Greater East Tamaki
Business Association Inc.

Auckland Council draft Property Maintenance and Nuisance Bylaw 2015

Submission of the Greater East Tamaki Business Association Inc. responding to legionellae in industrial cooling towers.

Introduction and Background

The Greater East Tamaki Business Association ('Association') welcomes the opportunity to make this submission to The Draft Property Maintenance and Nuisance Bylaw 2015.

The Association is a business improvement district for the East Tamaki Industrial Area, advocating for business and property owners in the economic development of the area.

East Tamaki is a manufacturing and distribution hub of some 2,000 businesses located close to the southern motorway, airport and port in the Manukau/Howick wards of Auckland. The area generates $3 billion to the New Zealand economy each year, $19 million in rates, and 30,000 jobs (with projected jobs of 45,000 on completion of the Highbrook Business Park.

Draft Property Maintenance and Nuisance Bylaw 2015

The Draft Property Maintenance and Nuisance Bylaw 2015 ('Draft Bylaw') notes that territorial authorities are required to follow the regulations established under the Building Act 2004 to ensure buildings are safe and healthy. They administer and enforce the building warrant of fitness regime under the Building Act 2004. Compliance schedules made under section 22 of the Building Act 2004 specify inspection, maintenance and reporting procedures for mechanical ventilation and air conditioning systems, to ensure compliance with the New Zealand Building Code. Upon compliance with the New Zealand Building Code, the council issues a 'compliance schedule' to the owner of a building itemising all specified systems in the building as found in the Building (Specified Systems, Change of Use: Earthquake Prone Buildings) Regulations 2005.

Mechanical ventilation and air conditioning systems are included in these regulations. The compliance schedule sets out the inspection, testing and maintenance requirements for the specified systems. The building owner must maintain those systems in accordance with the compliance schedule, issuing each year a building warrant of fitness to the council confirming that this has been done. The Draft Bylaw notes that there is no requirement to record this information as a minimum in the form of an electronic database.

Whilst there are plans to have this rectified at a national level until such time as this happens, the Council is proposing a bylaw as the means of regulating this issue at a local level. The proposed new bylaw provides for the establishment of a registration process of industrial water cooling tower systems and maintenance requirements.

In particular, the Draft Bylaw provides that:

(1) The owner of any building with an industrial cooling water system must ensure that it is registered with the council by 1 July of each year.

(2) The owner of any building with an industrial cooling tower must notify the council if the system is decommissioned or where there is a change in owner (within one month of this occurring).

(3) The owner of any building with an industrial cooling water system with auto chemical dosing must carry out: (a) weekly dip-slide tests in Table1, Schedule 1 of this bylaw; and (b) control measures in Table 3.1 and Table 3.2 of Schedule 1 of this bylaw.

(4) The owner of any building with an industrial cooling water system without automatic chemical dosing must carry out: (a) the tests specified in Table 2, Schedule 1 of this bylaw, and (b) the control measures in Table 3.2 of Schedule 1 of this bylaw.

(5) The owner of any building with an industrial cooling water system must ensure as part of a regular routine maintenance programme such systems are cleaned. Cleaning shall include the physical cleaning of the industrial cooling tower at intervals not exceeding six months.

Conclusion

While GETBA is supportive of ways to respond to managing legionellae, we are concerned that this registration process for industrial water cooling tower systems is an excessive and expensive response to the problem and likely risks. The Council is requiring an annual registration regime and notification of decommissioning and change of ownership specific to industrial water cooling systems.

We are further concerned that this registration process seems to overlap with and duplicate requirements of the Building Warrant of Fitness regime under the Building Act 2004 and the Health and Safety in Employment Act 1992.

No cost-benefit analysis accompanies the Draft Bylaw and it appears the Council has not undertaken any assessment of the cost this regulation will impose on industry. It appears contrary to the Council's policy of being 'business friendly' to impose this cost without an assessment. No fee or charge is mentioned in the Draft Bylaw, but we expect such a fee or charge will at some point accompany the annual registration. Such a fee or charge should have been declared in the Bylaw.

There appears to be no process for council monitoring. As a consequence, while good operators will likely comply and pay any fee or charge, poor operators will likely 'go under the radar'. But it is precisely the poor operators at more risk of exposing the community to legionellae.

The imposition of this Draft Bylaw appears to also fall outside the Council's bylaw-making powers.

For and on behalf of the Association

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Jane Tongatule

General Manager

Greater East Tamaki Business Association