

REPORT

TO: Council

FOR: Council Meeting – 24 July 2024

FROM: Tim Harris – Executive Director Enabling Services

DATE: 10 July 2024

SUBJECT: **UPPER SELWYN HUTS ENGAGEMENT AND CONSULTATION PROPOSAL**

RECOMMENDATIONS

‘That Council:

- a) Notes this report;*
- b) Agrees to extend the existing DOL from 30 September 2024 to 1 July 2025;*
- c) Agrees to engage with the Upper Selwyn Huts (USH) community through to 1 March 2025 (Consultation Period) to develop a proposal concerning the future licensing arrangements for the USH;*
- d) Agrees to engage with the USH Community through to 1 March 2025 (Consultation Period) to develop the appropriate level of financial contribution from the USH Community to the Pines Wastewater Treatment Plant (WWTP) pipeline;*
- e) Pauses the current USH process that would have resulted in a deed of licence (DOL) being issued for a period of five years from 1 October 2024 with the conditional opportunity to renew the DOL for two further periods of five years up to a maximum total of 15 years;*
- f) Agrees that the payment of the USH Community portion of the Pines Wastewater Treatment Plant (WWTP) pipeline connection be suspended until the outcome of the consultation process is known and during that time the existing DOL fees apply; and*
- g) During the Consultation Period the Council will work with the USH Community to undertake an external building and lot inspection of the existing huts and any other associated structures to determine compliance with relevant legislation.’*

1. PURPOSE

- 1.1 The purpose of this report is to seek agreement from Council on a proposed approach for engaging and consulting with the USH Community to develop a proposal for the eventual removal of the USH huts.

2. SIGNIFICANCE ASSESSMENT/COMPLIANCE STATEMENT

- 2.2 As stated above the purpose of this report is to develop a proposal for the eventual removal of the USH. While this report does not propose when and how this will happen it is acknowledged that the outcome of this process could have a significant impact on the USH Community through the potential loss of their homes. Accordingly, it is proposed that this process will involve a full consultation process that will satisfy the requirements of a significant decision in the context of the Council Significance and Engagement Policy. This will allow the community a degree of certainty about when people can expect to be informed of a proposed Council action and when and how the community can expect to have direct opportunity to contribute to decision-making.

3. HISTORY/BACKGROUND

- 3.1 The first fisherman's huts in the area (USH) were constructed in 1888. Fishermen's huts were accepted as being appropriate at that time and were generally only used by the owners for a limited numbers of days per year. Today a number of huts are similarly used on a temporary basis but many of the huts are now used as a permanent place of residence. The reasons for permanent occupancy are varied including the unique living environment which attracts a number of the residents. For many, the low cost of purchase is also attractive. Current records indicate there are 96 huts.

Category	Number
Number of licences in total	96
Number of permanent residents	75 (estimate only)
Numbers of hut owners who have notified SDC they are letting the hut	3 officially. However, based on the addresses and owner details it is assumed that a total of 9 may be rented out (multiple huts owned by the same individual or company and in most cases one of these is owner occupied)
Number of huts used on an occasional basis (holiday home)	12 (estimate only)

3.2 By way of Gazette Notice in 2015 part of the Reserve (4.6899 ha) was classified as “recreation reserve” and part (3.4314ha) as “local purpose reserve for the purpose of a hut settlement” under the Reserves Act 1977.

3.3 The current DOL at the USH expires on **30 September 2024**. The consent for wastewater discharge to land and water for USH expired in 2020. An extension of the consent was applied for until June 2024, when the first season/stage of wastewater treatment pipeline (WWTP) works was proposed to be completed. The proposed four years duration for the new consent was based on the Ellesmere to Pines WWTP pipeline installation. The extension of the consent has not been granted to date and is operating on a continuance of the previously granted consent. The expectation from Environment Canterbury (ECan) is that Council will continue its current proposed works and have the USH section of the WWTP complete to in the near future.

