

Document No: A494730

Report To: Council



Meeting Date: 27 October 2020

Subject: Declaration of Members' Conflicts of Interest

Purpose of Report

- 1.1 The purpose of this business paper is for elected members to –
- 1 Declare interests that may be deemed a potential conflict with their role as an elected member relating to the business papers for this meeting, and
 - 2 Declare any interests in items in which they have a direct or indirect pecuniary interest as provided for in the Local Authorities (Members' Interests) Act 29168.

Commentary

- 2.1 **Conflicts of Interest**
- 2.2 Every elected member has a number of professional and personal links to their community. They may own a business or be a member on a board or organisation. They may have a pecuniary (financial) interest or a non-pecuniary (non-financial) interest. These interests are a part of living in the community which they need to make decisions about in their role with Council.
- 2.3 Elected members are governed by the Local Authorities (Members' Interests) Act 1968 and are guided by the Auditor-General in how this Act is administered. In relation to pecuniary interests, the two underlying purposes of the Act are to:
- ensure members are not affected by personal motives when they participate in local authority matters; and
 - in contracting situations, prevent members from using their position to obtain preferential treatment from the authority (the Council).
- 2.4 Non-pecuniary interests relate to whether an elected member could be in danger of having a real or perceived bias for an issue under consideration.
- 2.5 Elected members will also have interests that are considered no greater than the public at large. For example, most elected members will own a property and therefore be a ratepayer in the Waitomo District.
- 2.6 Conflicts of interest at times cannot be avoided, and can arise without anyone being at fault. They need not cause problems when they are promptly disclosed and well managed.
- 2.7 **Declarations of Interests and Conflicts**
- 2.8 At the beginning of each triennial council term, elected members are requested to disclose known interests on behalf of themselves (including spouses and partners). It is up to the elected member to judge whether they have any interests

to declare. Some elected members may not have any, other elected members may have many.

- 2.9 As well as this, elected members may decide that they have an interest in a particular issue or item to be discussed at a meeting. There is a standing item on every meeting agenda for elected members to declare conflicts of interest.
- 2.10 These declarations should be clear as to whether there is just an "interest" with no pecuniary benefit and no greater benefit than to any member of the public, or they may be a Council appointed representative to an organization, or whether there is a "conflict of interest" in that there could potentially be a pecuniary or other direct benefit to the elected member.
- 2.11 Members who have declared a "conflict of interest" at the commencement of a meeting should make a further declaration when that item of business is considered and leave the meeting table (or the meeting room) and not take part in any discussion, debate or voting on the matter of conflict.
- 2.12 Attached to and forming part of this business paper is information to assist elected members in determining conflicts of interest.

Declarations

Mayor Robertson will invite elected members to give notice of any conflicts of interest relating to the business for this meeting.

In the event of a Declaration being made, the elected member must provide the following information relating to the Declaration:

Name:	
Item of Business on the Agenda:	
Reason for Declaration:	
Is this Declaration – <ul style="list-style-type: none">• Interest Only• Conflict of Interest	



MICHELLE HIGGIE
MANAGER – GOVERNANCE SUPPORT

Local Authority (Members' Interests) Act 1968

- 3.1 The Local Authority (Members' Interests) Act 1968 helps to protect the integrity of local authority decision-making by ensuring that Councillors are not affected by personal motives when they participate in Council decision-making and cannot use their position to obtain preferential access to contracts. This Act deals with two forms of "interest":
1. Pecuniary
 2. Non-pecuniary
- 3.2 **Pecuniary Interest**
- 3.3 The **two** specific rules in the Act are that members cannot:
1. Enter into contracts with their local authority worth more than \$25,000 (including GST) in a financial year unless the Auditor-General approves the contracts (referred to as the contracting rule). Breach of this rule results in automatic disqualification from office; and
 2. Participate in matters before the Council in which they have a pecuniary interest, other than an interest in common with the public (referred to as the participation rule). Breach of this rule is a criminal offence and conviction results in automatic disqualification from office
- 3.4 A pecuniary interest is one that involves money. This could be direct or indirect. It is sometimes difficult to decide whether an interest in a particular matter is pecuniary or some other kind. It is always the responsibility of elected members to make this decision, to declare any interest when appropriate and to ensure that as an elected member you comply with the Act's requirements at all times. The Act generally provides that no person shall be capable of being a member of Council if that person is concerned or interested in any contracts with the Council where the total payments made by the Council in respect of such contracts exceeds \$25,000 in any one financial year.
- 3.5 The Act also provides that an "interest" exists where a member's spouse is involved and/or where a member or their spouse is a major shareholder or have control or management of a company which contracts with Council or where the company has a pecuniary interest in the decision. It may also apply where your family trust has a contract with the Council.
- 3.6 The Act does provide that on application to it the Office of the Auditor General may give specific approval to a member being concerned or interested in a particular contract, in which case the provisions of the Act will not disqualify the Councillor from remaining in office. The approval needs be gained before the contract concerned is entered into.
- 3.7 The Act also requires that a member shall not vote or take part in the discussion of any matter in which he/she has any pecuniary interest, other than an interest in common with the public. This interest is required to be declared by the member and is noted in the minutes.
- 3.8 The Office of the Auditor General is the agency, which oversees this legislation and it also has the responsibility and power to institute proceedings against any member. The Act does not define pecuniary interest, however the Office of the Auditor-General uses the following test: "Whether, if the matter were dealt with in a particular way, discussing or voting on that matter could reasonably give rise to an expectation of a gain or loss of money for the member concerned."

- 3.9 In deciding whether you have a pecuniary interest you should consider the following factors: What is the nature of the decision being made? Do I have a financial interest in that decision – do I have a reasonable expectation of gain or loss of money as a result of making that decision? Is my financial interest one that is in common with the public? Do any of the exceptions in the Act apply to me? Could I apply to the Auditor-General for approval to participate?
- 3.10 Further guidance is provided in the booklet “Guidance for members of local authorities about the Local Authorities (Members’ Interests) Act 1968” which has been provided to 5 elected members. It is important that you pay particular attention to the contents of this booklet as this is one of the few areas of the Council’s business where staff do not set out to provide pro-active advice and members are personally liable for compliance with the provisions of this Act.

3.11 Non-Pecuniary Interest

- 3.12 Non-pecuniary interest is any interest the member may have in an issue that does not involve money. A common term for this is “bias” or pre-determination. Rules about bias operate not only to ensure that there is no actual bias, but also so there is no appearance or possibility of bias. The principle is that justice should not only be done, but it should be seen to be done. Bias may be exhibited where: -
- By their statements or conduct a member may indicate that they have predetermined the matter before hearing or considering all of the relevant information on it (including the Council’s debate); or
 - The member has a close relationship with an individual or organisation affected by the matter.
- 3.13 Non-pecuniary interest is a difficult issue as it often involves matters of perception and degree. The question you need to consider, drawn from case law, is: “Is there, to a reasonable, fair-minded and informed observer, a real indication of bias on the part of a member of the decision making body, in the sense that they might unfairly regard with favour (or disfavour) the case of a party to the issue under consideration?” If there is, the member should declare their interest and withdraw from the debate and take no further part in the discussion of this item. The law about bias does not put you at risk of personal liability. Instead, the validity of the Council’s decision could be at risk. The need for public confidence in the decision-making process is paramount and perception can be an important factor. Again the booklet provided by Office of the Auditor General provides some excellent advice and information on this issue.

Waitomo District Council Procurement Policy 2018

4.1 The following are extracts from WDC's Procurement Policy:

WDC's procurement activities will be conducted in line with the core Procurement Principles and a decision framework that ensures:

- **Adherence** – all procurement is required and is undertaken in accordance with the Procurement Policy and all other associated WDC Policies and Strategies;
- **Openness** - all procurement is made in an open and transparent manner with full and fair opportunity for all eligible suppliers;
- **Fairness** - all procurement is carried out in a fair manner and decisions are made with impartiality and without bias;
- **Integrity** - all WDC employees and/or authorises third parties undertaking procurement do so ethically, equitably and with behavioural standards of the highest levels;
- **Value for Money** – all procurement considers the costs and benefits over the life of the goods, services and/or works, and in doing so takes into consideration local procurement;
- **Risk** – all procurement considers the risks (commercial and otherwise) and ensures these are managed appropriately;
- **Lawfulness** - all procurement is within the law and meets WDC's legal and organisational obligations;
- **Accountability** - employees and/or authorised third parties and suppliers are accountable for their performance; and
- **Sustainability** - all procurement is environmental and socially sustainable wherever possible, having regard to economic, environmental, and social impacts over their lifecycle.

Conflict of Interest and Declarations Policy 2018

WDC is required to identify, disclose, document and manage employees' conflicts of interest, and to ensure that decisions made on behalf of WDC and the community are fair and free of bias or perceived bias.

Note: the words "decision" and "decisions" should be taken to include recommendations and advice:

- (a) that might significantly influence decisions that will be made by other people; or
- (b) on development of strategies and policies that will guide future WDC decision making on service provision, purchasing, contracting or staff employment.

WDC recognises that the professional and personal interests of employees mean that conflicts of interest sometimes cannot be avoided, and can arise without necessarily establishing a fault. Conflict need not cause difficulties, and can be managed so that the best interests of WDC and its ratepayers, residents or customers are served.

DEFINITION OF CONFLICT OF INTEREST

A **conflict of interest** exists when an employee could be influenced or could be perceived as being influenced by a personal or private interest in **any transaction** while performing their WDC duties and/or responsibilities. A personal or private interest is an interest that may bring benefit to an employee as an individual, or to others associated with the employee i.e. spouse or family member, to whom the employee may later benefit.

A **transaction** includes, but is not limited to:

- (a) the exercise or performance of a function, duty, or power of WDC; or
- (b) an arrangement, agreement, or contract to which WDC is a party; or
- (c) a proposal that WDC enter into an arrangement, agreement, or contract; or
- (d) development of a strategy or policy that will guide future decision making on service provision, purchasing, contracting or staff employment; or
- (e) the consideration of or decision made by or at a meeting of Council or its committees and subcommittees.

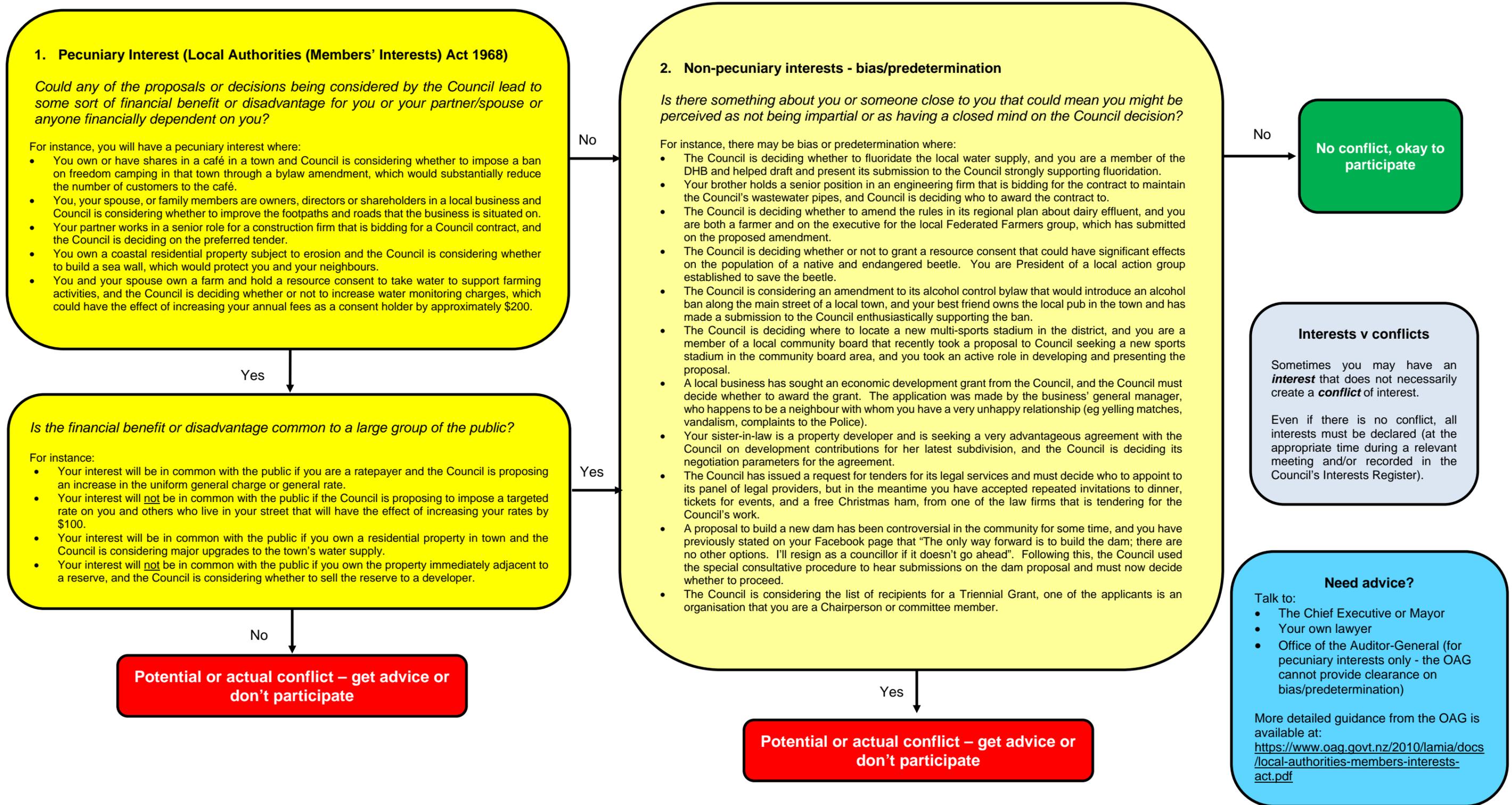
A Conflict of Interest may exist where the employee:

- will or may derive a benefit from the transaction – a financial, professional or personal benefit;
- has a financial interest in another party to a transaction;
- is a director, shareholder, officer or trustee of another party to the transaction, or is a person who will or may derive a financial benefit from the transaction;
- has an interest in another party tendering for work which WDC is considering; or
- is the partner, parent, child, spouse, sibling, or close friend of another party to the transaction, or a person who will or may derive a benefit from the transaction; or
- is an affected member or interested party in a proposal considered by Council.

Before you participate in any Council decision ...

CONFLICTS OF INTEREST

Check you don't have a pecuniary interest and that there is no bias or predetermination.



Remember: If in doubt, stay out!

Document No: A494753

Report To: Council



Meeting Date: 27 October 2020

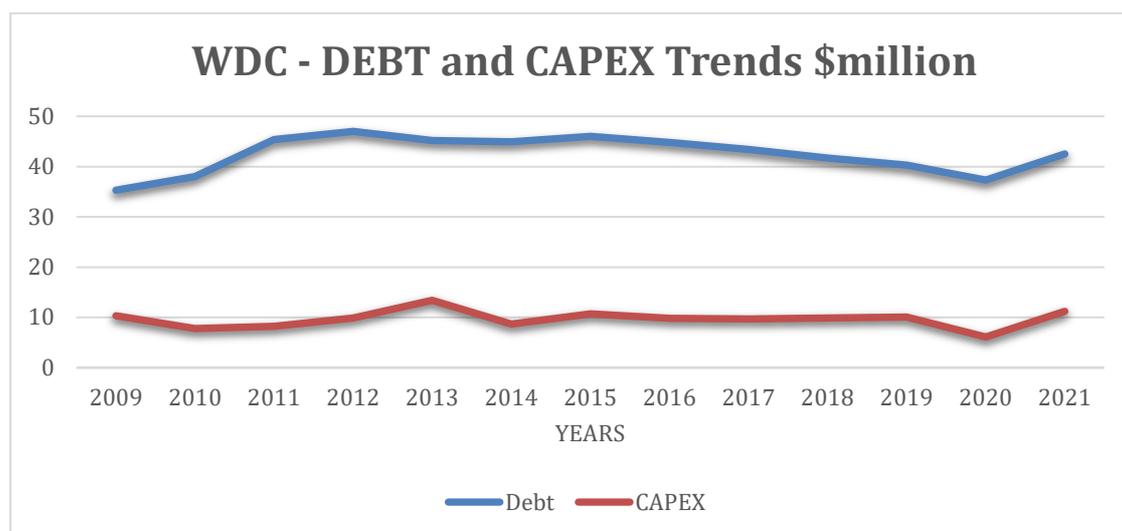
Subject: Mayor's Report

Today we review the Annual Report and financial statements for Council for the year ending 30 June 2020. It was a year impacted by COVID-19.

Like all public and private sector organizations, our Council's services, the maintenance of our infrastructure, and our financial results were impacted by COVID-19. For the year ending 30 June 2020, capital expenditure of \$6.1 million was half that forecast, largely because we could not complete work.

Debt closed at \$37.3 million. While this is the first time that debt has fallen below \$40 million for ten years, this decrease relates mostly to capital expenditure (CAPEX) falling behind. If capital works are caught up in this current financial year and the \$1.5 million grant is paid to the Game on Trust, then debt is forecasted to exceed \$40 million again.

The graph below indicates that capital expenditure has averaged \$10 million annually over the past 12 years. Debt balances have averaged \$42 million.



While CAPEX has not increased, our rate take has risen from \$12.3 million in 2009 to \$21 million in 2020. This suggests that rate increases have largely been applied to cover growth in operating expenditure.

Breaking this down further, it is worth examining the line items that Council has little influence over. From 2009 to 2020, annual:

- Finance costs decreased by approximately \$1 million. (+1)
- Depreciation increased by approximately \$2 million. (-2)
- NZTA subsidies increased by approximately \$2 million. (+2)

Surpluses have increased by approximately \$2.5 million. (-2.5)

As we develop our next ten year plan, this history is useful to reflect on.

A handwritten signature in blue ink, appearing to read "John Robertson".

JOHN ROBERTSON, QSO

MAYOR

WAITOMO DISTRICT COUNCIL

MINUTES OF A MEETING OF THE WAITOMO DISTRICT COUNCIL HELD IN THE COUNCIL CHAMBERS, QUEEN STREET, TE KUITI ON TUESDAY 29 SEPTEMBER 2020 AT 9.00AM

PRESENT: Mayor John Robertson, Deputy Mayor Guy Whitaker, Council Members Phil Brodie, Allan Goddard, Lisa Marshall, Janene New and Sue Smith

IN ATTENDANCE: Otorohanga Mayor Max Baxter (Mayors Taskforce for Jobs), Lionel West and Jason Dawson (Chief Executive, Hamilton & Waikato Tourism)

Dan Tasker (Waitomo News) and Lawrence Gullery (Waikato Times)

One Member of the Public

Chris Ryan, Chief Executive; Michelle Higgie, Manager – Governance Support; Yvette Ronaldson, Leader – Communications and Engagement; Tony Hale, General Manager – Infrastructure Services (for part only); Helen Beever, General Manager – Community Services (for part only); Terrena Kelly, General Manager – Strategy and Environment (for part only); Jennie McFarlane, Major Projects – Senior Advisor (for part only);

1. Council Prayer

2. Deputation: Otorohanga Mayor Max Baxter – Mayors Taskforce for Jobs COVID-19 Recovery Pilot Programme

Council received a deputation from Otorohanga Mayor Max Baxter on the initiative of Mayors Taskforce for Jobs COVID-19 Recovery Pilot Programme.

Resolution

The Deputation from Otorohanga Mayor Max Baxter on the Mayors Taskforce for Jobs COVID-19 Recovery Pilot Programme be received.

Robertson/Smith Carried

Otorohanga Mayor Max Baxter left the meeting at 9.13am.

3. Deputation: Lionel Smith - Water charges incurred in accordance with Council's Water Services Bylaw

Council received a deputation from Lionel Smith regarding water charges incurred in accordance with Council's Water Services Bylaw.

Resolution

The Deputation from Mr Lionel Smith be received and the letter from Laser Plumbing be tabled.

Robertson/Whitaker Carried

Mr Lionel Smith left the meeting at 9.23am

The General Manager – Infrastructure Services left the meeting at 9.23am

4. Provision of Service Grant Agreement Presentation: Hamilton Waikato Tourism – Presentation of Annual Report

Council received a deputation and PowerPoint Presentation from Jason Dawson, Chief Executive, Hamilton & Waikato Tourism presenting Hamilton & Waikato Tourism's Annual Report.

Jason Dawson confirmed that with respect to funding through the 10 Year Plan, Hamilton & Waikato Tourism would be looking at a "hold" on current funding levels.

Cr Goddard congratulated Jason and his Hamilton & Waikato Tourism team on their input into working through the COVID-19

Resolution

The Presentation from Hamilton & Waikato Tourism – Annual Report be received.

Brodie/Goddard Carried

Jason Dawson, Chief Executive, Hamilton & Waikato Tourism and the General Manager – Community Services left the meeting at 9.58am

5. Declarations of Member Conflicts of Interest

Members declared interests/conflicts of interest in respect to the Agenda as set out below:

Deputy Mayor Whitaker

Item of Business on Agenda	Reason for Declaration	Interest / Conflict
Item 16 – Community Partnership Fund Applications – Allocation of Funds	• Te Kuiti Voluntary Fire Brigade - Member	Conflict
	• Te Kuiti Development Inc/ Legendary Te Kuiti - Member	Conflict

Cr Marshall

Item of Business on Agenda	Reason for Declaration	Interest / Conflict
Item 21: Progress Report – Feasibility Study – Lawrence Street, Te Kuiti	Family Member of Property Owner	Conflict

Cr New

Item of Business on Agenda	Reason for Declaration	Interest / Conflict
Item 16 – Community Partnership Fund Applications – Allocation of Funds	<ul style="list-style-type: none"> • Te Kuiti Voluntary Fire Brigade - Spouse of Member • Te Kuiti Development Inc/ Legendary Te Kuiti - Member 	Interest – No Conflict Conflict
Item 20: Citizens Awards – Consideration to Defer Awards Ceremony	Council appointed member of Working Party	Interest – No Conflict

Cr Smith

Item of Business on Agenda	Reason for Declaration	Interest / Conflict
Item 18 – Waitomo District Council Grant Allocations 2019/2020	Waitomo Caves Museum Society Incorporated - Council appointed Representative	Interest – No Conflict

Cr Brodie

Item of Business on Agenda	Reason for Declaration	Interest / Conflict
<ul style="list-style-type: none"> • Item 18 – Waitomo District Council Grant Allocations 2019/2020 	Tainui Wetere Domain Incorporated Society – Council appointed Representative	Interest – No Conflict

6. Verbal Reports: Elected Member Roles and Responsibilities

The Councillors gave verbal reports on their individual portfolio roles and responsibilities as follows:

Deputy Mayor Whitaker

- Brook Park
- Legendary Te Kuiti
- Waitomo Sister City - 25 Year Celebration (Zoom)
- Council Strategy Day

Cr Smith

- Tere Waitomo
- Waitomo Museum
- Council Strategy Day

Cr Marshall

- DC Tynan Trust
- Legendary Te Kuiti Daffodil Day
- Te Kuiti Community House

Cr Goddard

- Benneydale Hall Committee
- Civil Defence and Emergency Management Joint Committee Meeting

Cr New

- D C Tynan Trust
- Citizen Awards Working Party
- Vibrant Safe Waitomo

- Game On
- Legendary Te Kuiti AGM & Monthly Meeting
- 25 Year Celebrations of the Sister City Relationship – Zoomed with Tatsuno Council Dignitaries, out Bound Students and the International Committee
- Community Clean Up
- Waitomo Sister City Committee Meeting

Cr Brodie

- Waka Kotahi (New Zealand Transport Agency) (during Covid about \$1M lost income from Road User Charges)
- Tainui Wetere Domain Board
- Regional Connections Meeting (Public Transport operations for Waikato Region)
- Regional Transport Committee Road Safety Workshop
- Regional Transport Committee Meeting

Mayor

- Waka Kotahi (New Zealand Transport Agency)
- Womens Section of RSA
- Grey Power

Resolution

The verbal reports be received.

