aim is to get owners to comply.

Priority buildings have a timeframe of 12.5 years to undertake seismic work, and non-priority buildings have a timeframe of 25 years. The Team Leader asked once 12.5 years

has expired, when the building has to have the seismic work completed, what action is required at that point? Noting some building owners have applied for an extension of time.

Member asked what the process is after 12.5 years if a building owner has not earthquake proofed, their building is condemned, and they tenant the building.

Member suggested this matter be referred to the Audit and Risk Committee to keep councillors informed on how management of earthquake prone building (EPB) breaches are being managed.

Two options were offered for the Committee's consideration as outlined in the report.

It was agreed that Option 2, issue infringement fines, be supported.

It was noted that Council could not issue an infringement notice and prosecute for the exact same incident; there is a need to choose one process or the other, depending on how serious the offending is, as advised by Brookfield Lawyers.

RESOLVED

THAT where no EPB notice is put on a building, or where seismic work has not been met by deadline, Option 2 is approved, and Council issue infringement fines against building owners for breaching Section 133AU(2) and 133AU(1) of the Building Act 2004.

RHC23/11

Spicer/Milner

CARRIED

RESOLVED

THAT the Committee recommend that the management of earthquake prone building (EPB) breaches be added to the Audit and Risk Committee work programme.

RHC23/12

Spicer/Milner

CARRIED

ENFORCEMENT ACTION TO BE TAKEN IN RELATION TO OVERDUE/EXPIRED BWOFF (BUILDING WARRANT OF FITNESS) AND/OR NOT DISPLAYING A CURRENT BWOFF – 3395132

The Regulatory Services Team Leader presented a report that provided information to the committee in relation to building owners who have an overdue/expired BWoF and are therefore breaching section 108 of the Act and to seek a decision in relation to what enforcement action is to be taken against the building owner.

RESOLVED

THAT the report be received.

RHC23/13

Ratray/Adams

CARRIED

Team Leader advised the Committee that this is a Territorial Authority function not a Building Control function.

Member referred to the 22 outstanding breaches. Supported that an approach be adopted similar to the EPB, to send a reminder letter, then if no action taken following a notice to fix, an infringement fine is issued or a court prosecution.

Regulatory Services Team Leader advised this is the case currently that a soft approach is initially used, and after that, infringement fines are issued as a last resort.

Members supported the same approach as the EPB decision.

Two options were offered for the members to consider, Court prosecution or issue infringement fines.

RESOLVED

THAT Option 2 is approved, that Council issue infringement fines against building owners for breaching Section 108(5) (aa) of the Building Act 2004.

RHC23/14

Ratray/Milner

CARRIED

The meeting closed at 9.26am.

CONFIRMED

P A Milner
Chairperson