3.3.1 **17 December 2017** - Council received legal advice in relation to the feasibility of refusing to renew the licences, the feasibility of renewing the licences for a lesser term (or renewing conditional upon obtaining an extended resource consent term) and the feasibility of withdrawing wastewater services to the huts altogether. This information was subsequently considered by Council with a report from the Property and Commercial Manager, with the following resolution passed:

That in regard to the USH licences that the following occurs:

- (a) That the Council appoints a Committee of Ward Councillors, the Mayor, and Chief Executive, to engage with the USH Community to develop a plan regarding the future residential occupancy of the USH reserve.*
- (b) That the plan be prepared in conjunction with Environment Canterbury, Department of Conservation, Taumutu Rūnanga and Ngai Tahu to ensure consistency with arrangements that those authorities are obliged to undertake related to the Lake Ellesmere environment.*
- (c) That the Chief Executive is authorised to obtain from the appropriate authority an extension to the USH wastewater consent that is consistent with the licence expiry for the Lower Selwyn Huts.*
- (d) That these decisions are communicated to the USH Community.*

3.3.2 **February 2018** - To fulfil the resolution above, Council appointed consultants, Development Matters, to undertake the work necessary, including consultation, to develop a future strategy plan. It provided a comprehensive report on the issues that needed to be addressed, at the time, for the issuing of a USH future DOL.

- 3.3.3 **6 November 2018** - The committee referred to in 3.4.1 (a) above met to consider the report and proposed a maximum 30-year DOL extension in conjunction with an appropriate wastewater resource consent application.
- 3.3.4 **28 November 2018** - At a portfolio briefing Council decided that they did not support the recommendations of the Committee and asked staff to reconsider options.
- 3.3.5 On **8 May 2019**, the Council unanimously determined that 'Hut licences and subsequent renewals are short term and ultimately for a finite period' ¹.
- 3.3.6 Subsequently Council issued a DOL to occupy which expired on 30 June 2020, this was reviewed in 2021. Council did not progress consultation or consideration of long-term licences as the future of wastewater management was uncertain. During this period of uncertainty licence extensions were offered in the form of letters.
- 3.3.7 On **6 October 2022** - Council issued a letter extending the licence to occupy to 30 June 2024.

'That Council acknowledges:

a) That climate change over the next 100 years means that sea level rise that will result in changes to the environment around Te Waihora / Lake Ellesmere specifically resulting in the lake not being able to be opened to the sea as easily or possibly as often, thus resulting in the lake area increasing in volume and area and the water table lifting. This includes the area of Upper Selwyn Huts (USH).

b) Green Park Huts, managed by Ngai Tahu is subject to a management plan that sees its closure by June 2024

c) Lower Selwyn Huts are administered by the Department of Conservation (DOC). DOC will shortly be inviting residents to make applications for a final, 10-year, transition concession. This concession may include conditions limiting the transfer of leases and building extensions.

d) On 8 May 2019, the Council unanimously determined that 'Hut licences and subsequent renewals are short term and ultimately for a finite period'.

e) That Council has a legislative obligation to protect the welfare and interests of hut owners and residents.

2. The Council agrees that a Deed of Licence (DOL) be issued for a period of five years from 30 June 2024. With the conditional opportunity to renew that licence for two further periods of five years up to a maximum total of 15 years from 30 Jun 2024. No occupancy will be permitted after 30 June 2039.

3. That Council agrees that the following significant changes are made to the DOL from 30 June 2024:

¹ Resolutions database 20190612_003 adopted 2019-06-12 (unanimous decision)

a. Transfer of a DOL of USH will be considered as follows:

- *Up to 30 Jun 2034, to any person.*
- *After 30 Jun 2034, to identified family members, or significant persons only².*

b. A USH and associated lot inspection programme be undertaken by Council to establish the condition of USH lots in relation to relevant legislation and Council policy.

c. That Council establishes an USH Project Team to plan and manage the withdrawal of USH by 30 June 2039 and the subsequent restoration of the site to a clear site for repurposing.

d. That Council agrees a remediation bond be introduced.

4. That Council agrees that the USH portion of the Pines Wastewater Treatment Plant (WWTP) pipeline connection will be 30% funded by the USH community.

3.3.8 Since then, the existing DOL has been extended twice to accommodate the current process with the latest extension set to expire on **30 September 2024**.

4 DISCUSSION

4.1 Since the March meeting the Council has received over 200 individual queries and Local Government Official Information and Meetings Act (LGOIMA) requests concerning the USH.

4.2 Some key themes have emerged from the feedback including:

- There are grave concerns from the USH Community about the potential loss of their homes and the emotional and financial impact that this will have.
- The USH Community are extremely concerned about the procedure followed by the Selwyn District Council in relation to the opportunity the USH Community were given to engage on the on four options put before the Council at its 13 March 2024 meeting regarding their future at USH.
- There were concerns raised about aspects of the new DOL.
- The inconsistent advice received by the USH Community from the Council during the DOL assignment processes.