Robertson/Goddard Carried

7. Mayor's Report: September 2020

Council considered the Mayor's Report prepared for the September 2020 Council Meeting.

Resolution

The Mayor's Report for the September 2020 Council Meeting be noted.

Robertson/Marshall Carried

8. Confirmation of Minutes – 25 August 2020

Resolution

The Minutes of the Waitomo District Council meeting of 25 August 2020, including the public excluded Minutes, be confirmed as a true and correct record.

Brodie/Goddard Carried

9. Local Government New Zealand Zone 2 Vacancies - National Council Representative and Chair

Council considered a business paper seeking consideration of supporting the nomination of Waipa District Mayor Jim Mylchreest as the Local Government New Zealand (LGNZ) National Council Zone 2 Representative.

The Manager – Governance Support expanded verbally on the business paper and answered Members' questions.

Council noted that nominations for the vacancies do not close until 15 October 2020 and agreed not to consider this matter until after nominations have closed so all nominees can be considered.

Resolution

The business paper on Local Government New Zealand National Council – Zone 2 Representative be received.

Robertson/Whitaker Carried

10. Representation Arrangements, Electoral System and Maori Wards

Council considered a business paper clarifying Council's position in respect to the decisions made by Council for the Electoral System and Maori Wards review effective for both the 2019 and 2022 local body elections in accordance with the Local Electoral Act 2001.

The Manager – Governance Support expanded verbally on the business paper and answered Members' questions.

Resolution

- 1 The business paper on Representation Arrangements, Electoral System and Maori Wards be received.
- 2 Council confirms that the decisions taken for the reviews of Electoral System (First Past the Post) and Maori Wards (No Maori Wards) undertaken in 2017 were for effect at both the 2019 and 2022 local body elections as per the intention of the Local Electoral Act 2001.
- 3 The Processes and Key Milestones for the next Representation Arrangements, Electoral System and Maori Wards Reviews be included in Council's Road Map Work Programme.

Goddard/Whitaker Carried

The meeting adjourned for morning tea at 10.34am.

The General Manager – Community Services, General Manager – Infrastructure Services, General Manager – Strategy and Environment and Major Projects – Senior Advisor entered the meeting at 10.47am.

The meeting reconvened at 10.47am.

11. Update on Ten Year Plan Work programme and impact of Three Waters Reform on Financial Workstream

Council considered a tabled business paper presenting an update on the 10 Year Plan project and seeking direction on the financial workstream approach, taking into account the impact of the Three Waters Reform.

The Chief Executive and General Manager – Strategy and Environment expanded verbally on the business paper and answered Members’ questions.

The Chief Executive explained that the concept for a “targeted” review of the Revenue and Financing Policy is that Council workshop what portions of the Policy it wishes to be included in the review.

Resolution

- 1 The business paper on Update on Ten Year Plan Work Programme and Impact of Three Waters Reform on Financial Workstream be received.
- 2 Due to the uncertainty of the future work programme for the Three Waters Reform, and to ensure that work related to the 10 Year Plan is financially prudent, effective and efficient; a targeted review of the Revenue and Financing Policy be undertaken for the 2021-31 10 Year Plan.

Goddard/Brodie Carried

12. Resident Survey 2020

Council considered a business paper presenting the results of the Resident Survey for 2020.

The General Manager – Strategy and Environment and Leader – Communications expanded verbally on the business paper and answered Members’ questions.

Resolution

- 1 The Business Paper on the Resident Survey 2020 is received.
- 2 The Resident Survey 2020 be received.
- 3 Council authorise the release of the Resident Survey Report 2020 for public information.

Robertson/Whitaker Carried

The General Manager – Infrastructure Services and General Manager – Strategy and Environment left the meeting at 11.17am.

13. Provision of Service Grant Agreement Presentation: Te Waka – Receipt of 6 Monthly Report

Council considered a business paper presenting the Waikato Regional Economic Development Agency (Te Waka) Six Monthly Report (1 January 2020 to 30 June 2020).

The General Manager – Community Services expanded verbally on the business paper and answered Members’ questions.

Council noted Te Waka’s temporary change of focus in responding to COVID-19.

Resolution

The business paper on Waikato Regional Economic Development Agency - Te Waka - Six Monthly Report (1 January 2020 to 30 June 2020) be received.

New/Whitaker Carried

14. Provision of Services Grant Fund 2019- 2020 Annual Reports

Council considered a business paper providing the 2019/2020 Annual Reports from the recipients of the Provision of Services Grant Fund.

The General Manager – Community Services expanded verbally on the business paper and answered Members’ questions.

Resolution

The business paper on Provision of Services Grant Fund 2019-2020 Annual Reports be received.

Robertson/Brodie Carried

15. Community Partnership Fund Applications – Allocation of Funds

Council considered a business paper seeking consideration of the 2020 Community Applications and allocation of funds as workshopped by the Council on 24 September 2020.

The General Manager – Community Services expanded verbally on the business paper and answered Members’ questions.

Resolution

- 1 The business paper on 2020 Community Partnership Fund – Consideration of Funding Applications be received.

- 2 Council approve the allocation of Community Partnership Fund Grants and associated conditions, where applicable, as follows:

Name of Applicant	Allocation
1. Te Kuiti Volunteer Fire Brigade	\$350.00
2. Maniapoto Maori Trust Board <i>Condition: The Applicant be informed that funding is conditional on sufficient funds being obtained from other benefactors to cover all project costs.</i>	\$4,000.00
3. Te Kuiti BMX Club Incorporated <i>Condition: The Applicant be informed that funding is conditional on sufficient funds being obtained from other benefactors to cover all project costs.</i>	\$14,000.00

Name of Applicant	Allocation
4. MenzShed <i>Condition: The Applicant be informed that funding is conditional on WDC receiving a copy of Te Kuiti MenzSheds Certificate of Incorporation.</i>	\$2,500.00
5. Piopio Primary School PTA <i>Condition: The Applicant be informed that funding is conditional on sufficient funds being obtained from other benefactors to cover all project costs.</i>	\$6,500.00
6. Te Kuiti and Districts Pony Club <i>Conditions:</i> <ul style="list-style-type: none"> • <i>The Applicant be informed that funding is conditional on sufficient funds being obtained from other benefactors to cover all project costs.</i> • <i>Evidence is supplied of the commitment to have a club member become qualified to use the measuring stand.</i> 	\$2,000.00
7. Maniapoto Netball Association	\$3,400.00
8. Te Kuiti Development Inc/Legendary Te Kuiti <i>Conditions:</i> <ul style="list-style-type: none"> • <i>The Applicant be informed that funding is conditional on sufficient funds being obtained from other benefactors to cover all project costs.</i> • <i>The Applicant has received written approval from family/whanau of the content to be displayed on the boards.</i> • <i>WDC is provided with a copy of the draft design details and agreement is reached regarding placement of the Gallery.</i> 	\$16,000.00
9. Waitomo Indoor Sports Centre Incorporated	\$1,450.00
10. Te Kuiti Primary School	\$600.00
11. Tainui Wetere Domain Incorporated Society	\$0
12. Awakino Hall Incorporated	\$1,200.00

Marshall/Brodie Carried

16. Adoption of Community and Partnerships Fund Policy (previously named Community Development Fund Policy)
--

Council considered a business paper presenting the Community and Partnerships Fund Policy, as workshopped by the Council on 8 September 2020, for adoption.

Council noted that this Policy (previously named the Community Development Fund Policy) has been renamed to align with the new Waitomo District Council Group of Activities which will come into effect on 1 July 2021.

The General Manager – Community Services expanded verbally on the business paper and answered Members' questions.

Resolution

- 1 The business paper on Adoption of Community and Partnerships Fund Policy (previously named Community Development Fund Policy) be received.

- 2 Council adopt the Community and Partnerships Fund Policy (Effective 1 July 2021).

Smith/Whitaker Carried

17. Waitomo District Council Grant Allocations 2019/2020

Council considered a business paper providing details of grants made by Waitomo District Council for the 2019/2020 financial year.

The General Manager – Community Services expanded verbally on the business paper and answered Members' questions.

Resolution

The business paper on Waitomo District Council Grant Allocations for 2019/2020 be received.

Robertson/Goddard Carried

18. Mayor's Taskforce for Jobs – Community Recovery Programme

Council considered a business paper providing a brief on discussions with the New Zealand Local Government Association regarding the Draft Mayor's Taskforce for Jobs Agreement and to seek a decision on whether or not to enter into the Agreement.

Council noted the deputation made by Otorohanga Mayor Max Baxter as Chair of Mayors Taskforce for Jobs made earlier in this meeting.

The General Manager – Community Services expanded verbally on the business paper and answered Members' questions.

Resolution

1. The business paper on Progress Report: Mayor's Taskforce for Jobs – Community Recovery Programme be received.
2. Council agree to enter into the Mayors' Task Force for Jobs Agreement for Tranche 1 for a maximum of \$250,000 for 25 placements.
3. Council delegate authority to the Mayor and Chief Executive to enter into the Mayors Task Force for Jobs Agreement for Tranche 2 as required.

Robertson/New Carried

19. Citizens Awards: Consideration to Defer Awards Ceremony

Council considered a business paper providing a brief on planning considerations for the 2020 Citizens Awards and present a recommendation from the Citizens Awards Working Party to defer the date of the Awards Ceremony.

The General Manager – Community Services expanded verbally on the business paper and answered Members' questions.

Resolution

- 1 The business paper on the Citizens Awards – Consideration to Defer Awards Ceremony be received.
 - 2 Council approve deferment of the Waitomo District Citizens Awards Ceremony to May/June 2021.
 - 3 Council approve an extension to the nomination period, with nominations closing on 1 April 2021.
- New/Brodie Carried

20. Progress Report: Feasibility Study - Lawrence Street, Te Kuiti

Councillor Marshall declared a conflict of interest in this matter and removed herself from the Council table while this item of business is considered.

Council considered a business paper providing a brief on progress made regarding enquiries to seek external funding to enable Council to undertake a Feasibility assessment for potential future uses of Waitomo District Council's (WDC) property located at Lawrence Street, Te Kuiti.

The General Manager – Community Services, Chief Executive and General Manager – Infrastructure Services expanded verbally on the business paper and answered Members' questions.

Mayor Robertson recommended that Council pick up Option 2 – to formalise the existing public use by forming a public road to the required standard and that development costs be presented to the landowners with an invitation to share the proportionate road development costs.

Cr Goddard – Concerned that the Mayor has talked about good governance, keeping rates down and now recommend bypassing good governance by not doing a Feasibility Study and going straight to spending ratepayers money. We don't even have a Housing Strategy.

Resolutions

- 1 The Progress Report: Funding Opportunities – Lawrence Street, Te Kuiti be received.
 - 2 Council approve completion of an assessment to ascertain costs for -
 - changing the land status from fee simple to legal road
 - the cost of developing the roadway
 - the cost of subdividing the Council owned land
 - the potential income from the sale of Council sections
 - 2 Council advise and engage with the landlocked property owners on this process.
 - 4 A business paper be brought back to the Council at the November 2020 Council meeting.
- Robertson/Whitaker Carried

Councillor Marshall returned to the Council table.

21. Motion to Exclude the Public

Council considered a business paper pursuant to Section 48 of the Local Government Official Information and Meetings Act 1987 giving Council the right by resolution to exclude the public and/or staff from the whole or any part of a meeting on one or more of the grounds contained within that Section.

Resolution

- 1 The public be excluded from the following part of the proceedings of this meeting.
- 2 The general subject of each matter to be considered while the public is excluded and the reason for passing this resolution in relation to each matter, as specified by Section 48(1) of the Local Government Official Information and Meetings Act 1987 are as follows:

General Subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Section 48(1) grounds for the passing of this resolution
1. Metered Water: Account Remediation – L and C Smith	Section 7(2)(a) – To protect the privacy of natural persons, including that of deceased natural persons	Section 48(1)(a)(i)
2. Carter Holt Harvey Litigation Resolution	Section 7(2)(c)(i) – To enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)	Section 48(1)(a)(i)
3. Rates Remission: Roselands Restaurant	Section 7(2)(a) – To protect the privacy of natural persons, including that of deceased natural persons	Section 48(1)(a)(i)
4. Inframax Construction Limited	Section 7(2)(c)(i) – To enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)	Section 48(1)(a)(i)

- 3 Council agree the following staff, having relevant knowledge to assist in the consideration of the items of business to be public excluded, remain in attendance to assist the Committee with its decision making:

Staff Member	Reason for Remaining in Attendance
Chief Executive	Council CEO
Manager – Governance Support	Committee Secretary
General Manager – Infrastructure Services	Business Paper Author
General Manager – Strategy and Environment	Business Paper Author
General Manager – Business Support	Business Paper Author

- 4 This resolution is made in reliance on Section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular

interest or interests protected by Section 6 or Section 7 of that Act which would be prejudiced by the holding of the whole or relevant part of the proceedings of the meeting in the public.

Robertson/Whitaker Carried

The meeting adjourned for lunch at 12.27pm.

The Leader – Communications and Engagement left the meeting at 12.27pm.

The meeting reconvened at 1.00pm

The General Manager – Business Support entered the meeting at 1.00pm.

22. Consideration of Public Excluded Items for the purpose of making information Public following Council's decision taking
--

Resolution

Following consideration and decision taking of items of business with the public excluded, Council agreed that the following information be made public:

1. Metered Water: Account Remediation - Lionel and Caroline Smith

The resolutions only for this item be made public in accordance with Section 7(2)(a) of the Local Government Official Information and Meetings Act 1987 – To protect the privacy of natural persons, including that of deceased natural persons; as follows:

Resolution

- 1 The business paper on Metered Water: Account Remediation - Lionel and Caroline Smith be received.*
- 2 A business paper providing further information on the concerns raised by Mr Smith at his deputation be prepared for consideration at the October 2020 Council meeting.*

Robertson/Whitaker Carried

2. Carter Holt Harvey Litigation Resolution

The resolutions only for this item be made public in accordance with Section 7(2)(c)(i) of the Local Government Official Information and Meetings Act 1987 – To enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations); as follows:

Resolution

The business paper on Carter Holt Harvey Litigation Resolution be received.

Robertson/Brodie Carried

Confidential Confidential

Confidential Confidential

Confidential

Confidential Confidential

Confidential Confidential

Confidential

Confidential Confidential

Confidential Confidential

Confidential

Document No: A494761

Report To: Council



Meeting Date: 27 October 2020

Subject: Local Government New Zealand National Council – Zone 2 Representative

Type: Decision Required

Purpose

- 1.1 The purpose of this business paper is to present to Council for consideration the nominees received for the position of Local Government New Zealand (LGNZ) National Council Zone 2 Representative.

Background

2.1 Zone 2

2.2 The purpose of LGNZ Zones, as set out in the LGNZ Constitution, is to:

- Be an electoral college for the appointment of National Council representatives;
- Be working for a member of LGNZ on a geographic basis;
- Provide an opportunity for two-way communication between these geographic areas and LGNZ – and LGNZ reports back to members on major national developments; and
- Provide networking, and information sharing opportunities.

2.3 Zone representatives are elected every three years, after the triennial elections, and hold office until the next triennial elections.

2.4 Each zone elects or appoints a chair, and in some cases an executive committee, both for a three-year term. The Chair runs the meetings with the support and input of the Executive Committee. A chair secretary, normally an officer from the Chair's Council, services the meetings.

2.5 Responsibility for the Zone meetings is shared jointly by the zone and LGNZ.

2.6 The Member Authorities within Zone 2 are:

Bay of Plenty Regional Council
Hamilton City Council
Kawerau District Council
Ōpōtiki District Council
Rotorua Lakes Council
Taupō District Council
Thames-Coromandel District Council
Waikato Regional Council
Waitomo District Council
Whakatāne District Council

Gisborne District Council
Hauraki District Council
Matamata-Piako District Council
Ōtorohanga District Council
South Waikato District Council
Tauranga City Council
Waikato District Council
Waipa District Council
Western Bay of Plenty District Council

2.7 Zone 2 – Vacancies: Nomination and Election Process

2.8 On 9 September 2020 LGNZ circulated via email a Memorandum informing of the creation of two Zone 2 vacancies as a result of the appointment of Stuart Crosby (previously Zone 2 Chair and National Council representative for Zone 2) as President of LGNZ and detailing the nomination and election process.

2.9 The Zone 2 vacancies created are:

1. Zone 2 Chair
2. Zone 2 Representative on LGNZ National Council

2.10 Nominations must be received by LGNZ no later than 5.00pm, Friday 16 October 2020.

2.11 If only one nomination is received that person shall be declared elected.

2.12 If an election to appoint the Zone 2 representative to National Council is required, then the election of that person will be conducted in accordance with relevant Zone rules and the LGNZ Rules. The Returning Officer for any election is the Chief Executive of LGNZ (or nominee). A Deputy Returning Officer may be appointed.

2.13 Voting papers for National Council representatives will be prepared (if required) by LGNZ and distributed to members at the Zone 2 meeting on 30 October 2020. That Zone 2 meeting is being hosted by Hauraki District Council with a venue yet to be confirmed. Each member council has the votes allocated to it as determined under Rule H1, unless this is specifically precluded in the Zone rules. Proxy voting may occur and a form to record proxies is attached to this note.

2.14 The relevant portion of Rule H1 of the LGNZ Rules states:

H1. Subject to Rules H3 to H5, at the Annual General Meeting, and any Special General Meeting, or Zone or Sector Group meeting, or for the purposes of any petition under Rule G9, Member Authorities admitted to membership under Rule C1 are entitled to vote as follows:

- (d) Member Authorities having an annual subscription of \$30,000 to \$49,999 – 3 votes*

2.15 WDC's Annual Subscription is \$31,550.18 excluding GST and therefore falls in the 3-vote category.

2.16 Advice of Nominee

2.17 On 17 September 2020, Mayor Robertson received correspondence from Waipa District Mayor Jim Mylchreest informing that he is putting his name forward for the National Council Zone 2 Representative and provided a brief CV.

2.18 Council, at its meeting on 27 September 2020 considered a business paper seeking consideration of supporting the nomination of Waipa District Mayor Jim Mylchreest as the Local Government New Zealand (LGNZ) National Council Zone 2 Representative.

2.19 At that meeting Council noted that Mayor Mylchreest was standing for the National Council position only and that no notification had been received relating to the Chair vacancy. Council agreed to wait until nominations close before committing its support.

Commentary

3.1 Nominations

3.2 On Tuesday 20 October 2020, WDC received formal advice from LGNZ that at the closing date for nominations, two nominations for the position on National Council had been received and therefore an election is required. Only one nomination was received for the position of Zone Two Chair.

3.3 National Council Position

3.4 The nominations for the National Council position are:

- Jim Mylchreest, Mayor, Waipa District Council; and
- Paula Southgate, Mayor, Hamilton City Council

3.5 Zone Two Chair Position

3.6 The nominee for the position of Zone Two Chair is Councillor Kelvin Clout of Tauranga City Council who has duly been declared elected to the position with effect immediately.

Recommendation

3.1 Council must now resolve which nominee to support for the National Council position and delegate authority to the Waitomo District Council member(s) attending the Zone 2 meeting on 30 October 2020 to vote accordingly.

Suggested Resolutions

- 1 The business paper on Local Government New Zealand National Council – Zone 2 Representative be received.
- 2 Council support the nomination of _____ for the position of LGNZ National Council Zone 2 Representative.
- 3 Council delegate authority to _____ to vote at the 30 October 2020 Zone 2 meeting on behalf of the Waitomo District Council.



MICHELLE HIGGIE

MANAGER – GOVERNANCE SUPPORT

21 October 2020

Attachments: 1 LGNZ Email and Attachments re Nominations Received

From: Claudia Pope <claudia.pope@lgnz.co.nz>
Sent: Tuesday, 20 October 2020 4:12 PM
Cc: Leanne Brockelbank; Susan Freeman-Greene
Subject: Zone Two Elections
Attachments: Election result - Zone Two.pdf; Zone 2 Proxy Form.pdf

Dear Zone Two Mayors, Chairs and Chief Executives,

Please find attached a memo regarding the election information for Zone Two Chair and Zone Two National Council representative.

Please also find a proxy form attached.

If you have any questions regarding the election process, please contact Leanne Brockelbank on 04 924 1212 or at leanne.brockelbank@lgnz.co.nz

Ngā mihi,

Claudia Pope
Team Support
Local Government New Zealand
DDI 04 924 1215
E claudia.pope@lgnz.co.nz
W www.lgnz.co.nz

We are.
LGNZ.
Te Kāhui Kaunihera o Aotearoa.

MEMORANDUM

Date: 20 October 2020
 To: All Member Authorities in Zone Two
 From: Susan Freeman-Greene, Chief Executive, LGNZ
 Subject: LGNZ National Council elections – Zone Two

Following the election of the LGNZ President, nominations for Zone Two closed at 5.00pm Friday 16 October 2020.

National Council Representative

At the closing date for nominations we received two nominations for the position of National Council Representative Zone Two, therefore an election is required.

The election will be conducted by a secret ballot by Zone Two members at the Zone Two meeting on Friday 30 October in Paeroa.

Voting papers will be distributed then.

Each member authority has the votes allocated to it as determined under rule H1.

There are two nominees for the election. They are (alphabetically by surname):

- Jim Mylchreest, Mayor, Waipa District Council; and
- Paula Southgate, Mayor, Hamilton City Council

Votes are allocated as follows:

Zone Two	Vote
Bay of Plenty Regional Council	5
Gisborne District Council	5
Hamilton City Council	6
Hauraki District Council	3
Kawerau District Council	2
Matamata-Piako District Council	3
Ōpōtiki District Council	2
Ōtorohanga District Council	3

Rotorua Lakes District Council	5
Taupō District Council	5
Tauranga City Council	5
Thames-Coromandel District Council	5
Waikato District Council	3
Waikato Regional Council	5
Waipa District Council	3
Waitomo District Council	3
Western Bay of Plenty District Council	5
Whakatāne District Council	3

Appointment of Zone Two Chair

At the closing date for nominations only one nomination was received for the position of Zone Two Chair.

I hereby declare **Councillor Kelvin Clout, Tauranga City Council** elected to the position of Zone Two Chair. The appointment takes effect immediately.

Proxy forms

A proxy form is attached. If you are unable to attend the Zone Two meeting on 30 October 2020 and still wish to vote, a proxy form must be received no later than **5.00pm, Tuesday 27 October 2020**.

Please contact me if you have any queries.



Susan Freeman-Greene
Chief Executive
Local Government New Zealand

**Proxy Form
Zone Two Elections**

To: Leanne Brockelbank
Local Government New Zealand
PO Box 1214
Wellington

to be received by LGNZ no later than **5.00pm, Tuesday 27 October 2020.**

.....
(Council Name)

a member authority of Local Government New Zealand, appoints

.....
(Name)

of

.....
(Council Name)

as its proxy to vote on its behalf for the Zone Two National Council Representative at the meeting held on 30 October 2020.

Signed this day of 2020

The Common Seal of

Was affixed in the presence of:

Document No: A494504

Report To: Council



Meeting Date: 27 October 202

Subject: **Adoption of Amended Code of Conduct**

Type: Decision Required

Purpose of Report

- 1.1 The purpose of this business paper is present a draft amended Code of Conduct for consideration and adoption.
- 1.2 Attached to and forming part of this business paper is a copy of the draft amended Code of Conduct.

Background

- 2.1 In November 2019, following the triennial elections, Council adopted a Code of Conduct which is based on the Local Government New Zealand (LGNZ) recommended template.
- 2.2 **LEGISLATIVE REQUIREMENT**
- 2.3 Clause 15 of Schedule 7 of the Local Government Act 2002 created the legal requirement for each local authority to adopt a code of conduct for its elected members.
- 2.4 Clause 15 of Schedule 7 of the Local Government Act 2002 reads as follows:

15 Code of conduct

- (1) *A local authority must adopt a code of conduct for members of the local authority as soon as practicable after the commencement of this Act.*
- (2) *The code of conduct must set out—*
 - (a) *understandings and expectations adopted by the local authority about the manner in which members may conduct themselves while acting in their capacity as members, including—*
 - (i) *behaviour toward one another, staff, and the public; and*
 - (ii) *disclosure of information, including (but not limited to) the provision of any document, to elected members that—*
 - (A) *is received by, or is in the possession of, an elected member in his or her capacity as an elected member; and*
 - (B) *relates to the ability of the local authority to give effect to any provision of this Act; and*
 - (b) *a general explanation of—*

- (i) *the Local Government Official Information and Meetings Act 1987; and*
 - (ii) *any other enactment or rule of law applicable to members.*
- (3) *A local authority may amend or replace its code of conduct, but may not revoke it without replacement.*
- (4) *A member of a local authority must comply with the code of conduct of that local authority.*
- (5) *A local authority must, when adopting a code of conduct, consider whether it must require a member or newly elected member to declare whether or not the member or newly elected member is an undischarged bankrupt.*
- (6) *After the adoption of the first code of conduct, an amendment of the code of conduct or the adoption of a new code of conduct requires, in every case, a vote in support of the amendment of not less than 75% of the members present.*
- (7) *To avoid doubt, a breach of the code of conduct does not constitute an offence under this Act.*

2.5 **LGNZ GUIDELINES AND TEMPLATE**

- 2.6 In October 2016, LGNZ published a Code of Conduct template for the consideration of councils at the start of the 2016-2019 triennium. Based on the experience of councils applying the Code of Conduct over the 2016-2019 triennium, LGNZ made further improvements to the template in 2019. The template also refers to LGNZ's "Code of Conduct Guidelines" which is attached to and forms part of this business paper for information purposes.

Commentary

3.1 **PROPOSED AMENDMENT TO THE CODE OF CONDUCT**

- 3.2 A review of the Code has been completed in accordance with recommendations following the Code of Conduct investigation earlier this year. The review has focused on introducing clearer protocols and guidance on the use of social media, given the growth of its use in all areas of society.
- 3.3 The draft amended Code is largely unchanged and for the most part follows the LGNZ template. The main change is to provide a dedicated section within the Code on the Use of Social Media (new Clause 7). Clause 6 (formerly Media and Social Media) has changed to just a clause on Media which has a focus on engaging with the media, rather than the use of social media for a number of purposes. The focus of the new clause is to provide clarity around how different social media accounts should be managed, whether official or personal accounts. Codes and guidelines on other council websites both in New Zealand and overseas were researched which assisted with developing the new clause as well as the protocols in Appendix A.
- 3.4 Appendix A now provides a note of Protocols relating to the Use of Social media in general, rather than providing guidelines on the *personal* use of social media. Some of the changes here are based on Wellington City Council's Social Media Guidelines for elected members (which are derived from Society of Local

Government Managers (SOLGM) guidelines). They also align with the guidance in Council's Social Media Guidelines for staff.

- 3.5 An addition has been made to Clause 8 Information to cover confidential information provided in Council workshops.

Recommendation

- 4.1 A copy of the amended Code of Conduct, as a draft document, is attached to and forms part of this business paper.
- 4.2 It is recommended that Council adopt the proposed Waitomo District Council Code of Conduct (note: Council's existing Code of Conduct has not been included as an attachment to this business paper, but is available for viewing on the Waitomo District Council website - <http://www.waitomo.govt.nz/publications/policy/> until such time as Council replaces it).

Suggested Resolutions

- 1 The business paper on Adoption of Amended Code of Conduct be received.
- 2 Council adopt the proposed Waitomo District Council Code of Conduct (A494414) with immediate effect and replace the existing Waitomo District Council Code of Conduct adopted on 26 November 2019.



JENNIE MCFARLANE
MAJOR PROJECTS – SENIOR ADVISOR

19 October 2020

Attachments: (1) Draft WDC Code of Conduct (Doc A494414)
(2) LGNZ's "Code of Conduct Guidelines" (Doc A455980)



Waitomo District Council

Code of Conduct

~~26 November 2019~~
27 October 2020

DRAFT

This Code of Conduct was adopted by the

Waitomo District Council

at a meeting held on

~~26 November 2019~~
27 October 2020

Contents

1.	Introduction	4
2.	Scope.....	4
3.	Values	4
4.	Role and responsibilities	5
4.1	Members.....	5
4.2	Chief Executive.....	5
5.	Relationships	5
5.1	Relationships between members.....	6
5.2	Relationships with staff	6
5.3	Relationship with the public	6
6.	Media	7
7.	Electronic Communications and Using Social Media (Online Conduct).....	7
8.	Information.....	9
8.1	Confidential information	9
8.2	Information received in capacity as an elected member	9
9.	Conflicts of Interest	9
10.	Register of Interests.....	9
11.	Ethical behaviour	10
12.	Creating a supportive and inclusive environment	10
13.	Breaches of the Code	10
13.1	Principles	11
13.2	Complaints.....	11
13.3	Materiality	12
14.	Penalties and actions.....	12
14.1	Material breaches	12
14.2	Statutory breaches	13
15.	Review	13
	Appendix A: Protocols on the use of social media.....	14
	Appendix B: Legislation bearing on the role and conduct of elected members.....	17
	The Local Authorities (Members' Interests) Act 1968.....	17
	Determining whether a pecuniary interest exists.....	17
	The contracting rule	18
	Non-pecuniary conflicts of interest.....	18
	Local Government Official Information and Meetings Act 1987	18
	Secret Commissions Act 1910.....	18
	Crimes Act 1961	19
	Financial Markets Conduct Act 2013.....	19
	The Local Government Act 2002	19

1. Introduction

The Code of Conduct (the Code) sets out the standards of behavior expected from elected members in the exercise of their duties. Its purpose is to:

- Enhance the effectiveness of the local authority and the provision of good local government of the community, city, district or region;
- Promote effective decision-making and community engagement;
- Enhance the credibility and accountability of the local authority to its communities; and
- Develop a culture of mutual trust, respect and tolerance between the members of the local authority and between the members and management.

This purpose is given effect through the values, roles, responsibilities and specific behaviors agreed in the code.

2. Scope

The Code has been adopted in accordance with clause 15(1) of Schedule 7 of the Local Government Act 2002 (LGA 2002) and applies to all members, including the members of any local boards as well as the members of any community boards that have agreed to adopt it. The Code is designed to deal with the behaviour of members towards:

- Each other;
- The Chief Executive and staff;
- The media; and
- The general public.

It is also concerned with the disclosure of information that members receive in their capacity as elected members and information which impacts on the ability of the local authority to give effect to its statutory responsibilities.

The Code can only be amended (or substituted by a replacement Code) by a vote of at least 75 per cent of members present at a meeting when amendment to the Code is being considered. The Code should be read in conjunction with the Council's Standing Orders.

3. Values

The Code is designed to give effect to the following values:

1. **Public interest:** members will serve the best interests of the people within their community, district or region and discharge their duties conscientiously, to the best of their ability.
2. **Public trust:** members, in order to foster community confidence and trust in their Council, will work together constructively in an accountable and transparent manner;
3. **Ethical behaviour:** members will act with honesty and integrity at all times and respect the impartiality and integrity of officials;
4. **Objectivity:** members will make decisions on merit; including appointments, awarding contracts, and recommending individuals for rewards or benefits.
5. **Respect for others:** will treat people, including other members, with respect and courtesy, regardless of their race, age, religion, gender, sexual orientation, or disability.
6. **Duty to uphold the law:** members will comply with all legislative requirements applying to their role, abide by the Code of Conduct and act in accordance with the trust placed in them by the public.

7. **Equitable contribution:** members will take all reasonable steps to fulfil the duties and responsibilities of office, including attending meetings and workshops, preparing for meetings, attending civic events, and participating in relevant training seminars.
8. **Leadership:** members will actively promote and support these principles and ensure they are reflected in the way in which the Council operates, including a regular review and assessment of the Council's collective performance.¹

These values complement, and work in conjunction with, the principles of s14 of the LGA 2002 and the governance principles of s39 of the LGA 2002.

4. Role and responsibilities

The Code of Conduct is designed to strengthen the good governance of your city, district or region. Good governance requires that the complementary roles of the governing body and the administration are understood and respected. These roles involve:

4.1 Members

The role of the governing body includes:

- Representing the interests of the people of the city, district or region;
- Developing and adopting plans, policies and budgets;
- Monitoring the performance of the Council against stated goals and objectives set out in its long term plan;
- Providing prudent stewardship of the Council's resources;
- Employing and monitoring the performance of the Chief Executive; and
- Ensuring the Council fulfils its responsibilities to be a 'good employer' and meets the requirements of the Health and Safety at Work Act 2015.

4.2 Chief Executive

The role of the Chief Executive includes:

- Implementing the decisions of the Council;
- Ensuring that all responsibilities delegated to the Chief Executive are properly performed or exercised;
- Ensuring the effective and efficient management of the activities of the local authority;
- Maintaining systems to enable effective planning and accurate reporting of the financial and service performance of the local authority;
- Providing leadership for the staff of the Council; and
- Employing, on behalf of the Council, the staff of the local authority, (including negotiation of the terms of employment for those staff).

The Chief Executive is the only person directly employed by the Council itself (s.42 LGA 2002). All concerns about the performance of an individual member of staff must, in the first instance, be referred to the Chief Executive.

5. Relationships

This section of the Code sets out agreed standards of behaviour between members; members and staff; and members and the public. Any failure by a member to comply with the provisions of this section can represent a breach of the Code.

¹ See Code of Conduct Guide for examples.

5.1 Relationships between members

Given the importance of relationships to the effective performance of the Council, members will conduct their dealings with each other in a manner that:

- Maintains public confidence;
- Is open, honest and courteous;
- Is focused on issues rather than personalities;
- Avoids abuse of meeting procedures, such as a pattern of unnecessary notices of motion and/or repetitious points of order; and
- Avoids aggressive, bullying or offensive conduct, including the use of disrespectful or malicious language.

Please note, nothing in this section of the Code is intended to limit robust debate.

5.2 Relationships with staff

An important element of good governance involves the relationship between a Council, its chief executive and its staff. Members will respect arrangements put in place to facilitate this relationship, and:

- Raise any concerns about employees, officers or contracted officials with the Chief Executive;
- Raise any concerns about the performance or behaviour of the Chief Executive with the Mayor/Chair or the chairperson of the Chief Executive Performance Review Committee (however described);
- Make themselves aware of the obligations that the Council and the Chief Executive have as employers and observe these requirements at all times, such as the duty to be a good employer;
- Treat all employees with courtesy and respect and not publicly criticise any employee; and
- Observe any protocols put in place by the Chief Executive concerning contact between members and employees.

Please note, elected members should be aware that failure to observe this portion of the Code may compromise the Council's obligations to be a good employer and consequently expose the Council to civil litigation or affect the risk assessment of Council's management and governance control processes undertaken as part of the Council's annual audit.

5.3 Relationship with the public

Given the vital role that democratic local government plays in our communities it is important that Councils have the respect and trust of their citizens. To facilitate trust and respect in their Council members will:

- Ensure their interactions with citizens are fair, honest and respectful;
- Be available to listen and respond openly and honestly to citizens' concerns;
- Represent the views of citizens and organisations accurately, regardless of the member's own opinions of the matters raised; and
- Ensure their interactions with citizens and communities uphold the reputation of the local authority.

6. Media ~~and Social Media~~

The media play an important role in the operation and efficacy of our local democracy. In order to fulfil this role, the media needs access to accurate and timely information about the affairs of Council. Any failure by member to comply with the provisions of this section can represent a breach of the Code.

1. In dealing with the media elected members must clarify whether they are communicating a view endorsed by their Council, committee or community board, or are expressing a personal view.
2. Members are free to express a personal view to the media or social media at any time, provided the following rules are observed:
 - Comments shall be consistent with the Code and any Council Media Policy;
 - Comments must not purposefully misrepresent the views of Council or other members;
3. In either case, it is recommended that members ensure that they liaise with Council's Communications staff (and where appropriate with the Chief Executive) in relation to any proposed commentary or regarding any media issues arising (e.g. prior to a radio or TV interview)

7. Electronic Communications and Using Social Media (Online Conduct)

Electronic communications are public information. Emails are archived, easily recovered and may be requested by the public and media under the Local Government Official Information and Meetings Act 1987 (as are any emails from personal addresses when sent or received as an elected member).

Elected members must use official Council electronic communications when conducting Council business.

Elected members must not send, or attempt to send electronic communication:

- To others that may be viewed as harassment (unwelcome or unreciprocated behaviour) or that includes potentially offensive or discriminatory material)
- That may bring Council into disrepute such as sending derogatory remarks about people or organisations.

Elected Member Use of Social Media

Social media is the term for internet tools used for publishing, sharing and discussion of information. This includes blogs, wikis and social networking sites such Facebook, Twitter or LinkedIn. Social media sites are in the public domain and carry risk.

For this reason, there should be a clear distinction between official accounts (e.g. Council's official Facebook account), campaign accounts and personal accounts. Elected members should distinguish their own private social media accounts by having disclaimers on them and by not using the account for any Council business.

Examples of potential social media platforms are:

- An elected member's official Facebook or other social media pages
- An elected member's election campaign Facebook or other social media pages
- An elected member's personal or family Facebook or other social media pages
- Facebook or other social media pages that are used or associated with the councillor, but which are in false names.

Local government legislation (such as LGOIMA, Privacy Act, Public Records Act) apply to any account where the member is or can be identified as a member, whether intentionally or not. The Code of

Conduct applies to a member's online conduct in respect of the first two examples above and **may** also apply to their online conduct in the other two examples, if that online activity can be identified as them **and** reflects adversely on their role as an elected member and leader in the community.

Elected members should not use Council devices to maintain any private account(s) and should not link any private account(s) to official sites, like Council's website.

If an elected member decides to have an official social media account as an elected member, that account and any use of the account is subject to the Code ~~and also~~ and to any Council Social Media Policy and ~~will require approval and~~ should be administered by Council. If the elected member ~~chooses~~ chooses ~~to not to~~ bring the account under the umbrella of Council, then there are additional requirements they must meet. They are then responsible for administering and managing their official social media account themselves. They must:

- Ensure there are links to Council's Facebook and website (consider limiting posts to 'secondary copies' of documents that are already available on a platform that is more easily retained, such as a website)
- Ensure compliance with LGOIMA in relation to meeting processes and good decision making and avoiding any risk to Council in relation to any challenges regarding pre-determination and bias (i.e. ensure that discussions and decisions in relation to Council business take place in the appropriate forum e.g. Council meeting)
- Comply with the confidentiality requirements of the Code
- Comply with the Public Records Act and LGOIMA by understanding what constitutes a 'public record' on their Facebook or other social media platforms and how these need to be captured by Council and the process for that, also how access will be provided if requested as part of an information request
- Ensure that complaints or requests for comment, information or services are referred to Council staff to action
- Moderate comments on their Facebook or other social media platforms as a councillor
- Act promptly when faced with inappropriate attack pages (e.g. report them to Facebook)
- Comply with the Local Electoral Act 2001 and any specific requirements for using social media during an election period

Social media pages controlled by members and used for making observations relevant to their role as an elected member should be open and transparent, except where abusive and inflammatory content is being posted; and

Social media posts about other members, council staff or the public must be consistent with section five of this Code (see Appendix A for guidelines on the personal use of social media).

(See Appendix A for further protocols on the use of social media, which forms part of this section and the Code).

A higher standard of conduct is expected of elected members and this is part of a role in public office. Online conduct which does not comply with the Code is as a breach of the Code. This includes behaving in a way which contradicts the local government principles and values outlined in the Code, such as transparency, meaningful community engagement, social inclusion, and ethical and legal behaviour. This could include replying to comments in a way which doesn't show respect or misrepresents Council or a member's actions or activity.

For these reasons, any failure by a member to comply with this section shall be treated seriously and may be referred by the Chief Executive to an independent investigator for an initial assessment. This may be ~~required where~~ required where an elected member already has a disciplinary history related to social media activity.

8. Information

Access to information is critical to the trust in which a local authority is held and its overall performance. A failure to comply with the provisions below can represent a breach of the Code.

8.1 Confidential information

In the course of their duties members will receive information, whether in reports or through debate, that is confidential. This will generally be information that is either commercially sensitive or is personal to an individual or organisation. Accordingly, members agree not to use or disclose confidential information for any purpose other than the purpose for which the information was supplied to the member. **Information provided at and discussions in Council workshop sessions will be regarded as confidential unless held in the public domain. Care should still be exercised when sharing information related to decisions that are yet to be made.**

8.2 Information received in capacity as an elected member

Occasionally members will receive information from external parties which is pertinent to the ability of their Council to properly perform its statutory duties. Where this occurs, and the information does not contravene the privacy of natural persons, the member will disclose such information to other members and/or the chief executive as soon as practicable.

9. Conflicts of Interest

Elected members will maintain a clear separation between their personal interests and their duties as elected members in order to ensure that they are free from bias (whether real or perceived). Members therefore must familiarise themselves with the provisions of the Local Authorities (Members' Interests) Act 1968 (LAMIA).

Members will not participate in any Council discussion or vote on any matter in which they have a pecuniary interest, other than an interest in common with the general public. This rule also applies where the member's spouse/partner has a pecuniary interest, such as through a contract with the Council. Members shall make a declaration of interest as soon as practicable after becoming aware of any such interests.

If a member is in any doubt as to whether a particular course of action (including a decision to take no action) raises a conflict of interest, then the member should seek guidance from the Chief Executive immediately. Members may also contact the Office of the Auditor-General for guidance as to whether they have a pecuniary interest, and if so, may seek an exemption to allow that member to participate or vote on a particular issue in which they may have a pecuniary interest. The latter must be done before the discussion or vote.

Please note: Failure to observe the requirements of LAMIA could potentially invalidate a decision made, or the action taken, by the Council. Failure to observe these requirements could also leave the elected member open to prosecution (see **Appendix B**). In the event of a conviction elected members can be ousted from office.

10. Register of Interests

Members shall, at least annually, make a declaration of interest. These declarations are recorded in a public Register of Interests maintained by the Council. The declaration must include information on the nature and extent of any interest, including:

- a) Any employment, trade or profession carried on by the member or the members' spouse/partner for profit or gain;
- b) Any company, trust, partnership etc for which the member or their spouse/partner is a director, business partner or trustee;
- c) A description of any land in which the member has a beneficial interest within the jurisdiction of the local authority; and

- d) A description of any land owned by the local authority in which the member or their spouse/partner is:
- A tenant; or
 - The land is tenanted by a firm in which the member or spouse/partner is a business partner; a company of which the member or spouse/partner is a director; or a trust of which the member or spouse/partner is a trustee.
- e) Any other matters which the public might reasonably regard as likely to influence the member's actions during the course of their duties as a member (if the member is in any doubt on this, the member should seek guidance from the Chief Executive).

Please note, where a member's circumstances change, they must ensure that the Register of Interests is updated as soon as practicable.

11. Ethical behaviour

Members will seek to promote the highest standards of ethical conduct. Accordingly, members will:

- Claim only for legitimate expenses as determined by the Remuneration Authority and any lawful policy of the Council developed in accordance with that determination;
- Not influence, or attempt to influence, any Council employee, officer or member in order to benefit their own, or families, personal or business interests;
- Only use the Council's resources (such as facilities, staff, equipment and supplies) in the course of their duties and not in connection with any election campaign or personal interests; and
- Not solicit, demand, or request any gift, reward or benefit by virtue of their position and notify the Chief Executive if any such gifts are accepted. Where a gift to the value of \$50 or more is accepted by a member, that member must immediately disclose this to the Chief Executive for inclusion in the publicly available register of interests.