Legal advice

4.3 Council decisions in relation to the USH Community were originally based on the premise that any future DOL was to have a finite and short-term life. These decisions were made in the context of an uncertain wastewater system. This uncertainty has now gone and from the investigations that were required to respond to the many

questions and LGOIMA requests it is apparent that elements of the USH Community may have considered that this changed the basis of those decisions. It therefore may now be appropriate for the Council to follow a fuller consultative process in relation to DOL decisions.

Pines WWTP Pipeline Connection

- 4.4 Council resolved on 8 May 2019 that any wastewater solution will be fully funded by the USH Community. On 15 November 2023, Council agreed, in a Public Excluded meeting, to approve additional funding of \$10.94M towards the completion of the Ellesmere to Pines WWTP Pipeline and USH branch line bringing the total budget value of \$35.56M. The recoverable portion for the USH component has since been confirmed as \$4.046M
- 4.5 At the 13 March 2024 Council meeting it was agreed that the USH portion of the Pines WWTP connection will be 30% funded by the USH Community.
- 4.6 Under the proposed engagement process described below it is not possible to collect this portion as a new DOL of license will not be place and its term and contents will not be finalised until the consultation process has been completed. However, this is currently the case under the existing process as a new DOL would not have been in place until later this year.
- 4.7 Currently USH owners pay a licence fee of \$1,389 and the invoices for the forthcoming year are due to be sent out in August 2024. Council has previously decided, and regularly confirmed, via Long Term Plan and Annual Plan consultation processes that the USH Community will not be included within the district wide rating systems for water or sewerage. One of the main reasons for this was the uncertainty of the solution required for the USH. This uncertainty has now largely gone. If the USH were added to the district wide rate this would add circa fourteen dollars to that rate per annum.
- 4.8 It is proposed that the consultation and engagement process described below would involve a discussion around what the appropriate level of financial contribution from the USH Community to the Pines WWTP is or whether the USH should be included in the district wide rate.

Compliance

- 4.9 Each hut is licenced to occupy 202 m² but it is important to remember that a licenced area does not mean that there is a legally surveyed area as each hut does not have a title. Permanent occupancy was never contemplated when the huts were initially allowed. Accordingly, the small amount of land area each hut was allocated, was of no concern.

- 4.10 The closeness of the huts when permanent occupation occurs, causes issues specifically when the land area is only just adequate for the hut with limited spare space for a car or any type of storage. These physical conditions have required specific terms to be included in the licence to occupy which support good neighbour relations, from dog ownership, which is not permitted, to piling or storing materials that create a nuisance.
- 4.11 It is considered that the Council cannot ignore or defer addressing this issue even until after the proposed engagement and consultation process. Accordingly, it is proposed that during the coming year, the Council will work with the USH Community to undertake an external building and lot inspection of the existing huts and any other associated structures to determine compliance with relevant legislation. A proposed compliance check sheet is included in **Appendix 1**.

5. PROPOSAL

- 5.1 In broad terms it is proposed to follow a process of community engagement to develop a Statement of Proposal which then would be subject to a consultation process. An indicative timeline is included below:

Indicative Timeline:

Item	Date
Engage with USH owners and other key stakeholders	August 2024 – December 2024
Proposal development including new license	January 2025 – February 2025
Proposal notified for submissions	March 2025
Deadline for written submissions on statement of proposal	April 2025
Hearings on statement of proposal and submissions	May 2025
Council decision	June 2025
New form of licence circulated to hut owners	June 2025
Replacement licences to be executed by hut owners	July 2025

- 5.2 These time frames are tight, but they do align with the beginning of the next financial year.

Scope

- 5.3 The scope of the engagement will need to be established early in the process. One of the main points that would need to be understood by all is that the Council has decided that at some point in the future the USH need to be removed from this location. This proposal is seeking to engage with the USH Community and other stakeholders on when and how this will occur. Accordingly, those things that will be within scope include:

- The DOL, including:
- The term of the DOL;
- The financial proportion to be paid by the USH Community for the new WWTP, including:
- Whether the USH should be added to the district wide rate;
- The transferability of the DOL.

- 5.4 While this follows the approach taken by the existing process the Council is not ruling out any other innovative approaches as long as they are feasible from both a practical and financial perspective.

Engagement Process

- 5.5 The engagement process could follow the steps set out below.
- 5.6 To inform the preparation of the Statement of Proposal three formal community engagement sessions will be held using an independent facilitator. This may be supplemented with individual meetings with property owners as required.

- **Session 1: What does a transition away from hut life look like?**

This session will provide a summary of the feedback received to date and explore what a transition away from living in the hut community looks like. We will discuss where people want to go, how they want the transition to occur, and any support that is required to enable the transition.