Any failure by members to comply with the provisions set out in this section represents a breach of the code.

12. Creating a supportive and inclusive environment

In accordance with the purpose of the Code, members agree to take all reasonable steps in order to participate in activities scheduled to promote a culture of mutual trust, respect and tolerance. These include:

- Attending post-election induction programmes organised by the Council for the purpose of facilitating agreement on the Council's vision, goals and objectives and the manner and operating style by which members will work.
- Taking part in any assessment or evaluation of the Council's performance and operating style during the triennium.²
- Taking all reasonable steps to acquire the required skills and knowledge to effectively fulfill their Declaration of Office (the Oath) and contribute to the good governance of the city, district or region.

13. Breaches of the Code

Members must comply with the provisions of the code (LGA 2002, schedule 7, cl. 15(4)). Any member, or the Chief Executive, who believes that the Code has been breached by the behaviour of a member may make a complaint to that effect. All complaints will be considered in a manner that is consistent with the following principles.

² A self-assessment template is provided in the Guidance to the code.

13.1 Principles

The following principles will guide any processes for investigating and determining whether or not a breach under the code has occurred:

- That the approach for investigating and assessing a complaint will be proportionate to the apparent seriousness of the alleged breach;
- That the processes of complaint, investigation, advice and decision-making will be kept separate as appropriate to the nature and complexity of the alleged breach; and
- That the concepts of natural justice and fairness will apply in the determination of any complaints made under the Code. This includes, conditional on the nature of an alleged breach, directly affected parties:
 - Have a right to know that an investigation process is underway;
 - Are given due notice and are provided with an opportunity to be heard;
 - Have confidence that any hearing will be impartial;
 - Have a right to seek appropriate advice and be represented; and
 - Have their privacy respected.

13.2 Complaints

All complaints made under the code must be made in writing and forwarded to the Chief Executive. On receipt of a complaint the Chief Executive must forward the complaint to the Mayor/Chair or, where the Mayor/Chair is a party to the complaint, an independent investigator, drawn from a pool of names or agency agreed in advance.

Please note, only members and the Chief Executive may make a complaint under the code.

Complaint referred to Mayor/Chair

On receipt of a complaint made under the provisions of the Council's Code of Conduct the Mayor/Chair will, as the situation allows:

- Interview the complainant to assess the full extent of the complaint.
- Interview the member(s) subject to the complaint.
- Assess the complaint to determine materiality.
- Where a complaint is assessed by the Mayor/Chair to be trivial, frivolous or minor, either dismiss the complaint, require an apology or other course of action, or assist the relevant parties to find a mutually agreeable solution.
- Where a complaint is found to be material, or no mutually agreed solution can be reached, the Mayor/Chair will refer the complaint back to the Chief Executive who will forward it, along with any recommendations made by the Mayor/Chair, to the Council or an adjudicative body established by the Council to assess and rule on complaints made under the Code.³

If the Mayor/Chair chooses they may, instead of undertaking an initial assessment, immediately refer the complaint to the independent investigator, via the Chief Executive.

Complaint referred to Independent Investigator

On receipt of a complaint from a member which concerns the Mayor/Chair, or from the Mayor/Chair after initial consideration, the Chief Executive will forward that complaint to an independent investigator for a preliminary assessment to determine whether the issue is sufficiently serious to be referred, with recommendations if necessary, to the Council or an adjudicative body for assessing and ruling on

³ Advice on establishing adjudication bodies can be found in the Guide to the Code of Conduct.

complaints.⁴ The process, following receipt of a complaint, will follow the steps outlined in **Appendix C**.

13.3 Materiality

An alleged breach under the Code is material if, in the opinion of the Mayor/Chair or independent investigator, it would bring the Council into disrepute or, if not addressed, adversely affect the reputation of a member.

An alleged breach under this Code is non-material if, in the opinion of the Mayor/Chair or independent investigator, any adverse effects are minor, and no investigation or referral is warranted.

14. Penalties and actions

Where a complaint is determined to be material and referred to the Council or an adjudicative body established to consider complaints, the nature of any penalty or action will depend on the seriousness of the breach.

14.1 Material breaches

In the case of material breaches of the Code, the Council, or the adjudicative body with delegated authority, may require one of the following:

1. A letter of censure to the member;
2. A request (made either privately or publicly) for an apology;
3. Removal of certain Council-funded privileges (such as attendance at conferences);
4. Removal of responsibilities, such as committee chair, deputy committee chair or portfolio holder;
5. Restricted entry to Council offices, such as no access to staff areas (where restrictions may not previously have existed);
6. Limitation on any dealings with Council staff other than the Chief Executive or identified senior manager;
7. A vote of no confidence in the member;
8. Suspension from committees or other bodies to which the member has been appointed; or
9. Invitation to the member to consider resigning from the Council.

A Council or adjudicative body with delegated authority may decide that instead of a penalty, one or more of the following may be required:

- Attend a relevant training course; and/or
- Work with a mentor for a period of time; and/or
- Participate in voluntary mediation (if the complaint involves a conflict between two members); and/or
- Tender an apology.

The process is based on the presumption that the outcome of a complaints process will be made public unless there are grounds, such as those set out in the Local Government Official Information and Meetings Act 1987 (LGOIMA), for not doing so.

⁴ On behalf of the Council the Chief Executive will, shortly after the start of a triennium, prepare, in consultation with the Mayor or Chairperson, a list of investigators for this purpose of undertaking a preliminary assessment. The Chief Executive may prepare a list specifically for his or her council, prepare a list jointly with neighbouring councils or contract with an agency capable of providing appropriate investigators, such as Equip.

14.2 Statutory breaches

In cases where a breach of the Code is found to involve regulatory or legislative requirements, the complaint will be referred to the relevant agency. For example:

- Breaches relating to members' interests (where members may be liable for prosecution by the Auditor-General under LAMIA);
- Breaches which result in the Council suffering financial loss or damage (where the Auditor-General may make a report on the loss or damage under s.44 LGA 2002 which may result in the member having to make good the loss or damage); or
- Breaches relating to the commission of a criminal offence which will be referred to the Police (which may leave the elected member liable for criminal prosecution).

15. Review

Once adopted, the Code continues in force until amended by the Council. The Code can be amended at any time but cannot be revoked unless the Council replaces it with another Code. Amendments to the Code require a resolution supported by 75 per cent of the members of the Council present at the Council meeting at which the amendment is considered.

Councils are encouraged to formally review their existing Code and either amend or re-adopt it as soon as practicable after the beginning of each triennium in order to ensure that all members have the opportunity to provide their views on the Code's provisions.

Appendix A: ~~Guidelines~~ Protocols on the ~~personal~~ use of social media

There's a big difference in speaking "on behalf of Council" and speaking "about" the Council. While your rights to free speech are respected, please remember that citizens and colleagues have access to what you post. The following protocols are designed to help you when engaging in ~~personal or unofficial~~ online communications that may also refer to your Council.

Conduct

Members are reminded that in respect of social media, they are governed by the Code of conduct for elected members and relevant law.

Managing the account

Members are personally responsible for the content they publish on any form of social media. Publishing or allowing to be published (in the form of a comment) an untrue statement about a person which is damaging to their reputation may incur a libel action.

Social media sites are in the public domain and it is important to ensure members are confident of the nature of the information they publish. Once published, content is almost impossible to control and may be manipulated without their consent, used in different contexts, or further distributed. Members should:

- Ensure that comments do not reflect adversely on the reputation of Council and/or local government more generally
- Ensure that members do not directly and unnecessarily criticise other councillors or council employees in order to undermine their position
- Ensure that members do not attempt to unduly influence other councillors, council staff or contractors or undermine public confidence in the processes of Council
- Be aware to the possibility that personal comments about public issues may compromise their capacity to perform their duties in an independent and unbiased manner.
- Ensure that their comments do not indicate that they have come to a conclusive view on a matter coming before Council, prior to fully considering the proposal and related issues
- Make use of stringent privacy settings if members don't want their social media to be accessed by the press or public. Read the terms of service of any social media site accessed and make sure they understand their confidentiality/privacy settings.
- Do not disclose anyone's personal details such as home addresses and telephone numbers.
- Do not use the Council's logo, or any other council related material on a personal account or website.

Maintaining confidentiality

Members should not post information discussed in any public excluded session or share any information members have access to which is not publicly available, such as commercially sensitive information. Members should not post anything that members would not present in a public forum.

Maintaining privacy

Members should not post private or confidential information about fellow elected members, council employees or constituents. Members should not discuss situations involving named, pictured or otherwise identifiable individuals without their permission.

Members should be aware of their safety when placing information on the internet and not publish information which could leave them vulnerable.

Anyone receiving threats, abuse or harassment via their use of social media should report it to the police.

Referring customer service questions to the Council's official channels

When a member receives a service request about Council's operations (roads, parks and gardens, libraries etc.) they should refer the requester to Council staff. Council staff monitor and respond to questions using Council's official social media channels. Rather than duplicating the service provided by staff, members can acknowledge the request and refer people to the Council's official customer service channels on Facebook, Twitter, website, or by phone or email.

Should a member come across negative or critical posts about the Council or its activities they should refer the posts to the Council's communications staff before responding.

Adhering to the Code of Conduct and other applicable policies.

Council policies and legislation, such as LGOIMA and the Privacy Act 1993, apply in any public setting where members may be referring to the Council or its activities, including the disclosure of any information online.

Taking responsibility for actions

Anything a member posts that can potentially damage the Council's image will ultimately be the member's responsibility. Members are encouraged to participate in social media but in doing so, must exercise sound judgement and common sense.

Separating political (Council) and personal lives.

Members need to take extra care when participating in social media. The public may find it difficult to separate personal and Council personas. Commenting online in any forum, particularly if their opinion is at odds with what Council is doing, can bring them into conflict with the Code should it not be clear that they are their personal views.

Keeping social media pages open and transparent.

When commenting on matters related to the local authority no members should represent themselves falsely via aliases or differing account names or block. Neither should they block any post on any form of social media that they have control over unless there is clear evidence that the posts are actively abusive. Blocking constructive debate or feedback can be seen as bringing the whole Council into disrepute.

Authorisations

When a member re-posts something written by someone else, they should first ensure they have the proper permissions to do so. Then clearly state the material, letter, response, etc. has been authored by someone else. They should not use the copyrights, trademarks, publicity rights, or other rights of others without the necessary permissions of the rightholder(s).

Refrain from cutting and pasting emails from staff or constituents into posts without clear context and permissions. These messages are written for a specific audience for a specific purpose that is probably different from a member's own.

Responses and monitoring

Should a member decide to engage in social media, they should know that monitoring and responding in a timely way are crucial. Social media participants expect timely responses to requests and expect coparticipants to monitor social media properties frequently and regularly.

Like Council staff, members have an obligation to ensure their posts are accurate and not misleading, and that they do not reveal confidential information.

Exercise caution

Once information is published online, it becomes part of a permanent record.

~~1. Adhere to the Code of Conduct and other applicable policies. Council policies and legislation, such as LGOIMA and the Privacy Act 1993, apply in any public setting where you~~

~~may be making reference to the Council or its activities, including the disclosure of any information online.~~

- ~~2. **You are responsible for your actions.** Anything you post that can potentially damage the Council's image will ultimately be your responsibility. You are encouraged to participate in the social media but in so doing you must exercise sound judgment and common sense.~~
- ~~3. **Be an "advocate" for compliments and criticism.** Even if you are not an official online spokesperson for the Council, you are one of its most important advocates for monitoring the social media landscape. If you come across positive or negative remarks about the Council or its activities online that you believe are important you are encouraged to share them with the governing body.~~
- ~~4. **Let the subject matter experts respond to negative posts.** Should you come across negative or critical posts about the Council or its activities you should consider referring the posts to the Council's authorised spokesperson, unless that is a role you hold, in which case consider liaising with your communications staff before responding.~~
- ~~5. **Take care mixing your political (Council) and personal lives.** Elected members need to take extra care when participating in social media. The public may find it difficult to separate personal and Council personas. Commenting online in any forum, particularly if your opinion is at odds with what Council is doing, can bring you into conflict with the Code should it not be clear that they are your personal views.~~
- ~~6. **Never post sensitive and confidential information** provided by the Council, such as confidential items, public excluded reports and/or commercially sensitive information. Such disclosure will contravene the requirements of the Code.~~
- ~~7. **Elected Members' social media pages should be open and transparent.** When commenting on matters related to the local authority no members should represent themselves falsely via aliases or differing account names or block. Neither should they block any post on any form of social media that they have control over unless there is clear evidence that the posts are actively abusive. Blocking constructive debate or feedback can be seen as bringing the whole Council into disrepute.~~

Appendix B: Legislation bearing on the role and conduct of elected members

This is a summary of the legislative requirements that have some bearing on the duties and conduct of elected members. The full statutes can be found at www.legislation.govt.nz.

The Local Authorities (Members' Interests) Act 1968

The Local Authorities (Members' Interests) Act 1968 (LAMIA) provides rules about members discussing and voting on matters in which they have a pecuniary interest and about contracts between members and the Council.

A pecuniary interest is likely to exist if a matter under consideration could reasonably give rise to an expectation of a gain or loss of money for a member personally (or for their spouse/partner or a company in which they have an interest). In relation to pecuniary interests the LAMIA applies to both contracting and participating in decision-making processes.

With regard to pecuniary or financial interests, a person is deemed to be "concerned or interested" in a contract or interested "directly or indirectly" in a decision when:

- A person, or spouse/partner, is "concerned or interested" in the contract or where they have a pecuniary interest in the decision; or
- A person, or their spouse/partner, is involved in a company that is "concerned or interested" in the contract or where the company has a pecuniary interest in the decision.

There can also be additional situations where a person is potentially "concerned or interested" in a contract or have a pecuniary interest in a decision, such as where a contract is between an elected members' family trust and the Council.

Determining whether a pecuniary interest exists

Elected members are often faced with the question of whether or not they have a pecuniary interest in a decision and if so whether they should participate in discussion on that decision and vote. When determining if this is the case or not the following test is applied:

"...whether, if the matter were dealt with in a particular way, discussing or voting on that matter could reasonably give rise to an expectation of a gain or loss of money for the member concerned." (OAG, 2001)

In deciding whether you have a pecuniary interest, members should consider the following factors:

- What is the nature of the decision being made?
- Do I have a financial interest in that decision - do I have a reasonable expectation of gain or loss of money by making that decision?
- Is my financial interest one that is in common with the public?
- Do any of the exceptions in the LAMIA apply to me?
- Could I apply to the Auditor-General for approval to participate?

Members may seek assistance from the Mayor/Chair or other person, to determine if they should discuss or vote on an issue, but ultimately it is their own judgment as to whether or not they have pecuniary interest in the decision. Any member who is uncertain as to whether they have a pecuniary interest is advised to seek legal advice. Where uncertainty exists members may adopt a least-risk approach which is to not participate in discussions or vote on any decisions.

Members who do have a pecuniary interest will declare the pecuniary interest to the meeting and not participate in the discussion or voting. The declaration and abstention needs to be recorded in the meeting minutes. (Further requirements are set out in the Council's Standing Orders.)

The contracting rule

A member is disqualified from office if he or she is “concerned or interested” in contracts with their Council if the total payments made, or to be made, by or on behalf of the Council exceed \$25,000 in any financial year. The \$25,000 limit includes GST. The limit relates to the value of all payments made for all contracts in which you are interested during the financial year. It does not apply separately to each contract, nor is it just the amount of the profit the contractor expects to make or the portion of the payments to be personally received by you.

The Auditor-General can give prior approval, and in limited cases, retrospective approval for contracts that would otherwise disqualify you under the Act. It is an offence under the Act for a person to act as a member of the Council (or committee of the Council) while disqualified.

Non-pecuniary conflicts of interest

In addition to the issue of pecuniary interests, rules and common law govern conflicts of interest more generally. These rules apply to non-pecuniary conflicts of interest, including common law rules about bias. In order to determine if bias exists or not members need to ask:

“Is there a real danger of bias on the part of the member of the decision-making body, in the sense that he or she might unfairly regard with favour (or disfavour) the case of a party to the issue under consideration?”

The question is not limited to actual bias but relates to the appearance or possibility of bias reflecting the principle that justice should not only be done, but should be seen to be done. Whether or not members believe they are not biased is irrelevant.

Members focus should be on the nature of the conflicting interest or relationship and the risk it could pose for the decision-making process. The most common risks of non-pecuniary bias are where:

- Members’ statements or conduct indicate that they have predetermined the decision before hearing all relevant information (that is, members have a “closed mind”); and
- Members have a close relationship or involvement with an individual or organisation affected by the decision.

In determining whether or not they might be perceived as biased, members must also take into account the context and circumstance of the issue or question under consideration. For example, if a member has stood on a platform and been voted into office on the promise of implementing that platform, then voters would have every expectation that the member would give effect to that promise, however he/she must still be seen to be open to considering new information (this may not apply to decisions made in quasi-judicial settings, such as an RMA hearing).

Local Government Official Information and Meetings Act 1987

The Local Government Official Information and Meetings Act 1987 sets out a list of meetings procedures and requirements that apply to local authorities and local/community boards. Of particular importance for the roles and conduct of elected members is the fact that the chairperson has the responsibility to maintain order at meetings, but all elected members should accept a personal responsibility to maintain acceptable standards of address and debate. No elected member should:

- Create a disturbance or a distraction while another Councillor is speaking;
- Be disrespectful when they refer to each other or other people; or
- Use offensive language about the Council, other members, any employee of the Council or any member of the public.

See Standing Orders for more detail.

Secret Commissions Act 1910

Under this Act it is unlawful for an elected member (or officer) to advise anyone to enter into a contract with a third person and receive a gift or reward from that third person as a result, or to present false receipts to Council.

If convicted of any offence under this Act a person can be imprisoned for up to two years, and/or fines up to \$1000. A conviction would therefore trigger the ouster provisions of the LGA 2002 and result in the removal of the member from office.

Crimes Act 1961

Under this Act it is unlawful for an elected member (or officer) to:

- Accept or solicit for themselves (or anyone else) any gift or reward for acting or not acting in relation to the business of Council; and
- Use information gained in the course of their duties for their, or another person's, monetary gain or advantage.

Elected members convicted of these offences will automatically cease to be members.

Financial Markets Conduct Act 2013

Financial Markets Conduct Act 2013 (previously the Securities Act 1978) essentially places elected members in the same position as company directors whenever Council offers stock to the public. Elected members may be personally liable if investment documents such as a prospectus contain untrue statements and may be liable for criminal prosecution if the requirements of the Act are not met.

The Local Government Act 2002

The Local Government Act 2002 (LGA 2002) sets out the general powers of local government, its purpose and operating principles, and details the personal liability of members.

Although having qualified privilege, elected members can be held personally accountable for losses incurred by a local authority where, following a report from the Auditor General under s44 LGA 2002, it is found that one of the following applies:

- a) Money belonging to, or administered by, a local authority has been unlawfully expended; or
- b) An asset has been unlawfully sold or otherwise disposed of by the local authority; or
- c) A liability has been unlawfully incurred by the local authority; or
- d) A local authority has intentionally or negligently failed to enforce the collection of money it is lawfully entitled to receive.⁸⁹⁰

Members will not be personally liable where they can prove that the act or failure to act resulting in the loss occurred as a result of one of the following:

- a) Without the member's knowledge;
- b) With the member's knowledge but against the member's protest made at or before the time when the loss occurred;
- c) Contrary to the manner in which the member voted on the issue; and
- d) In circumstances where, although being a party to the act or failure to act, the member acted in good faith and relied on reports, statements, financial data, or other information from professional or expert advisers, namely staff or external experts on the matters.

In certain situation members will also be responsible for paying the costs of proceedings (s47 LGA 2002).

Appendix C: Process where a complaint is referred to an independent investigator

The following process is a guide only and Councils are encouraged to adapt this to their own specific circumstances.

Step 1: Chief Executive receives complaint

On receipt of a complaint under the Code, whether from a member (because the complaint involves the Mayor/Chair) or from the Mayor/Chair after an initial assessment, the Chief Executive will refer the complaint to an investigator selected from a list agreed at the start of the triennium. The Chief Executive will also:

- Inform the complainant that the complaint has been referred to the independent investigator and the name of the investigator, and refer them to the process for dealing with complaints as set out in the Code; and
- Inform the respondent that a complaint has been made against them, the name of the investigator and remind them of the process for dealing with complaints as set out in the Code.

Step 2: Investigator makes preliminary assessment

On receipt of a complaint the investigator will assess whether:

1. The complaint is trivial or frivolous and should be dismissed;
2. The complaint is outside the scope of the Code and should be re-directed to another agency or institutional process;
3. The complaint is minor or non-material; or
4. The complaint is material and a full assessment is required.

In making the assessment the investigator may make whatever initial inquiry is necessary to determine their recommendations, including interviewing relevant parties, which are then forwarded to the Council's Chief Executive. On receiving the investigator's preliminary assessment, the Chief Executive will:

1. Where an investigator determines that a complaint is trivial or frivolous, inform the complainant, respondent and other members (if there are no grounds for confidentiality) of the investigator's decision.
2. In cases where the investigator finds that the complaint involves a potential legislative breach and outside the scope of the Code, forward the complaint to the relevant agency and inform the Chief Executive who will then inform the complainant, the respondent and members.

Step 3: Actions where a breach is found to be non-material

If the subject of a complaint is found to be non-material, but more than trivial or frivolous, the investigator will inform the chief executive and, if they choose, recommend a course of action appropriate to the breach, such as:

- That the respondent is referred to the Mayor/Chair for guidance; and/or
- That the respondent attend appropriate courses or programmes to increase their knowledge and understanding of the matters resulting in the complaint.

The Chief Executive will advise both the complainant and the respondent of the investigator's decision and any recommendations, neither of which are open to challenge. Any recommendations made in response to a non-material breach are non-binding on the respondent and the Council.

Step 4: Actions where a breach is found to be material

If the subject of a complaint is found to be material, the investigator will inform the Chief Executive, who will inform the complainant and respondent. The investigator will then prepare a report for the Council on the seriousness of the breach. In preparing that report, the investigator may:

- Consult with the complainant, respondent and any directly affected parties; and/or
- Undertake a hearing with relevant parties; and/or
- Refer to any relevant documents or information.

On receipt of the investigator's report, the Chief Executive will prepare a report for the relevant Council body charged with assessing and ruling on material complaints, which will meet to consider the findings and determine whether or not a penalty, or some other form of action, will be imposed. The Chief Executive's report will include the investigator's full report.

Step 5: Process for considering the investigator's report

The investigator's report will be considered by the Council or adjudicative body established for considering reports on Code of Conduct complaints, or any other body that the Council may resolve, noting that the process will meet the principles set out in section 12.1 of the Code.

The Council, or adjudicative body, will consider the Chief Executive's report in open meeting, except where the alleged breach concerns matters that justify, in accordance with LGOIMA, the exclusion of the public. Before making any decision on a specific complaint, the relevant body will give the respondent an opportunity to appear and speak in their own defense. Members with an interest in the proceedings, including the complainant and the respondent, should not take part in these proceedings in a decision-making capacity.

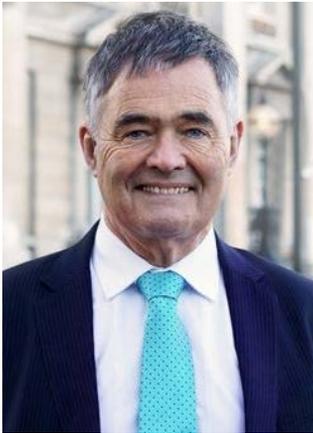
The form of penalty that might be applied will depend on the nature of the breach and may include actions set out in clause 13.1 of the Code.

The report, including recommendations from the adjudicative body, should that body have no formal delegations, will be heard and accepted by the Council in open session, unless grounds for excluding the public exist, without debate.

LGNZ Code of Conduct Guidelines



< Good local governance requires us to ensure that the way in which we undertake public decision-making is open, transparent and fair. >



Preface

Dave Cull, President, LGNZ

Like many public bodies around the world, councils in New Zealand are required to adopt a Code of Conduct. Codes of Conduct are designed to enhance trust in our public institutions by building the respect of citizens. There is nothing like conflict at the governance level to turn people off, feed negative journalism and undermine the morale and the good will of staff.

In 2016, LGNZ updated the Code of Conduct template that was unchanged since 2002 to incorporate recent legislative change, and new approaches to good governance, and to provide better advice for councils having to deal with alleged breaches. In addition, the changes were designed to shift the focus from just controlling poor behaviour to promoting an inclusive and positive governance culture, thereby removing some of the factors that can result in behavioural issues.

Based on the experience of councils applying the Code over the last three years, we have made further changes to the template. One of those changes is intended to more easily address minor and frivolous complaints by allowing Mayors and Chairs to make an initial assessment of complaints that they are not involved in. The second change concerns the addition of a section on social media.

Getting our governance cultures right is important and makes good economic sense. Councils that are trusted and respected are more likely to be able to enlist the support of their communities and other agencies in the goal of improving outcomes and meeting their strategic goals.

I hope you will find the Code helpful in strengthening your governance culture, building the mandate of your local authority and developing a great team.

Dave Cull
President
LGNZ

Contents

Contents.....	3
Introduction	5
Why a Code of Conduct?.....	5
Content	6
Considerations when designing a Code.....	7
The media	8
Information received in capacity as an elected member	8
Register of Interests	9
Promoting a supportive governance culture	9
Creating an inclusive council	9
Breaches of the Code	10
Who can make a complaint?.....	10
Decision-making options.....	10
Investigating complaints	10
Creating a panel of investigators.....	11
The role of investigators	11
Determining materiality	12
Process upon receiving a complaint.....	12
Process for non-material breaches	13
Process for managing material breaches	13
Hearing by council or committee	13
Possible penalties and actions in response to a material breach	14
Process to be followed in the case of statutory breaches.....	14
Possible penalties for statutory breaches	15
References	15
Appendix A: Register of interests template	16
Appendix B: Self Assessment Template.....	17
Appendix C: Code of Conduct Committee terms of reference	19
The powers of a Code of Conduct Committee	19

Draft terms of reference	19
Membership.....	20
Appendix D: Examples.....	21
Example One	21
Example Two.....	21
Example Three	21
Appendix E: Complaints Procedure – Flow Diagram	23

Introduction

The LGNZ Code of Conduct template 2019 updates the 2016 template which was published as part of the suite of KnowHow products following the passage of the LGA 2002. The LGA 2002 made the adoption of a Code of Conduct (the Code) mandatory. The 2016 template included a range of new features and draws on good practice introduced by councils over the past decade, particularly Gore District Council and Northland Regional Council. New features are:

- Refinement of the principles including a new principle that highlights the importance of elected members “pulling their weight”;
- Simplification of the roles and responsibilities section;
- Encouragement for members to participate in activities to build and maintain collaborative and cooperative cultures within the council;
- A new process for investigating and assessing complaints, including a ‘materiality’ test;
- Additional guidance on penalties or sanctions;
- Clarification that complaints can only be made by members and chief executives; and
- A more empowering and less prescriptive approach.

The 2019 template includes a section on social media and has a new process for dealing with trivial, minor and frivolous complaints.

Why a Code of Conduct?

Codes of conduct are common features in local government systems in many parts of the world. In New Zealand the Code complements specific statutes, such as the Local Government and Meetings Act 1987, which are designed to ensure openness and transparency. Codes are an important part of the framework for building citizen confidence in our governmental processes. The template has four objectives:

- To enhance the effectiveness of the local authority and the provision of good local government of the community, city, district or region;
- To promote effective decision-making and community engagement;
- To enhance the credibility and accountability of the local authority to its communities; and
- To develop a culture of mutual trust, respect and tolerance between the members of the local authority and between the members and management.

The four objectives highlight the importance of achieving ‘good local government’, effective and inclusive decision-making, strengthened community credibility, and a culture of trust and mutual respect within the local authority.

They also contribute to making councils a more rewarding and satisfying place for elected members.

Content

Codes of Conduct vary from place to place, and especially between jurisdictions, but there are certain critical elements a good Code should contain. In addition to the minimum requirements set out in the LGA 2002 (see cl.15 Schedule 7, LGA 2002), an effective Code of Conduct should include:

- Guidance for managing relationships and ensuring constructive behaviour, including processes for ensuring these are adhered to. This will ideally cover relationships with other members, staff, the media and (relationships with) the public;
- A statement of the different roles and responsibilities of governance and management. The Code should complement and reinforce the rules and statutory provisions set out in a council's standing orders;
- Provisions dealing with confidentiality of information received during the course of a members' duties, as well as situations when members are required to disclose information to the local authority and each other;
- Provisions dealing with conflicts of interest;
- Provisions dealing with ethical conduct, such as the way in which expenses may be claimed and soliciting or accepting gifts, rewards, or benefits;
- An explanation of the importance of adhering to the Code of Conduct and details of the procedures for investigating and resolving alleged breaches;
- Provisions designed to encourage courteous and constructive behaviours and so reduce the risk of poor behaviour and alleged breaches;
- Details of penalties or sanctions, such as what they are, when they might be applied, and the processes for their application (where these processes are within the control of council); and
- Provisions for the review of a Code of Conduct (both in terms of the statutory requirements and any processes the local authority has put in place).

All efforts have been made to ensure that these matters have been incorporated in the LGNZ Code of Conduct template.

Considerations when designing a Code

Codes of Conduct are part of the “house rules” that govern relationships and behaviour and complement other corporate documents, such as Standing Orders and the Council’s Governance Statement. While some high level principles may be desirable in order to “set the scene”, a document that talks in vague generalities will be difficult both to adhere to, and to enforce.

- Codes of Conduct are not a means of preventing elected members from expressing their views.
- Codes of Conduct should promote effective working relationships within a local authority and between the local authority and its community. Among other things, a Code should promote free and frank debate which should in turn result in good decision making. Codes of Conduct should not be used in such a way as to stifle robust debate.
- Provided that an elected member does not attempt to present a personal view as anything other than their own view (and does not contravene other parts of the Code) they should be able to do so. Codes of Conduct are ideally designed to provide rules of conduct that promote debate and make it clear that personal views, and the rights of *all* members to express personal views, are to be respected.
- What a Code of Conduct does is set boundaries on standards of behaviour in expressing and promoting those views, and means of resolving situations when elected members breach those standards.
- Elected members should “own” the Code.
- Nothing is more likely to promote non-compliance with a Code than elected members being invited to “rubber stamp” a Code that others have prepared.
- It may be useful for elected members to “workshop” the Code template as soon as practicable after each triennial election; for example, at the Council’s induction workshop. Given that the Code deals with the relationship between elected members, the Chief Executive and staff, it may be desirable to have the workshop facilitated by an independent person.¹
- Processes need to be put in place for investigating and resolving breaches of the Code.
- Applying a penalty or sanction under the Code should ideally be the last, rather than the first response. Most situations can be resolved without the need for sanctions. Often something as simple as an apology will resolve the issue. The original Code of Conduct template created difficulties for some councils as it provided little guidance on how to distinguish between minor and material breaches. This template has been specifically designed to enable non-material breaches to be dealt with outside the formal process of a full investigation by the Council or Committee.
- Most of all, the principles of natural justice must apply to the investigation, assessment and resolution of complaints made under the Code.
- Codes of Conduct cannot stand alone.
- Codes of Conduct work best when they are supported by other mechanisms.

¹ EquiP, LGNZ’s business arm, may be able to help with such sessions or advise on suitable facilitators.

The most obvious supporting mechanism is training. A good Code will remind members of their obligations under the LGA 2002, the Members' Interests Act and the Local Government Official Information and Meetings Act 1987. However, a Code that replicated all of the relevant provisions would probably be of a size where no one person (either member or staff) could remember it all. All elected members should receive training in their obligations under these Acts at the beginning of each triennium. Other provisions of the Code should be covered during such training.

Codes of Conduct should also be linked to other procedural documents adopted by councils, such as Standing Orders. Standing Orders provide rules that set out processes and standards of conduct for meetings while the Code governs day-to-day and less formal relationships.

The media

When designing the Code it is important to recognise the legitimacy of political debate and open discussion and ensure that provisions do not become an instrument to diminish this. It is important to note that the Declaration of Office, sworn by members, states:

"I will faithfully and impartially, and according to the best of my skill and judgment, execute and perform, in the **best interests** of [name of region, district, locality, community]"

Under the declaration, members must act in what they believe is the best interests of the community, district or region. It is up to individual members, in consultation with residents and on the basis of advice and research, to determine what 'best interests' for their regions or district means.

The Code must respect the spirit and intent of the New Zealand Bill of Rights Act and ability of members to express dissent. However, in doing so, members must act in accordance with the standards set out in the Code. Consequently the new template has not made any substantive changes to the 'dealing with the media' provisions from those set out in the original template.

Information received in capacity as an elected member

Section 7.2 of the Code has been amended from the original version to place an obligation on members to disclose information received in their capacity as elected members which is relevant to the ability of a local authority to give effect to its responsibilities. The Code states that disclosure should be to "other members and, where appropriate the Chief Executive".

When applying this requirement, it is important that the process for disclosing information is appropriate in the circumstances of each council. The purpose of the disclosure is to add to the stock of information held by a council in order to strengthen the ability of members to make informed decisions, and diminish risks that might arise if the information on which a decision has been made is incomplete.

Appropriate disclosure in particular circumstances may be to the Mayor, to the Chief Executive or in the course of a meeting, depending on the public nature of the information. In some cases a council may have a specific officer, such as a council ombudsman, charged with that responsibility.

Register of Interests

The Code requires that members maintain a register of interests. A template register is set out in **Appendix A** of this guide. The register is limited to disclosures affecting members and their spouses or partners. It is important that members update their details when circumstances change. We recommend that staff regularly remind members to check that the register is up to date and relevant.

Promoting a supportive governance culture

One important difference between the new and old templates is the addition of commitments designed to promote a supportive and inclusive governing environment and strengthen relationships at the governance level.

These provisions are intended to diminish the risk of conflict between members and between members and the public, and thereby avoid the likelihood of breaches. The new Code encourages members to review their collective performance and governance style in order to assess the degree to which their culture is both inclusive and supportive.

The reference to “equitable contribution” in the Values section has been added to encourage members to take all reasonable steps to fulfill the duties and responsibilities of office, such as attending meetings and workshops, undertaking relevant reading, preparing for meetings and taking part in relevant training workshops or seminars.

The intention is to provide councils with leverage to encourage members to do ‘their fair share’ of the tasks necessary to provide effective governance and representation and take part in exercises designed to improve relationships and teamwork.

Creating an inclusive council

A proactive focus on building a positive culture is the subject of section 11, “Creating a supportive and inclusive environment”. The key parts of this section are designed to encourage members to:

- Take part in council induction workshops;
- Contribute to activities designed to seek agreement on vision, goals, objectives and operating values;
- Participate in processes for assessing the governing body’s performance (see **Appendix B** for a self-assessment form for consideration); and
- Undertake, where necessary, training to improve their knowledge of how the council works and being an effective elected member.

The provisions require that members should take “all reasonable steps” to fulfill their responsibilities as elected members. As a result of these commitments the possibility exists that a complaint could be laid against a member for having consistently refused to participate in council organised activities designed to build a better culture.

Breaches of the Code

One of the ongoing problems with many of the Codes in use is the way they deal with the process of making, investigating and ruling on complaints. In its report on Codes of Conduct (OAG 2006) the Office of the Auditor General noted that many councils lacked a process for distinguishing between trivial and serious breaches of the Code and consequently spent considerable energy and resources hearing complaints on what are in effect matters of no concern. Many other issues have also arisen, such as:

- Failure to adequately guard against the risk of members with an interest in a complaint taking part in the decision on whether or not to uphold a complaint;
- Examples of members of the public making complaints about the behaviour of individual members for reasons that appear to be more concerned with settling 'political' differences; and
- Lack of preparedness. Many councils discover, when faced with a Code of Conduct complaint, that they have failed to establish in advance the processes for handling the complaint, thus exacerbating the original issue.

This section of the guide discusses the process set out in the new template for investigating, assessing and making decisions about complaints.

Who can make a complaint?

The Code is designed to be a self-regulatory instrument and as a result complaints can only be made by members themselves and the Chief Executive. All complaints must be made in writing to the Chief Executive who is obliged to forward them to the Mayor/Chair or an independent investigator for a preliminary assessment.

Decision-making options

Where a complaint is found to be material, the investigator will provide a report to the Council setting out the reasons why the allegation has been upheld and is material. The Council needs to have a process in place for discussing and making a decision on the investigator's recommendations. In some cases the governing body, or some of its members, may be interested parties in the complaint and should therefore not take part in discussions on the matter nor determine penalties.

To avoid such situations, the Council might consider establishing a Code of Conduct Committee (see **Appendix C** for Code of Conduct Committee terms of reference). The purpose of the Committee would be to consider any reports from an independent investigator and determine appropriate responses. An appropriate Code of Conduct Committee might consist of three members (a member of the governing body and two community representatives) chosen for their knowledge and experience, either by invitation or as a result of a call for expressions of interest.

The Council will need to decide whether the Code of Conduct Committee should have delegated decision making or recommendatory powers.

Investigating complaints

One of the issues with the original template was the lack of detail about the process for investigating complaints and determining their materiality. Another issue involved the need to ensure processes are free of bias, especially when all councillors might be seen to be interested parties.

In order to address these concerns, the Code provides two pathways for dealing with complaints. On receiving a complaint the Chief Executive will forward it to the Mayor/Chair for an initial assessment or, if the complaint involves the Mayor/Chair, forward it to the independent investigator.

1. Forward the complaint to the Mayor/Chair for an initial assessment

On receipt of a complaint made under the provisions of the Council's Code of Conduct, the Mayor/Chair will assess whether it is material or not. As the situation allows:

- Interview the complainant to assess the full extent of the complaint.
- Interview the member(s) subject to the complaint.
- Where a complaint is assessed by the Mayor/Chair to be trivial, frivolous or minor, either dismiss the complaint, require an apology or other course of action, or assist the relevant parties to find a mutually agreeable solution.
- Where a complaint is found to be material, or no mutually agreed solution can be reached, the Mayor/Chair will refer the complaint back to the Chief Executive who will forward it, along with any recommendations made by the Mayor/Chair, to the adjudication body established by the Council to assess and rule on complaints made under the Code.
- If the Mayor/Chair chooses, they may instead refer the complaint to the independent investigator, via the Chief Executive

2. Forward the complaint referred to Independent Investigator

On receipt of a complaint that involves a Mayor/Chair, the Chief Executive will forward that complaint to an independent investigator for a preliminary assessment to determine whether the issue is sufficiently serious to be referred, with recommendations if necessary, to the Council's adjudication body for assessing and ruling on complaints.

In some cases, an investigator may choose to make non-binding recommendations, for example, where a pattern of non-material complaints has emerged that highlight a need for changes in council processes or an investment in capacity building.

Creating a panel of investigators

At the beginning of each triennium, the Chief Executive will prepare a panel of investigators in consultation with the Mayor, Chairperson or Council. Investigators may be drawn from inside or outside the district or region. In putting together the list, the Chief Executive may call for nominations, invite members of the public with appropriate skills (for example retired judges who may live within the district) to be investigators, or contract with an external, such as EquiP, to provide the service.

Councils may wish to develop a joint list of investigators.

The role of investigators

The process set out in the Code gives an investigator responsibility to determine, without challenge, whether a complaint is material or not. The rationale for giving the investigator this degree of authority is to ensure the process is free of any suggestion of bias. It is also intended to reduce the cost of the complaints process, by reducing the time spent by members and officials. It also ensures that the Code process itself is less likely to be brought into disrepute.

In adopting the Code, members of the governing body agree to abide by an investigator's preliminary assessment. Under the process set out in the Code, members are informed of the result of a preliminary assessment and only if the finding is material will members have any involvement (and then only if there is no conflict of interest).

Determining materiality

The complaints procedure is underpinned by the principle that councils (or committees) should only be involved in ruling on possible breaches of the Code when they are material (see **Appendix D** for flow chart). Consequently a level of clarity is required about how materiality should be determined. In the case of non-statutory breaches, the Code states that a breach is material if:

“...it would, if proven, bring the council into disrepute or reflect adversely on the local authority if not addressed.”

The notion of disrepute involves the local authority's reputation and the risk that specific behaviours will, in the mind of the public, undermine that reputation. Only if there is a real risk that reputation will be undermined should a breach be determined as material (see **Appendix E** for examples).

Other factors that might be considered when determining the level of materiality include whether complaints are intended to:

1. Intimidate or harass another member or employee;
2. Damage another member's reputation;
3. Obtain a political advantage;
4. Influence the Council in the exercise of its functions or prevent or disrupt the exercise of those functions;
5. Avoid disciplinary action under this Code; or
6. Prevent or disrupt the effective administration of this code.

Other factors include whether complaints are vexatious and have not been made in good faith. The investigator may take whatever actions they need in order to determine the materiality of a complaint, although investigations will need to be within whatever budgetary constraints have been set in their contract for service or approved by the Chief Executive.

Process upon receiving a complaint

Having received a complaint in writing, the Chief Executive will:

- Notify the complainant and the respondent(s) that the complaint has been received and the name of the selected investigator (including information on the process that will be followed); and
- Provide ongoing updates to members on progress with the resolution of complaints received. This could be through a chairperson or Chief Executive's report.

Process for non-material breaches

In the case of complaints that are non-material, an investigator can, if required, discuss the matter with the complainant and the respondent and may:

- Dismiss the complaint with no further action taken;
- Uphold the complaint but rule that, as it is minor and non-material, no action is required; or
- Uphold the complaint, noting its minor and non-material nature, and make a non-binding recommendation to the council, such as, that the respondent consider attending a relevant course or that a policy or practice is reviewed.

The investigator will present their findings to the Chief Executive, who will inform the complainant and the respondent at the earliest opportunity.

Process for managing material breaches

Where an investigator finds that a breach is material, the following steps will apply:

- The investigator will inform the Chief Executive, who will in turn inform both the complainant and the respondent that the breach has been determined as material and outline the process to be followed.
- The investigator will undertake an investigation appropriate to the scale of the breach, which may include interviews with other affected parties, and prepare a report for the Chief Executive which will set out the rationale for their findings and may include recommendations for resolving the breach and/or appropriate penalties.
- On receipt of a report, the Chief Executive will send a copy of the investigator's findings to the complainant and the respondent(s) inviting them to reply in writing as to whether or not they agree to the findings and whether they wish to make a written submission for consideration by the Council or Committee.
- The Chief Executive will then prepare a paper, including the investigator's report and any submissions from affected parties, for a forthcoming meeting of the Council, or Committee with delegated responsibility, to consider complaints and determine penalties.

Hearing by council or committee

On receipt of the Chief Executive's report, the Council or Committee will:

- If necessary, ask the investigator to provide a briefing on his or her findings and invite the complainant and/or respondent to speak to any submissions that might have been made.
- Decide whether a material breach of the Code has occurred and what, if any, penalty or action should occur in response to the breach.
- Inform the respondent and complainant of its decision in writing.

No member of the Council with an interest in the complaint may take part in the hearing or decision-making process, unless invited by the Council or Committee to speak to their submission.

Note: No appeal right is included in the Code as all members are able to make use of the processes set out in Standing Orders for revoking council decisions. In addition, a council decision can be subject to a judicial review and a committee decision can be subject to an Ombudsman’s review.

Possible penalties and actions in response to a material breach

The Code reflects an agreement between elected members about the behaviours they expect from each other and themselves. It is therefore heavily reliant on individual good will and the ability of the Council, as a collective body, to exert moral suasion to either prevent breaches of the Code or promote a positive and constructive culture. However, where a material breach of the Code has been confirmed, a local authority might consider the following penalties and actions:

1. A letter of censure to the member;
2. A request (made either privately or publicly) for an apology;
3. A vote of no confidence in the member;
4. Removal of certain council-funded privileges (such as attendance at conferences);
5. Removal of responsibilities, such as Committee Chair, Deputy Committee Chair or portfolio holder;
6. Restricted entry to council offices, such as no access to staff areas (where restrictions may not previously have existed);
7. Limitation on any dealings with council staff other than the Chief Executive or identified senior manager;
8. Suspension from committees or other bodies to which the member has been appointed; or
9. Invitation to the member to consider resigning from the council.

A council or committee may decide that a penalty will not be imposed where a respondent agrees to one or more of the following:

- Attend a relevant training course; and/or
- Work with a mentor for a period of time; and/or
- Participate in voluntary mediation (if the complaint involves a conflict between two members); and/or
- Tender an apology.