- **Session 2: What options do we have available to support the transition?**

Session 2 will consider different approaches that support the approach desired by the community. It will include a discussion on any challenges with implementing various approaches and external support that may or may not be able to be sought.

- **Session 3: What is the best approach?**

Considering the feedback received in the first two sessions we can discuss the most favoured approach, the limitations of this, and what needs to occur to refine this approach. This will also consider how long is required to implement the approach.

- 5.7 While it is unlikely that these sessions will result in total agreement across all the stakeholders it is envisaged that all views will be heard with the hope that some common ground can be found. It is also considered that the ongoing management of the huts will need to be more structured and intentional than what it has been over the last number of years.
- 5.8 Following these sessions the Council will draw up the Statement of Proposal which would be subject to a full consultation process involving public notification of the proposal a submission process then a hearing for those submitters that wanted to be heard by the Council.
- 5.9 There are a number of important stakeholders such as Environment Canterbury, Te Taumutu Rūnanga, Department of Conservation and Ngāi Tahu. Other government agencies like Kainga Ora and the Ministry for Social Development will also be involved in the where appropriate in the process where appropriate.

6. OPTIONS

- 6.1 There are a number of options that the Council could consider:
- 6.2 A do nothing option is not seen as practical. The Council has previously decided that a process needs to be followed that will see the USH being removed at some time in the future. The reasons for this are varied but include the following concerns for the safety of the USH Community:
- The USH were not designed for permanent habitation, and are not set up for safe permanent residency. There are challenges with compliance and safety for the residents which needs to be addressed.
 - Over time rising sea levels will make safe permanent habitation in this location problematic.
 - Expected increased weather events will limit access into and out of the area. This poses a danger to the USH Community being cut-off from support during emergency events, and increases the risk to Civil Defence teams.
 - The two other lakeside communities face similar challenges and there is merit in having an approach that has some consistency.

- 6.3 The Council could continue with the current process. However, as this has been discussed earlier the process that has been followed has been heavily criticised by the USH Community for its lack of engagement with the residents. It has been made clear to the Council that the USH Community consider this to be a significant decision that should invoke a more robust engagement and consultation process. It is considered that following this option is likely to be challenged. This is not staff's preferred option.
- 6.4 The **preferred option** is for Council to pause the current process and embark on an engagement and consultation process described in section 5 of this report.

7. VIEWS OF THOSE AFFECTED/CONSULTATION

- 7.1 This report is proposing a process to engage with the USH Community and if those recommendations are agreed to then there will be opportunities for all stakeholders and those affected to be part of that process.
- 7.2 A letter was sent the USH Community on 1 July 2024 informing them that the Council was considering revisiting its March 2024 decisions concerning the USH and that this matter would be discussed at its 24 July 2024 Council meeting. This letter is attached in **Appendix 2**.
- 7.3 Environment Canterbury, Te Taumutu Rūnanga, Department of Conservation and Ngāi Tahu have also been advised of this approach.

8. FUNDING IMPLICATIONS

- 8.1 Depending on Council decisions there are several short and long-term funding implications:
- 8.2 The current position of Council is that the USH Community will contribute 30% of the cost of the new pipe over the next 15 years. Having said that under current process Council would not have a DOL in place until the end of the year so on that basis the lost revenue is in the order of \$60 000 until a potential new DOL is put into place at the beginning of the next financial year.
- 8.3 There is a considerable cost associated with the inspection of USH and associated lots, this is in the region of a minimum of \$41,500.00 in staff time to conduct the inspection and write up a basic report. Any non-compliances to be dealt with would require additional staff time on top of that and would require further support agencies involvement.
- 8.4 The cost of the engagement and consultation process itself is hard to gauge but not including staff time it is likely to be in the order of \$100,000.

- 8.5 Conflicting interests and the complex history of the huts has incurred extensive legal costs over time resolving issues. These are likely to continue but perhaps not escalate in the same way as they might under the current process.

Issue	Approximate costs	Remarks
Initial inspection of huts and sites	\$41,500	Remediation of subsequent issues will require funding by USH owners.
Engagement and Consultation process	\$70, 000	Facilitator and support
Communications	\$10,000	Public engagement and paid for communications
Loss revenue	~\$60 000	Represents 6 months of the 30% cost that was going to be met by the USH Community

- 8.6 Not all of these are strictly additional cost as the current process was also incurring significant legal and staff resource.