Decisions to apply a non-statutory penalty for material breaches should be made in meetings, open to the public unless some aspect of the matter necessitates treating the matter “in committee”.

Process to be followed in the case of statutory breaches

Where an investigator finds, in response to a complaint, that a member has breached provisions set in statute, such as a breach of the Members’ Interests Act 1968, the Local Government Official Information and Meetings Act 1987 or the LGA 2002, they will immediately provide their findings to the Chief Executive who will inform the relevant agency, as well as the complainant and the respondent.

Possible penalties for statutory breaches

Although the local authority and its community will play a role in monitoring compliance with these provisions, outside agencies also have a role in monitoring compliance and more particularly in dealing with breaches of law. Penalties that may apply, depending on the type of breach, are:

- Criminal prosecution, conviction, and the resulting consequences (for breaches of the Crimes Act, the Secret Commissions Act or the Securities Act); or
- Prosecution by the Audit Office² under the Member's Interests Act which on conviction leads to the member's ouster from office (where a member votes or discusses a matter in which they are deemed to have an interest); or
- Inviting the Auditor-General to prepare a report on any financial loss or damage suffered by a local authority as the result of a breach (which could potentially lead to the member having to personally make good the loss or damage); or
- Sanctions made under the Privacy Act.

References

OAG (2006) Local Authority Codes of Conduct available from:

<http://www.oag.govt.nz/2006/conduct/docs/conduct.pdf>

² The Audit Office is an avenue for making complaints about breaches of the Members' Interests Act, but also functions as an advisor where there is doubt as to whether a particular course of action constitutes a breach, and can in certain circumstances give approval for members who might have an interest to participate in discussions and/or vote on a particular matter.

Appendix A: Register of interests template

Member name:		
Spouse/partner name:		
Declared employment or business interest	Spouse/partner declared employment or business interest	Council appointment
Address of any land in which a beneficial interest is held within the Council boundaries (member and her/his partner)		
Address of any land owned by the Council rented to the member or spouse, or to a firm or organisation in which the member or spouse is a director or trustee		

Appendix B: Self-Assessment Template

Please rate how you view the performance of the governing body in the following areas:

A rating of 1 indicates an excellent level of performance, through to a rating of 4 indicating that the collective performance of elected members could improve significantly.

1. We act together as a team to deliver value to the people of our district/region.
 1 2 3 4 (please circle)
2. We are effective in being part of a coordinated approach to promote the district/region.
 1 2 3 4 (please circle)
3. We have effective working relationships with key stakeholder groups.
 1 2 3 4 (please circle)
4. We have an effective working relationship with Council staff through members' interactions with the Chief Executive.
 1 2 3 4 (please circle)
5. We engage effectively with the community on issues of importance to them.
 1 2 3 4 (please circle)
6. We are well prepared and well equipped to make informed decisions in our capacity as elected representatives.
 1 2 3 4 (please circle)
7. We participate appropriately in debates and act collectively in the best interests of the district/region.
 1 2 3 4 (please circle)
8. Council decisions are made in an open and transparent fashion.
 1 2 3 4 (please circle)

9. We treat each other with mutual respect and demonstrate tolerance to different points of view in order to arrive at the best decisions for the district/region as a whole.

1 2 3 4 (please circle)

10. We have a clear sense of direction and understanding

1 2 3 4 (please circle)

The objective of this assessment is not necessarily that all members should agree. It is to provide an indication of areas where we are doing well and areas where we can make improvements. The analysis of results will provide a useful starting point for discussions on the overall performance of the governance functions of the council and provide some insight into areas where action can be taken to raise performance.

Appendix C: Code of Conduct Committee terms of reference

The Code of Conduct template offers two options through which a council may choose to consider a report from an investigator, namely consideration by the full council or consideration by a Code of Conduct Committee established specifically for that purpose. Reasons a council may choose to refer decision-making to a committee include:

- To ensure that members ruling on the complaint have no interest in the nature of the complaint and that the council's process is seen to be free of any suggestion of bias;
- To provide access to additional expertise through the ability to appoint members to the Committee who have experience and knowledge in making judgements on matters involving ethical behaviour;
- To reduce the risk of tension and conflict from a Code of Conduct process that may distract the governing body from its ongoing business.

The powers of a Code of Conduct Committee

There are two ways of giving effect to the findings of a Code of Conduct Committee: binding recommendations or delegations.

- **Binding recommendation approach:** The Code of Conduct Committee described in this Appendix uses the binding recommendation approach whereby the Committee is responsible for providing the council's governing body with a recommendation in response to the findings of an investigator; recommendations that the governing body will adopt without discussion, other than questions of clarification. Appendix B of the LGNZ Code of Conduct states that "in accordance with the code, councils will agree to implement the recommendations of a Code of Conduct Committee without debate".
- **Delegation approach:** As an alternative, a council may prefer to provide a Code of Conduct Committee with specific delegations so that its decisions are final and can be referred to the Chief Executive or appropriate officer for implementation. Depending upon the style in which a council frames its delegations a simple delegation could be to consider the findings of a Code of Conduct investigator and determine the appropriate course of action.

The following draft terms of reference take the binding recommendation approach.

Draft terms of reference

The purpose of the Code of Conduct Committee is to:

- Consider, in relation to a Code of Conduct complaint referred to the Committee, the findings of an investigator and make recommendations to the governing body of the council as to whether or not a penalty or action should be imposed and if so the nature of that penalty or action; and
- Consider any matters relating to the Code of Conduct and/or the behaviour of elected members referred to it by the governing body for advice.

In fulfilling its purpose, the Committee will:

- In considering a report from the Chief Executive, ask, if necessary, the investigator to provide a briefing on their findings and invite the complainant and/or respondent to speak to any submissions that might have been made;
- Conduct its business in open meeting, except where the alleged breach concerns matters that justify the exclusion of the public, in which case it will be a closed meeting;
- On consideration of the evidence, decide whether a material breach of the Code has occurred and what, if any, penalty or action should occur in response to the breach;
- Ensure that penalties or actions recommended in response to a serious breach of the Code are proportionate to the breach and consistent with the actions set out in clause 13.1 of the Code.

Membership

The Committee will consist of three members:

- The Mayor or Regional Council Chair who will also be the chair of the Committee (except where there is a potential conflict of interest where the Mayor/Chair will stand aside and the committee will be chaired by another member of the governing body).
- Two non-elected members appointed by the council on the basis of relevant experience, knowledge and/or qualifications.

Appendix D: Examples

Example One

Cr Smith was elected on a platform of stopping the sale of council housing. The council has made a decision to sell the council housing. Cr Smith makes media comments against the decision after it is made. Those same statements suggested that council staff advising on the sale “must have owned shares” in the company that proposed to buy the houses.

Cr Smith’s actions in releasing a media statement criticizing a decision after it has been made would probably not in and of themselves constitute a breach of a reasonable code of conduct. Cr Smith has a right to express a viewpoint and, provided that he makes it clear he is expressing a personal view, issuing a critical press statement is an action he is entitled to take. If his statements failed to make it clear that he was expressing a personal or minority view then it may be a non-material breach of the Code, probably one where censure would be the appropriate response.

However, this media statement has made an allegation that staff advice was based on improper motives and/or corruption. This is a breach of most codes of conduct. It is most likely to be a material breach given the potential impact on the Council’s reputation and the reputation of staff.

Also, there is no qualified privilege attaching to public statements about employees which are false and damaging. In other words, elected members may be sued for defamatory statements made about employees.

Example Two

Cr Jones is on the Council’s Works and Services Committee. The Committee is currently considering tenders for the construction of a new wastewater treatment plant and has received four tenders in commercial confidence. The Committee has recommended to Council that they award the contract to the lowest tenderer. Cr Jones is concerned the lowest tender proposes to treat sewage to a lesser standard than others. She leaks all four tenders to the local media. A subsequent investigation by the Council conclusively traces the leak back to her.

In leaking the tender information to the media, Cr Jones will have breached most codes of conduct. This breach has potentially serious consequences for the Council as a whole. It not only undermines elected members trust of each other, it also undermines the confidence of suppliers in the Council, which may lead to them not dealing with council in future, or even complaints under the Privacy Act.

In circumstances such as these, where an elected member fails to respect a commercial confidence, censure and removal from the Committee is an obvious first step. The Council may be liable for prosecution under the Privacy Act and even to civil litigation.

In the event that the council suffers financial loss, the Council may elect to ask the Auditor-General to prepare a report on the loss (or the Audit Office may do so on their own initiative), which may result in Cr Jones having to make good the loss from her own pocket.

Example Three

Eastland Regional Council is conducting a performance review of the Chief Executive. It has established a CEO Performance Management Committee to conduct the review. In the course of that review the Committee meets informally with the Chief Executive to review which performance targets were met and which were not. The meeting notes that the CEO has been unable to meet two of his twenty performance targets that were set and resolves to

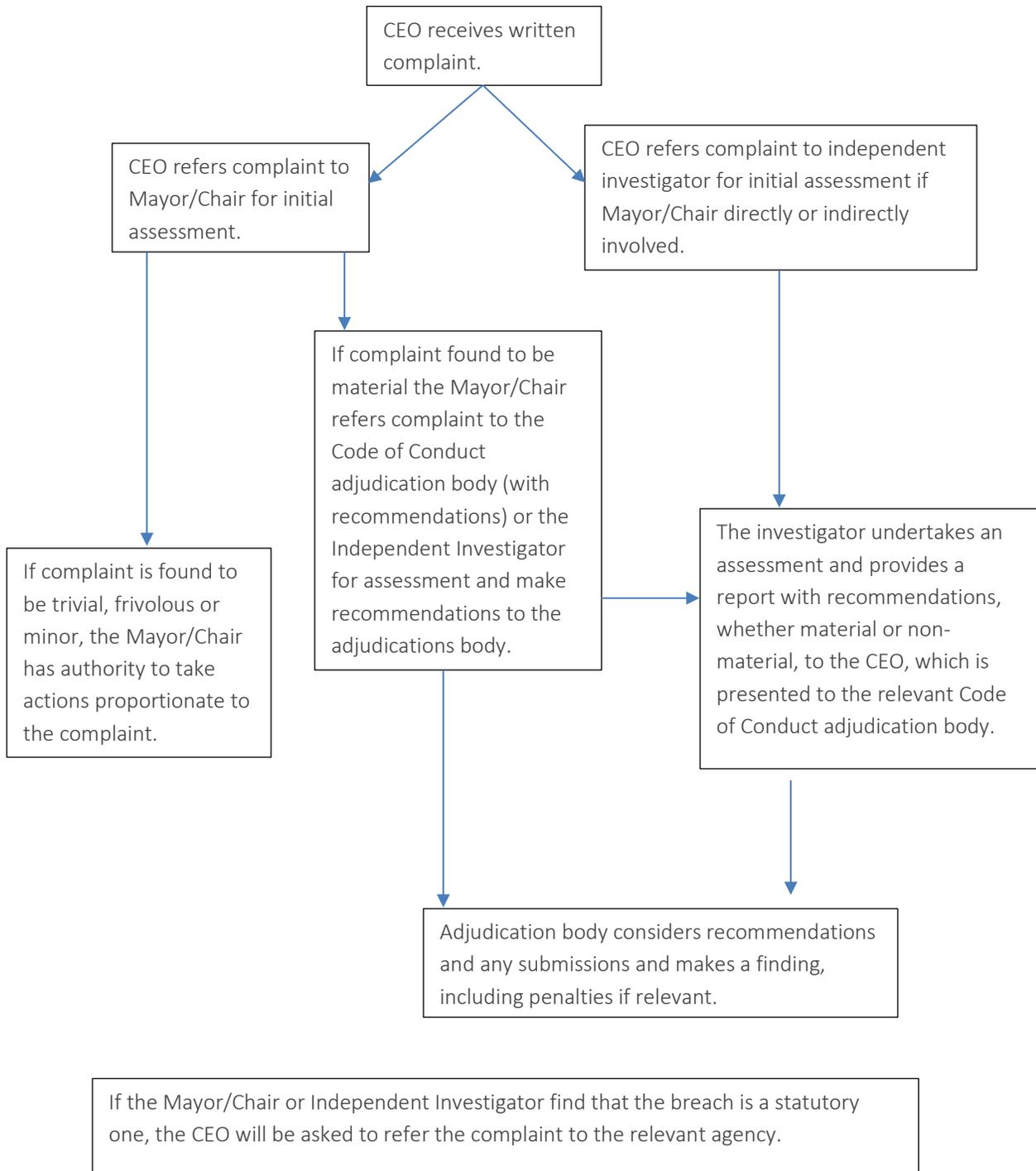
formally report this to the full Council for its consideration. At the conclusion of that meeting Cr Black leaves to find a local reporter waiting outside and makes the comment that “Jack White won’t be getting a pay increase this year because he didn’t meet all his targets”.

This action will probably constitute a breach of most codes of conduct in that it:

- Breached a confidence;
- Presumed to speak on behalf of council;
- Purported to commit council to a course of action before the council made a decision (or even met to consider the matter); and
- Failed to treat a staff member with respect and/or courtesy.

In addition to the provisions of the Code, Cr Black’s actions will severely undermine the relationship between the Chief Executive and the Council, which may well constitute grounds for litigation against the Council both in terms of employment and privacy law.

Appendix E: Complaints Procedure – Flow Diagram



Document No: A494275

Report To: Council



Meeting Date: 27 October 2020

Subject: Adoption of Draft Updated Procurement Policy 2020, the Procurement Recovery Plan (Covid-19) and Procurement Water Reform Plan

Type: Decision Required

Purpose of Report

- 1.1 The purpose of this Business Paper is to present the draft updated Procurement Policy, a Procurement Recovery Plan (Covid-19) and Procurement Water Reform Plan for consideration and adoption.
- 1.2 Attached to and forming part of this business paper is a copy of the draft updated Procurement Policy, the draft Procurement Recovery Plan (Covid-19) and draft Procurement Water Reform Plan.

Background

- 2.1 In November 2018, Council adopted an updated its Procurement Policy (Policy), the purpose of which is to document clear and robust policy positions on the myriad of considerations and options that exist in and for procurement, and with the aim of providing a consistent unified approach to procurement across the Councils within the region.
- 2.2 A review of the Policy has been completed as a result of amendments made to the New Zealand Government Procurement Rules (previously New Zealand Government Rules of Sourcing) in October 2019 (which are not mandatory for local government application), the Covid-19 pandemic and the change in government delivery channels for partnership funding (3rd party funding).

Commentary

3.1 Updates to the Procurement Policy

- 3.2 The draft updated Policy is substantially the same, the amendments made to the Policy are to align with parts of the Government Procurement Rules, to provide a consistent approach to procurement, and introduces methods for Council to address procurement activities relating to recovery plans following emergency events and 3rd party funding arrangements.
- 3.3 The significant updates to the Policy are as follows:
 - (a) The introduction of the Government Procurement Charter, this sets out the governments expectations of how agencies should conduct its procurement activity to achieve best value for money (see Appendix 1 of the Policy);

- (b) Excluding emission trading scheme (ETS) and statutory appointments (i.e. auditors) from the scope of the Procurement Policy, as these procurements do not involve the ability of Council to apply its procurement rules.
- (c) An adjustment of the Value Thresholds to bring into alignment with other Councils within the region, as follows:

Level	Current Value	New Proposed Value	Requirement
1	Up to \$5,000	Up to \$15,000	<ul style="list-style-type: none"> • 1 quote • Consider local procurement • 1 up approval
2	Up to \$20,000 (*exception GM-IS capex \$100k)	Up to \$50,000 (*exception GM-IS capex \$100k)	<ul style="list-style-type: none"> • 3 quotes • Consider local procurement • A General Manager approval, documented through agreed processes
3	Up to \$50,000	Up to \$150,000	<ul style="list-style-type: none"> • 3 quotes • Consider local procurement • Business Paper to Tenders Subcommittee for approval
4	Between \$50,000 to \$150,000	Between \$150,000 to \$250,000	<ul style="list-style-type: none"> • Procurement Plan • Closed Tender • Business Paper to Tenders Subcommittee for approval
5	Over \$150,000	Over \$250,000	<ul style="list-style-type: none"> • Procurement Plan • Open Tender • Business Paper to Tenders Subcommittee for approval

The proposed Value Thresholds will be effective **1 April 2021**, to allow time for staff training.

- (d) Including clarification relating to procurement activities where Council has agreed to participate in 3rd party funding arrangements. Due to a change in government delivery channels for partnership type funding, additional provisions have been included in the Policy, as follows:

Section 9(5): (Page 8)

“Subject to clause 4, where Council agrees to participate in 3rd part funding arrangements, the financial limits, rules, requirements and procedures in this Policy apply, unless amended in accordance with a Council resolution (see 5.0 - The WDC Procurement Framework). “

5.0 – The WDC Procurement Framework (page 13)

“Procurement where Council agrees to participate in 3rd Party Funding Arrangements
--

Due to a change in government delivery channels for partnership type funding, 3rd party funding arrangements may be presented to Council from time to time, in order to undertake and complete projects within the community and Waitomo area.

Procurement Policy applies unless amended

Unless otherwise specified in this Policy or in accordance with any Council resolution, the procurement rules, processes, value thresholds and requirements described in this Procurement Policy will apply to all procurements required under a 3rd party funding arrangement (and in addition to any new obligations for accountability imposed under the funding agreement).

Temporary amendments to the Procurement Policy are possible

Due to additional obligations imposed on Council pursuant to some funding agreements, such as tight completion timeframes, temporary amendments to the use of the Procurement Policy and rules may need to be made (in respect of a specific project only), in order to achieve the outcomes. Any temporary amendment to this Policy will require a Council resolution.

Third Party Funding Agreements

Third party funding agreements typically place greater obligations for accountability and additional responsibilities on the recipient of the funding, and a thorough review of the terms and conditions of any funding agreement are mandatory prior to confirming any commitment to the funding, and subsequent procurement activities. "

These sections will enable Council to either:

- (i) apply the standard procurement rules and value thresholds if it is possible to meet the new obligations and responsibilities imposed under the funding arrangements; or
 - (ii) obtain Council resolution to amend its use of the Policy rules and/or value thresholds if the new obligations and responsibilities imposed on Council under the funding arrangements will not be possible under the standard procurement rules and/or value thresholds in order to achieve the outcomes.
- (e) Amending the Emergency Procurement provisions to provide greater flexibility and the ability for WDC to establish a recovery plan post emergency events, subject to Council resolution. Proposed amendments are as follows:

"11. Emergency Procurement

Where a declared or undeclared response to an 'emergency', as defined in the Civil Defence and Emergency Management Act 2002 (CDEMA), occurs, this Procurement Policy does not apply to procurement of goods and/or services required for that emergency. Procurements required under this category will be pursuant to the CDEMA.

In any other crisis or emergency, it may be necessary to dispense with parts of the procurement process so that WDC can react quickly to unforeseen events. WDC will need to be flexible in how it procures goods and services that are required for its response.

Emergency procurement should be used only in genuinely unforeseen circumstances.

Poor planning or organisation of a procurement does not justify dispensing with parts of this Policy.

In the context of this Policy an emergency is defined as an event which results in:

1. Employees, public, supplier, property or equipment being placed in immediate risk;
2. Standards of health, welfare or safety having to be re-established without delay;
3. The significant impairment of WDC's delivery if WDC failed to respond promptly;
4. Critical health or environmental emergencies, such as a pandemic; or
5. An unanticipated event that makes it impossible for an agency to perform a statutory or critical function.

Emergency procurement should be limited to what is required to cope with the emergency. [Once the emergency event is stabilised a recovery plan may be established, and approved by Council, to authorise necessary procurement activity.](#)

Emergency procurement must be authorised by employees with the appropriate financial delegation as soon as practicable following the purchase. "

3.4 Procurement Recovery Plan (Covid-19)

3.5 Pursuant to the proposed amendments to Emergency Procurements above, it is proposed that a Procurement Recovery Plan (Covid-19) be implemented in response to the Covid-19 pandemic. The Plan will assist Council to contribute to the Waitomo District's economic recovery effectively, through its procurement activities. The Procurement Recovery Plan (Covid-19) is attached.

3.6 The Procurement Recovery Plan (Covid-19) will:

- a. be in place for a 12-month term until 31 October 2021; and
- b. apply to all procurements relating to a response to the Covid-19 pandemic.

3.7 Procurement Water Reform Plan

3.8 Pursuant to the proposed amendments to Emergency Procurements and the 3rd party funding arrangements above, it is proposed that a Procurement Water Reform Plan be adopted and implemented to assist Council to meet its obligations under the MoU and Funding Agreement entered into with Government, and with:

- a. its economic recovery post Covid-19 through job creation and prioritising local procurement; and
- b. maintaining its investment in its water infrastructure renewals and maintenance.

3.9 Investment in New Zealand's infrastructure is a key part of the Government's response to support New Zealand's economic recovery from Covid-19. It was determined that the water infrastructure is a good candidate for stimulatory investment by the Government given there is clear need for enhancement as identified in the Three Waters Reform.

3.10 Council has entered into a MOU and Funding Agreement with the Government in order to access the funding for three waters.

3.11 The proposed Procurement Water Reform Plan will ensure Council is able to comply with the additional obligations of accountability imposed under the Water Reform Funding Agreement and Delivery Plan, and mobilise the procurement activities quickly in response to the Water Reform programme. The Procurement Water Reform Plan is attached.

3.12 The Procurement Water Reform Plan will:

- a. be in place from 27 October 2020 until 30 June 2022 to enable the planned projects to be competed; and
- b. apply to all procurements relating to the Water Reform programme.

Analysis of Options

- 4.1 The options available to Council include:
- 4.2 **Option 1:** Updating the Procurement Policy, the Procurement Recovery Plan (Covid-19) and Procurement Water Reform Plan.
- 4.3 This is the preferred option which will enable Council to:
- (a) have a consistent procurement policy that aligns somewhat with government agencies, and other Councils within the region;
 - (b) mobilise procurements more quickly to assist with economic recovery following the Covid-19 pandemic and the water reform programme; and
 - (c) maintain its investment in its water infrastructure renewal and maintenance.
- 4.4 **Option 2:** Updating the Procurement Policy and do not implement the Procurement Recovery Plan (Covid-19) and Procurement Water Reform Plan.
- 4.5 This Option is not recommended, one of the purposes of the amendments to the Procurement Policy is to provide Council with flexibility to amend its procurement rules in order to respond to certain events, some out of its control. This Option will:
- (a) limit Council's ability to contribute effectively and appropriately to the economic recovery of its district following the Covid-19 pandemic;
 - (b) not enable Council to meet its obligations imposed on it under the Water Reforms Funding Agreement and programme, it will therefore run the risk of being non-compliant, possibly resulting in the requirement to refund the funding, and not receive the much needed investment required in its water infrastructure.
- 4.6 **Option 3:** Do Nothing.
- 4.7 This option is not recommended for the same reasons as identified in Option 2.