9. REPUTATIONAL ISSUES & COMMUNICATION

- 9.1 The USH Community has been strongly opposed to the closure of the huts. It is hoped that the proposed approach reduces resistance and potential challenges to any final proposals.
- 9.2 It is imperative that the impacted and wider Selwyn communities are well informed and understand the reasons for the proposals and that impacted owners and residents feel:
- The process is transparent
 - They are well informed
 - They are supported
 - They have engagement with the process and feel involved.
- 9.3 It is intended that an evolving and agile communications plan will seek to keep target audiences engaged and that information is readily available and clearly identified points of contact established.

- 9.4 The USH and other lake communities have been the focus of media attention for a long time. Elevated levels of media attention are anticipated at key decision points.

A handwritten signature in black ink, appearing to read 'Tim Harris', with a stylized, cursive script.

Tim Harris
EXECUTIVE DIRECTOR ENABLING SERVICES

Appendix 1

Upper Selwyn Huts - Hut Condition Inspection

Property details

Valuation number		Legal Description	
Physical Address			
Ratepayer Names		Contact Number	

	Yes	No	N/A	Reasons for Decisions
Desktop Review Building				
Property file review completed prior to hut inspection to review property records held (if any) Note any relevant information on consents and related compliance information / outstanding CCCs, etc.				
Desktop Review Compliance				
Property file review completed prior to hut inspection to review property records held (if any) Note any relevant information on resource consents and related service requests, etc.				
Any additional resources identified as being required to carry out site visit? (eg; Food and Health, etc)				
Communication– appointment / visit advised/agreed				
Date condition inspection carried out				
Lot Condition				
General (state of trees/vegetation)				
Vehicles present				
Hoarding / rubbish / etc present				
Hazardous substances present				
How to assess notional boundaries				
Photos of all elevations of hut and surroundings (allow for 6 photos max.)				
Building Condition – External				
14. Stormwater being collected and discharged appropriately				
14. adequate space and vents to timber floors to ensure proper ventilation and protect from damp and decay.				
Floor level in relation to ground level				
16. Foul water drainage – all sanitary appliances connected to the sewage system, gully traps have grills, appear to be in working order, no signs of overflows, etc.				
17. External weathertightness – roof and walls – sound, durable, weatherproof, and maintained.				
Condition of ancillary structures (eg; tank stands, sheds, etc)				
Access decks / steps				
RMA / Bylaws / Health / Animal Compliance				

Hoarding				
Vehicles and parking / storage (incl. boats, trailers, etc)				
Storage of hazardous substances				
Animals present				
Business or commercial activity/use observed				
Signage / advertising				
Other				
Hut Condition Summary				
Further Actions Required				
Do any of the identified building non-compliances need rectification? (if yes, follow the NTF SOP)				
Do any of the identified non-compliances/issues trigger Councils dangerous, affected, or insanitary buildings policy (if yes, follow the DAI SOP)				
Do any of the identified RMA/bylaws/health/animal non-compliances need rectification? (if yes, create service request and follow legislative requirements)				

Notes:

For the purposes of conducting condition inspections the [Housing Improvement Regulations 1947](#) will be used as the baseline requirement given the age of the majority of buildings predate the NZ Building Code (1992). Numbers in the checklist reference the relevant clause of the regulations.

Where recent building consents have been granted the condition of the building will be assessed against the relevant consent.

The condition survey is not intended to assess the hut for the purposes of rental accommodation.

Appendix 2

Letter to USH residents DOL extension / Council revisiting the decision


www.selwyn.govt.nz

1 July 2024

Dear Hut Owner

UPPER SELWYN HUTS – DEED OF LICENCE EXTENSION

Following on from recent meetings, conversations and feedback from Upper Selwyn Huts owners and their counsel, the Council is considering revisiting its March 2024 decisions made regarding time frames for Deed of Licence renewals.

There will be a discussion on this at the Council meeting, to be held on Wednesday 24th July from 1.30pm. This is a public meeting that you will be able attend or view on Council live stream.

Given this update, the deadline for feedback on the form of Deed of Licence has been moved back to after this meeting.

	Current date	New date	Extension
Feedback on the form of Deed of Licence	15 July 2024	26 August 2024	6 weeks

We will continue to respond to your enquiries as swiftly as possible and hope that this extra time allows you the space to consider these responses, and continue to provide feedback.

If you have any further questions, please either call us on 0800 SELWYN (735 996) or email

huts@selwyn.govt.nz

Tim Harris

EXECUTIVE DIRECTOR ENABLING SERVICES