Considerations

- 5.1 **RISK**
- 5.2 There is low risk involved in the adoption of the proposed recommendations, the same processes and requirements remain in place i.e. quote or tender processes, and WDC has a range of methods in place to ensure a high level of probity exists with all procurement activity including established procurement processes, approval standards and the additional approval requirement of Tenders Subcommittee for higher value and high risk procurements.
- 5.3 **CONSISTENCY WITH EXISTING PLANS AND POLICIES**
- 5.4 The proposed recommendations are consistent with Council plans and policies.
- 5.5 **SIGNIFICANCE AND COMMUNITY VIEWS**

- 5.3 Under the Significance and Engagement Policy 2018 this matter is significant to some extent but not to the point where it warrants public consultation within the current time constraints.

Recommendation

- 6.1 It is recommended that the updated Procurement Policy, the proposed Procurement Recovery Plan (Covid-19) and proposed Procurement Water Reform Plan be adopted to achieve a consistent procurement approach across the Councils within the region and government agencies. This will also provide flexibility for Council to mobilise its procurement activities more quickly assisting with the districts economic recovery following the Covid-19 pandemic, and in addition, meet the obligations imposed on Council in relation to the 3rd party funding arrangement relating to the Water Reforms.

Suggested Resolutions

- 1 The business paper on the Draft Updated Procurement Policy 2020 be received.
- 2 The Draft Updated Procurement Policy 2020 be adopted as amended.
- 3 The attached draft Procurement Recovery Plan (Covid-19) be adopted.
- 4 The attached draft Procurement Water Reform Plan be adopted.



SHARON SCHOU
LEGAL ADVISOR

15 October 2020

Attachment: Draft Updated Procurement Policy 2020
Draft Procurement Recovery Plan (Covid-19)
Draft Procurement Water Reform Plan



PROCUREMENT POLICY

2020

Contents

1.0 Purpose3
 2.0 Procurement Core Principles 4
 3.0 Policy.....5
 4.0 Definitions.....11
 5.0 The WDC Procurement Framework12

Appendix 1 Government Procurement Charter36

DRAFT

Original Created and adopted:	April 2012	adopted April 2012
Review Dates:	November 2012	adopted February 2013
	October 2018	adopted 27 November 2018
	October 2020	
Review Due Date:	At least every 3 years (2021)	
Responsibility:	Business Support	
Policy Number:	A413484	

1.0 PURPOSE

The purpose of this Policy is to ensure that Waitomo District Council (WDC) has clear guidance on how its procurement activity should be undertaken at all levels. It provides the “rules” within which WDC will operate. WDC’s expectation is that anyone who is undertaking procurement activity on behalf of WDC will abide by the rules, and if they are unclear then guidance should be sought.

The Principles will ensure that WDC upholds the integrity of its procurement and set a clear expectation of what is required when any person within WDC makes a financial commitment on behalf of WDC.

The framework and any additional guidance documentation will assist to provide a consistent approach to all procurement within WDC. It is to support the end user to select the appropriate procurement process having regard to the level of spend, risk, and the current environment and then to work through that process with confidence and consistency, regardless of whether the end user is a full-time procurement practitioner or not. In addition, this document sets out how to determine whether or not to utilise an All of Government, Regional or Syndicated contracts.

This document will make it clear for suppliers, WDC employees and authorised third parties on WDC’s expectations when procuring third party goods, services and/or works. It ensures that spend is planned out and creates well executed third party solutions that minimise risk and maximise value for all involved.

2.0 PROCUREMENT CORE PRINCIPLES

1. GET BEST VALUE FOR MONEY

- Account for all costs and benefits over the lifetime of the goods, services and/or works.
- Make sure that public funds are utilised most effectively.
- Be clear on the scope of the requirements to avoid disappointment or dispute.
- Make sure all risks, not just commercial, are considered before making any final commitment.
- Be clear in how the bids are evaluated so that the process is fair and transparent.
- Be fair to all suppliers throughout the full procurement lifecycle.
- Work with the supplier to develop opportunities to make savings and improvements.
- Be responsible for the outcomes of the deal that is agreed.

2. PLAN AND MANAGE FOR SUCCESS

- Make sure that you need to undertake the procurement and then plan how to get the best outcome.
- Make sure you follow the right procurement process - if in doubt go for the higher-level approach.
- Get Procurement or your Procurement Lead involved early to create the best outcomes.
- Consider the sustainability of the region, social responsibility and value to the community.
- Take time to understand the market.
- Be responsible for managing the health and safety requirements throughout the life of the contract.
- Support the suppliers through right-sized contract management and support.

3. FIT FOR PURPOSE PROCUREMENT

- Make sure that the process and the contracts are fit for purpose both in content and size.
- Consider the benefits of national, regional or local procurement dependant on the value it will bring and the availability of each.
- Make sure you understand the ethical nature of the procurement.
- Seek support if proposed contractual changes materially change the contract.

4. KEEP THE INTEGRITY THROUGH CONTROLS

- The controls within the procurement process are there to protect employees, supplier and the public - follow them.
- The Procurement Policy is not stand alone - ensure you understand your requirements in other policies as well (e.g. Delegated Authorities).
- Always ensure there is appropriate segregation of responsibility.
- Highlight any conflicts of interest so that everyone has transparency on any relationships.
- Always keep a record of the procurement activity undertaken so that there is clarity, ownership and accountability.

5. PLAY BY THE RULES

- Adhere to and own the Procurement Principles, Policy and Framework.
- Make sure everyone acts responsibly, legally, ethically and with integrity.
- Stay impartial throughout the procurement process.
- Protect suppliers' commercially sensitive information and intellectual property.
- Be respectful of the process, the people and the outcomes.
- Strive to ensure everyone wins.

These Principles apply to anyone (employee or authorised third party) committing funds on behalf of WDC with a supplier regardless of how big or small; complex or straight forward; or open or closed the transaction(s) may be.

3.0 POLICY

1. Overview

This Procurement Policy is designed to provide all employees and authorised third parties with clarity and guidance over the purchase of goods, services and/or works required to support business delivery. This Policy is designed to ensure that WDC obtains best whole-of-life value for the goods, services and/or works that it purchases, and to maintain the highest ethical standards in dealing with, its suppliers. Value includes but is not limited to price, quality, sustainability and service.

2. Application

This Policy applies to all employees and authorised third parties committing expenditure on behalf of WDC on In Scope spend.

3. In Scope

This Policy applies to the commitment of all funds by employees or authorised third parties on behalf of WDC with the exception of property-related expenditure, [emission trading scheme and statutory appointments](#).

Examples of expenditure to which this Policy applies include:

1. Operational Expenditure – Goods, Services and/or Works required to support the day-to-day running of WDC.
2. Material Outsourcing Arrangements – involves WDC entering into an agreement with another party (supplier) to perform, on a continuing basis, a business activity which currently is, or could be, undertaken by WDC itself.
3. Supplier Panels – where employees can purchase against pre-agreed rates and conditions of contract.
4. Consultancy Expenditure – involves the use of professional service providers to obtain advice and/or support relating to an area of specific expertise.
5. Project and Capital Expenditure – involves WDC entering into an agreement on a one-off basis with another party (supplier) to provide an agreed specific set of outcomes aligned to a project or capital outlay.
- ~~6.~~ [NZTA Subsidised Arrangements – provides NZTA subsidised services obtained through the NZTA procurement process \(NB: as documented, the financial limits and procedures prescribed in the NZTA Procurement Manual will apply if NZTA standards are higher than those set by WDC\).](#)
- ~~6-7.~~ [Subject to 6 above, 3rd Party Funding Procurement – Goods, Services and/or Works required to achieve projects supported by 3rd party funding, where Council has agreed to participate.](#)

4. Policy Objectives

The objectives of this Policy are to provide clear direction and support to management, employees and authorised third parties in relation to the performance of procurement activities in line with the Procurement Principles and establishes a decision framework that ensures:

- **Adherence** – all procurement is required and is undertaken in accordance with the Procurement Policy and all other associated WDC Policies and Strategies;
- **Openness** - all procurement is made in an open and transparent manner with full and fair opportunity for all eligible suppliers;
- **Fairness** - all procurement is carried out in a fair manner and decisions are made with impartiality and without bias;
- **Integrity** - all WDC employees and/or authorises third parties undertaking procurement do so ethically, equitably and with behavioural standards of the

highest levels;

- **Value for Money** – all procurement considers the costs and benefits over the life of the goods, services and/or works, and in doing so takes into consideration local procurement;
- **Risk** – all procurement considers the risks (commercial and otherwise) and ensures these are managed appropriately;
- **Lawfulness** - all procurement is within the law and meets WDC’s legal and organisational obligations;
- **Accountability** - employees and/or authorised third parties and suppliers are accountable for their performance; and
- **Sustainability** - all procurement is environmental and socially sustainable wherever possible, having regard to economic, environmental, and social impacts over their lifecycle.

Procurement is based on the Core Principles, Rules, Charter and other good practice guidance. Collectively, these provide a broad framework that supports accountability for spending, sound business practice and better results.

Good practice is about developing a strong understanding of all of the aspects of the procurement lifecycle, and skilfully applying these to deliver the best results. Processes should be proportionate to the value, risk and complexity of the procurement. Sound commercial judgement will achieve the best value for money, and drive innovation and performance.

Understanding suppliers and the market is an essential part of a planned approach to market. Procurement also covers proactively managing supplier and stakeholder relationships throughout the sourcing and contract process. Development of the supplier relationship drives best value for money through ongoing efficiency and effectiveness gains.

5. Contract Hierarchy

Once the requirement to spend has been established, the first consideration should be whether or not there are All of Government (AOG) contracts, Regional or Syndicated contracts available for use.

If there are AOG, Regional or Syndicated contracts available, it is likely that the benefits from these will outweigh the potential local benefits due to the economies of scale “buying power” available.

A review of these options should be undertaken, and where the contract meets the requirements, it is advisable for WDC to sign up to these rather, than pursue a local procurement strategy, except in certain circumstances.

6. Spend Limits & Authorisations

Any employee wishing to make a purchase on behalf of WDC needs to be aware from whom within the organisation they must get approval, before making the commitment.

Appropriate authorisation must be obtained prior to ordering goods, services and/or works. The authorising signatory is certifying that they have reviewed the transaction and all related documentation, and that it conforms to WDC policy and goals, as well as applicable laws.

An authorising signatory should not both initiate and approve the same transaction. In no circumstances will an authorising signatory approve payments

of any kind to themselves.

Any employee purchasing on behalf of WDC must ensure that they follow the correct procurement process based on the spend level and risk threshold. In all cases, when determining the correct procurement process, the spend level to be considered is the aggregate (combined) spend over the life of the contract and relates to the total spend on a project.

For example:

1. for a maintenance agreement of \$50k per annum with a three-year term the total spend is \$150k, and the procurement process for spend of a level of \$150k should be applied;
2. the procurement planning for a project with multi-disciplines, such as refurbishment of a building, may require a builder - \$100k, electrical work - \$100k, HVAC work - \$75k and plumbing - \$50k: the procurement process for spend of a level of over \$150k should be applied for the aggregated spend, although it is accepted that as part of the procurement process WDC may decide to go out for individual tender processes for each of these services separately.

7. Preferred Suppliers

Wherever possible, employees should direct all goods, services and/or works purchases through these preferred supplier contracted arrangements. A list of all AOG, Regional, Syndicated and local preferred suppliers is available and should be reviewed before any commitment is made.

There may be occasions when employees will notice cheaper alternatives to these contracted arrangements. Employees should be aware that these contracts have been arranged with the overall benefit to WDC in mind. Overall quality, performance, and whole-of-life-cost have been considered when selecting the suppliers.

Note: Whether utilising preferred or non-preferred suppliers, the correct procurement process must be applied. As the contract and commercial negotiations have been completed in advance, the process for using preferred suppliers is far less time consuming. However, if there is a need to vary the existing terms or pricing (where there is an increase in cost) outside of the agreed contract, the supplier should then be treated as a non-preferred supplier and the non-preferred supplier process applied.

A supplier who has pre-qualified under WDC approved HSE system and/or process, is not automatically a preferred supplier. A preferred supplier will have also been through a commercial process and have a contract in place.

8. Procurement Processes

Where an employee or authorised third party is looking to make a purchase they need to follow the appropriate procurement process. The processes have been separated to take into consideration the potential costs and risks to WDC.

Cost – these are the total costs expected for the life of the contract and should include any contingencies or on-going costs. It is the aggregate of all the costs that should be used to determine the correct procurement process to follow.

Risk – these are the risks, their likelihood, the ability to mitigate the risks and the consequences to WDC should the risk occur. This should take into consideration all types of risk including, but not limited to, commercial, operational and reputational risk.

9. Value Thresholds and Requirements

The different levels and requirements that relate to the procurement process are as follows*:

1. Procurement under \$150,000 and considered low or medium risk requires:
 - a. Up to \$15,000 spend:
 - 1 quote; **and**
 - consideration of local procurement; **and**
 - one-up approval in writing.
 - b. Over \$50,000 up to Financial Delegation Register Limit:
 - 3 quotes; **and**
 - consideration of local procurement; **and**
 - a General Manager approval, documented through an agreed process.
 - c. Over the Financial Delegation Register Limit and up to \$150,000:
 - 3 quotes; **and**
 - consideration of local procurement; **and**
 - a Business Paper to Tenders Subcommittee for approval.
2. Procurement between \$150,000 and \$150,250,000 and considered either low or medium risk requires:
 - a. a Procurement Plan and Business Paper to Tenders Subcommittee for approval; **and**
 - b. an Invited RFX (Closed Tender) process to be used as signed off in the Procurement Plan.
3. Procurement over \$150,250,000, or any high-risk procurement, regardless of dollar value requires:
 - a. a Procurement Plan and Business Paper to Tenders Subcommittee for approval; **and**
 - b. a Public RFX (Open Tender) process, as signed off in the Procurement Plan.
4. Where a contract is subject to a New Zealand Transport Authority (NZTA) subsidy, the relevant Land Transport Procurement Strategy, and the financial limits and procedures prescribed in the NZTA Procurement Manual will apply, if the standards are higher than those set by WDC.
- 4-5. Subject to clause 4, where Council agrees to participate in 3rd party funding arrangements, the financial limits, rules, requirements and procedures in this Policy apply, unless amended in accordance with a Council resolution (see 5.0 - The WDC Procurement Framework).

Note: These are the minimum requirements pertaining to undertaking procurement activity for example, more suppliers than the minimum can participate.

*Section 9(1) to (3) is effective from 1 April 2021.

10. Procurement Exemption

The process for the relevant level identified above should be followed fully. If deviation from the process is required, the reason for the deviation should comply with one or more of the following criteria:

1. **Monopoly situation:** Where there is a monopoly situation and only one Supplier capable of supplying the requirements (e.g. engaging an arrangement for the supply of electricity on a network where the network is

- owned by a single party); or
2. **Proprietary technology:** Where a Supplier is the sole Supplier and/or patent holder of a specific product that is required by WDC. WDC must be satisfied that the proprietary technology is the most appropriate for the needs of WDC; or
 3. **Benefits and costs of competition:** The time and costs of a competitive process outweigh the benefits of competition; or
 4. **Unique business proposition:** Where a Supplier has a unique business proposition that can minimise risks or costs to WDC. This could include existing knowledge relevant to a project; or
 5. **Existing contract:** If goods, services and/or works are in addition to, or necessary for the completion of, delivery of an existing contract, provided that the original contract was publicly advertised, and a change of Supplier cannot be made for economic, technical, legal or practical reasons.

The key requirement is the direct appointment represents best value for WDC. Poor planning or organisation of procurement is not justification for deviation from the framework. In all instances a procurement exemption must be signed off by the Tenders Sub-Committee.

11. Emergency Procurement

Where a declared or undeclared response to an 'emergency', as defined in the Civil Defence and Emergency Management Act 2002 (CDEMA), occurs, this Procurement Policy does not apply to procurement of goods and/or services required for that emergency. Procurements required under this category will be pursuant to the CDEMA.

In any other crisis or emergency, it may be necessary to dispense with parts of the procurement process so that WDC can react quickly to unforeseen events. WDC will need to be flexible in how it procures goods and services that are required for its response.

Emergency procurement should be used only in genuinely unforeseen circumstances.

Poor planning or organisation of a procurement does not justify dispensing with parts of this Policy.

In the context of this Policy an emergency is defined as an event which results in:

1. Employees, public, supplier, property or equipment being placed in immediate risk;
2. Standards of health, welfare or safety having to be re-established without delay;
3. The significant impairment of WDC's delivery if WDC failed to respond promptly;
4. Critical health or environmental emergencies, such as a pandemic; or
5. An unanticipated event that makes it impossible for an agency to perform a statutory or critical function.

Emergency procurement should be limited to what is required to cope with the emergency. Once the emergency event is stabilised a recovery plan may be established, and approved by Council, to authorise necessary procurement activity.

Emergency procurement must be authorised by employees with the appropriate financial delegation as soon as practicable following the purchase.

12. Roles and Responsibilities

Employees and authorised third parties are responsible for ensuring the purchasing, tendering and contract process is carried out in line with the Procurement Core Principles, Policy, Rules, Charter and Framework (and any other Council policies and procedures), by those who have the delegated authority to make procurement decisions.

All Contracts and Purchase Orders are to be authorised by the appropriate delegated authority prior to the placing the order with the supplier and commitment of committing the funds.

Employees and/or authorised third parties are responsible for ensuring all contract information is uploaded on the WDC Electronic Document Management System, including all quotes or full RFX information. In addition, approval documentation is required to be held in the appropriate and required digital form, prior to authorising payment to the supplier.

13. Contract Management

Whenever WDC awards a contract, a suitably skilled employee or authorised third party must be appointed to manage the contract. The person identified to manage the contract is responsible for ensuring that what has been agreed in the contract is delivered, on time, to the appropriate quality standards, and within the agreed price. It requires the employee to actively track and monitor delivery and costs, manage risks and manage the supplier relationship throughout the contract.

~~13.14.~~ 14. Corporate Purchasing Card Policy

Where it is established that there is a regular requirement to purchase items for a cost centre to carry out their normal functions, WDC should consider arranging a preferred supplier contract. For more information regards eligibility, use, and reconciliation of expenditure please refer to the Credit Card Policy and Fuel Card Policy (or similar Policy) and Procurement Card Guide.

~~14.15.~~ 15. Conflicts of Interest

Conflicts of interest are circumstances where the exercise of an employee's duties or responsibilities to WDC with regards to their dealings with suppliers, could be, or might be perceived to be, influenced by some other interest that the employee may have. The other interest might exist because of:

- the employee's own financial affairs;
- a relationship or other role that the employee has (or has had); or
- something that the employee has said or done.

Employees and/or authorised third parties who believe they may have a potential conflict must disclose the potential conflict to the appropriate person(s) in a timely manner. For more information on identifying and managing conflicts of interest, employees should refer to WDC's Conflicts of Interest and Declarations Policy (or similar Policy).

~~15.16.~~ 16. Confidentiality

WDC is committed to fair and ethical business practices that encourage competition and enhances our supplier relationships. A cornerstone of this Policy is maintaining the confidentiality of all supplier proposals, quotations, prices, contracts and other proprietary materials by all employees and authorised third parties. Confidential information is not to be disclosed in any way to other suppliers, outside organisations, or to any unauthorised persons, subject to the provisions of LGOIMA (Local Government Official Information and Meetings Act, 1987).

Disclosure of confidential information is not only professionally unethical and damaging to WDC's negotiations with suppliers, it also exposes WDC to possible

reputational risk or legal action. If you have any questions about any request to provide information concerning contracts, pricing, supplier proposals or other internal information, please discuss with your Manager in the first instance.

16-17. Monitoring of compliance with this Policy

The prime responsibility for the on-going monitoring of compliance with this Policy rests with the General Manager – Business Support. When there is evidence of a breach of this Policy, WDC will investigate to determine the circumstances and extent of the breach.

17-18. Breaches of Policy

Any breaches of this Policy must be notified to the relevant WDC Manager and appropriate WDC personnel will manage the incident and take action (which may include escalation).

18-19. Related Policies

All related policies can be found in the Relevant Policies and Legislation Guide.

19-20. Further information

For further information please contact the Procurement Officer.

4.0 DEFINITIONS

Definition	Detail
Approved Contract Sum	is the sum total, exclusive of GST, of any individual agreement, purchase requisition, purchase order, disbursement, payment authorisation certificate, or payment made to a Supplier over the full term of the contract, including rights of renewal.
Approved Supplier	is a supplier set up and approved for use in WDC's financial system.
Confidentiality Agreement	This is the Agreement between the parties and their employees to keep confidential all information pertaining to the Agreement, except where required to divulge by law.
Conflict of Interest	There is a conflict of interest where an employee or an elected member's duties or responsibilities to WDC could be affected, or perceived to be, by some other interest or duty that an employee or an elected member may have.
Contingency	An amount allowed for in the Approved Contract Sum to take into account either foreseen but unquantifiable requirements or unforeseen circumstances. Sum of money to be spent only as a Variation or site instruction on approval by WDC.
Contract	as used in this Policy shall mean any and all contracts, agreements, memoranda of understanding (or agreement), letters of agreement, or any other document which purports to be binding upon WDC as generally defined in the Contracts Enforcement Act 1975 - Including any subsequent extensions, renewals, or modifications to a Contract.
Delegated Authority	The person with the authority to approve the total Contract commitment over its entire term. The entire term includes the initial term plus any renewal periods contemplated at the commencement of the contract. Delegated Authority is completed by signature or electronic signoff within WDC's finance systems. All non-electronic signatures must be accompanied by the printed name, position of the Delegated Authority as well as the date of signatory.
Direct Appointment	is a supplier selection method that involves the negotiation of a contract with a single Supplier.
Invited RFX (or Closed Tender)	Limited numbers of Tenderers' are invited to submit a tender without public advertisement of Contract. Where the value of the contract is <\$150,000.00, selected Suppliers who satisfy the required criteria are invited to put forward a submission. It is recommended a minimum of three (3) Suppliers should be invited.
LGOIMA	The Local Government Official Information and Meetings Act, 1987 to which the WDC must adhere.
NZTA	New Zealand Transport Authority
P-Card / Procurement Card	Purchasing Card. A WDC credit card or fuel card used by certain positions as required. Purchases for goods and services which are approved by Financial Delegated Authority.
Preferred Supplier	are suppliers that have been put in place with a formal Contract for the supply of a category of goods, services or works for a period of time (i.e. Supplier Panel Agreement). This is not a guarantee of work to the supplier.
Procurement Exemption	is the exemption required to be signed authorising the continuation with the procurement activity outside of the Procurement Policy.
Procurement Plan	is the detailed plan outlining how the procurement activity will be carried out.
Procurement Policy	is the Policy which provides guidance on how procurement activity is conducted.
Purchase Order	Legal document for purchase of goods, services or works issued from WDC following approval by the relevant Delegated Financial Authority. Terms and conditions are governed by WDC's Purchase Order terms and conditions.
Public RFX (or Open Tender)	A publically advertised RFX (Request for Quotation, Request for Expression of Interest, Request for Proposal or Request for Tender) that any party may respond to.
RFX	A generic abbreviation that covers all 'Request for' "processes" (Request for Quotation, Request for Expression of Interest, Request for Proposal or Request for Tender). Specifies what WDC wishes to purchase, the terms and conditions plus instructions on how to bid and respond.
Supplier	The person or organisation responsible for the supply of goods, services or works as required to WDC. Also known as vendor, contractor, consultant or service provider.
Syndicated Procurement Contract	Syndicated procurement is when a Government agency or Local Body contracts with a Supplier on behalf of other entities. This can lead to economy of scale advantages for WDC.
Variation	written changes to the scope, price or term of a Contract.

5.0 THE WDC PROCUREMENT FRAMEWORKS

The procurement frameworks have been developed to accommodate the different levels and complexity of spend within WDC's portfolio. They have been 'sized' to enable the most efficient process to be undertaken having considered the cost and risk associated with the procurement.

After ensuring that the spend is necessary, yet prior to choosing the methodology, it is important to determine whether there are acceptable AOG, Regional or Syndicated contracts available that should be used rather than undertaking a local process.

If it has been determined that the process is to be managed locally then the decision has to be made on which of the three processes should be used*:

Value under \$150,000 & Low or Medium Risk

Procurement under \$150,000 and considered low risk – procurement requirements:

<ul style="list-style-type: none"> - Up to \$15,000; AND - (low value, low risk) 	<ul style="list-style-type: none"> A. ONE written quote; AND B. Consideration of local procurement options; AND C. One-up approval in writing.
<ul style="list-style-type: none"> - Over \$15,000 up to Financial Delegation Register Limit*; AND - (low value, low risk) (*exception GM-IS capex \$100k) 	<ul style="list-style-type: none"> A. At least THREE quotes (unless a valid reason for not doing so exists and has been approved by General Manager); AND B. Consideration of local procurement options; AND C. A General Manager approval, documented through agreed process.
<ul style="list-style-type: none"> - Over Financial Delegation Register Limit and up to \$150,000; AND - (low-med value/low-med risk) 	<ul style="list-style-type: none"> A. At least THREE quotes (unless a valid reason for not doing so exists and has been approved by General Manager); AND B. Consideration of local procurement options; AND C. Business Paper to the Tenders Subcommittee for approval.

Note: Consideration of any local procurement must be documented in the Purchase Order system, approval documentation, Business Paper or Procurement Plan.

Value between \$150,000 and \$250,000 & Low or Medium Risk

Procurement between \$150,000 and \$250,000 and considered either low or medium risk – procurement requirements:

<ul style="list-style-type: none"> - Over \$150,000; AND - Up to \$250,000; AND - (low-medium value/low-med risk) 	<ul style="list-style-type: none"> A. Business Paper to Tenders Subcommittee; AND B. Procurement Plan (Lite)
--	---

Invited RFX (**Closed Tender**) process is to be used as approved in a Procurement Plan by Tenders Subcommittee. On certain occasions there may be a requirement for direct appointment, in which case a Procurement Exemption would be sought as part of the process and approved by Tenders Subcommittee.

Value over \$250,000 & Low or Medium Risk or all High Risk

Procurement over \$250,000 and considered either low, medium or high risk, or any high-risk procurement, regardless of dollar value – procurement requirements:

<ul style="list-style-type: none"> - Over \$250,000; OR - (high value/high risk) 	<ul style="list-style-type: none"> A. Business Paper to Tenders Subcommittee; AND B. Procurement Plan (Full)
---	---

*Increased Value Thresholds effective from 1 April 2021.

Public RFX (Open Tender) process should be used and approved in a Procurement Plan by Tenders Subcommittee.

On certain occasions there may be the requirement to directly appointment a supplier, in which case a Procurement Exemption would be sought as part of the process from Tenders Subcommittee.

Note: These are the minimum requirements pertaining to undertaking procurement activity, for example, more suppliers than the minimum can participate.

When considering the right procurement framework to use, the cost of the procurement should equate to the total spend and cover the life of the contract.

For example:

- if a building project is being undertaken the spend across all disciplines should be aggregated to assess the spend level, not by individual discipline, although the resulting procurement strategy may determine that the go to market strategy is by discipline.
- if it is a maintenance contract, spend over the life of the maintenance agreement should be aggregated to assess the spend level.
- if Supplier Panels are being developed, the total spend for the category should be considered regardless of whether it is likely to be split across multiple suppliers.

Below are flowcharts, checklists and step-by-step guides for:

- determining whether to use an AOG, Regional, Syndicated or local process; and
- the process for each spend threshold.

Note: The most effective local processes have been highlighted in green and the decision points in red.

Procurement where Council agrees to participate in 3rd Party Funding Arrangements

Due to a change in government delivery channels for partnership type funding, 3rd party funding arrangements may be presented to Council from time to time, in order to undertake and complete projects within the community and Waitomo area.

Procurement Policy applies unless amended

Unless otherwise specified in this Policy or in accordance with any Council resolution, the procurement rules, processes, value thresholds and requirements described in this Procurement Policy will apply to all procurements required under a 3rd party funding arrangement (and in addition to any new obligations for accountability imposed under the funding agreement).

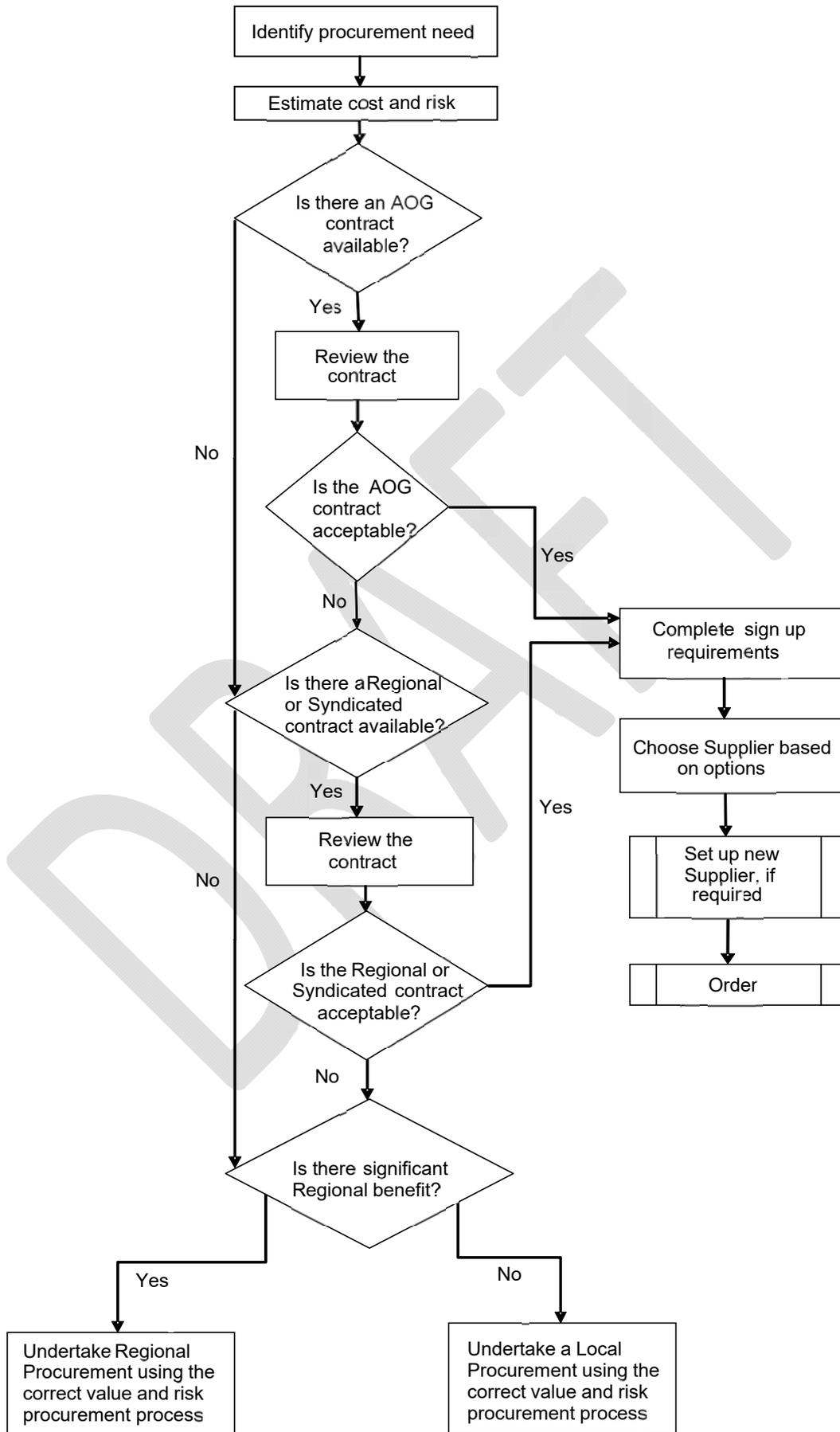
Temporary amendments to the Procurement Policy are possible

Due to additional obligations imposed on Council pursuant to some funding agreements, such as tight completion timeframes, temporary amendments to the use of the Procurement Policy and rules may need to be made (in respect of a specific project only), in order to achieve the outcomes. Any temporary amendment to this Policy will require a Council resolution.

Third Party Funding Agreements

Third party funding agreements typically place greater obligations for accountability and additional responsibilities on the recipient of the funding, and a thorough review of the terms and conditions of any funding agreement are mandatory prior to confirming any commitment to the funding, and subsequent procurement activities.

DETERMINING WHETHER TO USE AN AOG, REGIONAL OR LOCAL PROCESS



DETERMINING WHETHER TO USE AN AOG, REGIONAL OR LOCAL PROCESS- STEP BY STEP GUIDE

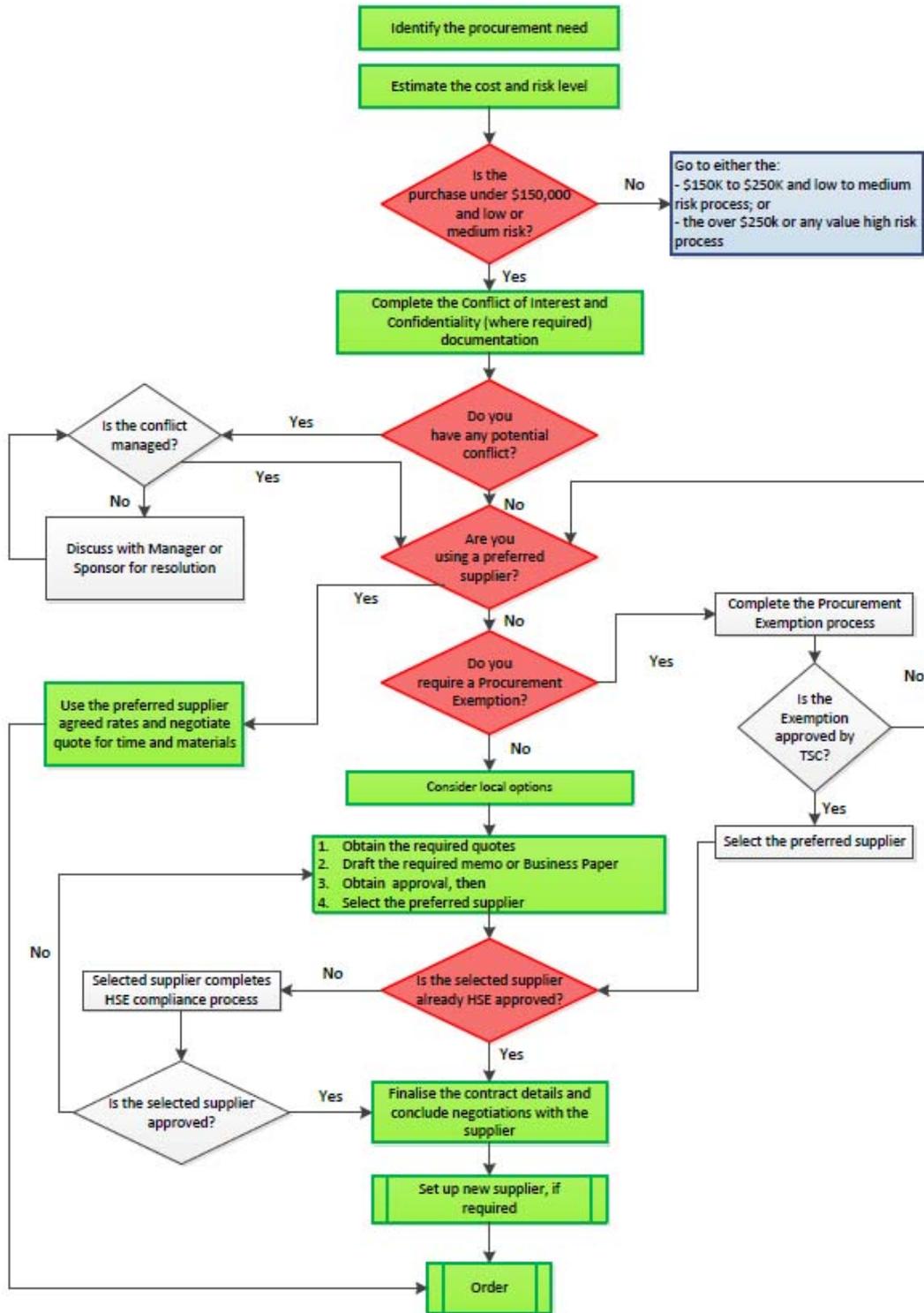
Step	Description	Guiding Information
1.	Procurement Need	Prior to undertaking any procurement, the need for procurement should be established. To ensure that the correct goods, services and/or works are received by WDC, it is important to understand what is required. These requirements need to be clearly articulated with the suppliers to enable them to effectively offer goods, services and/or works. Upon completion of the procurement process these must be recorded in the contract or on the requisition.
2.	Estimate Cost and Risk	Once the need is clearly defined, the person leading the process needs to estimate the cost and risk. The cost should be the full cost of the procurement as defined in the Procurement Policy, and the risk needs to be considered in line with WDC risk thresholds. This will then provide guidance as to the correct procurement process to follow.
3.	AOG Contracts	Is there an All of Government (AOG) contract available for use? If there is then this should be reviewed to determine if it provides the goods, services and/or works required. If it does then this method should be utilised. If it does not, then go to Step 6.
4.	AOG Sign Up	Request the documentation required to sign up to the AOG contract, if it is unclear on where to get the documentation or how to fill the information in then contact either your local or regional procurement expert or the MBIE Procurement team for guidance. Once completed submit all of the information.
5.	AOG Supplier Selection	Upon inclusion into the AOG contract, if there is a choice of supplier, assess the most suitable provider, ensure that they meet the HSE requirements for the Council, and go to step 10.
6.	Regional / Syndicated Contracts	If there is no AOG contract, identify whether there is a Regional or Syndicated Contract, if there is then assess that it meets the requirements of the procurement, if it does, utilise the Contract if not, go to step 9.
7.	Regional / Syndicated Contracts Sign Up	Request to join the contract with the contract owner. This will be either Waikato LASS or one of the other Councils in the region. They will vary the contract to allow for your inclusion. Discuss and agree your requirements with the Supplier, go to step 10.
8.	Regional or Syndicated Benefit Realisation	If there is no Regional or Syndicated Contract, assess whether it would be beneficial to set one up. Review this with the other council's procurement leads. If there is agreement by all or a significant proportion of the Councils then agree who will lead the process, select the appropriate procurement process based on threshold and risk detailed within the frameworks and execute.
9.	Local Procurement	If there is no appetite or need for a Regional Contract, undertake a local procurement process. Utilise the methodology for choosing the correct procurement process based on threshold and risk detailed within the frameworks and follow the appropriate procurement process.
10.	Supplier Set Up	If the chosen Supplier is a new supplier, <u>after</u> they have met the HSE requirements of the Council, ensure that they are set up on the system. Once this is completed or if they are already on the system go to Step 11.
11.	Order	Award the contract and / or provide a Purchase Order detailing the goods, services and/or works to be supplied. Inform the unsuccessful suppliers and provide the opportunity for feedback, if required. Ensure all Procurement information is correctly filed.

PROCUREMENT CHECKLIST

Checklist to ensure all required information has been completed (NB: green boxes are required and the red are not):

Required Documents / steps	Under \$150k & Low/Medium Risk	\$150k - \$250k & Low/Medium Risk	\$250k+ & Low/ Med. Risk or any High Risk
Estimate of total cost for life of the agreement			
Conflict of Interest forms			
Confidentiality forms			
Procurement Plan			
Scope			
Quote template			
Local Procurement consideration			
RFx documents			
Draft contract			
Evaluation documents			
Notes to tenderers template			
Bid receipt form			
Evaluation report			
Approval to proceed to negotiation form			
HSE confirmation			
Supplier insurance information			
Final contract			
Letters to unsuccessful tenderers			
Recommendation / Approval form(s)			
Supplier details for new supplier set up			
Purchase Order			
Contract management plan			
Escalation process			
Contract variation form			
Procurement timetable			
Conflict of Interest resolution plan			
Preferred supplier agreements			
Procurement Exemption			
Risk review			
Market & supplier analysis			
Category strategy			
Evaluation guidelines			
Evaluation scoring sheet			
Negotiation strategy			
Legal contract review			
Transition plan			
KPI review meeting agenda			
Annual review meeting agenda			
Termination letter			

PROCUREMENT UNDER \$150,000 & LOW OR MEDIUM RISK



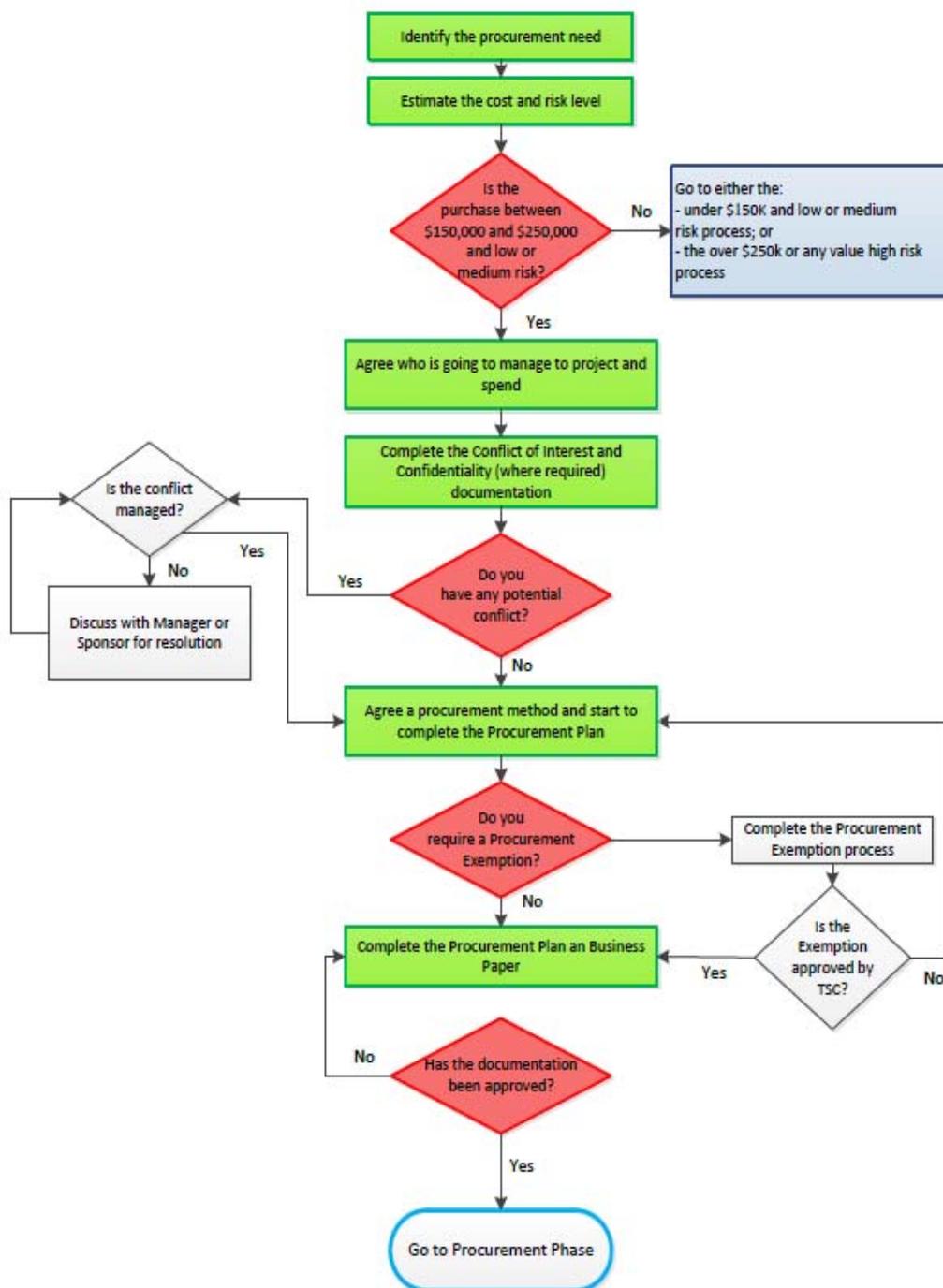
PROCUREMENT UNDER \$150,000 & LOW OR MEDIUM RISK STEP BY STEP GUIDE

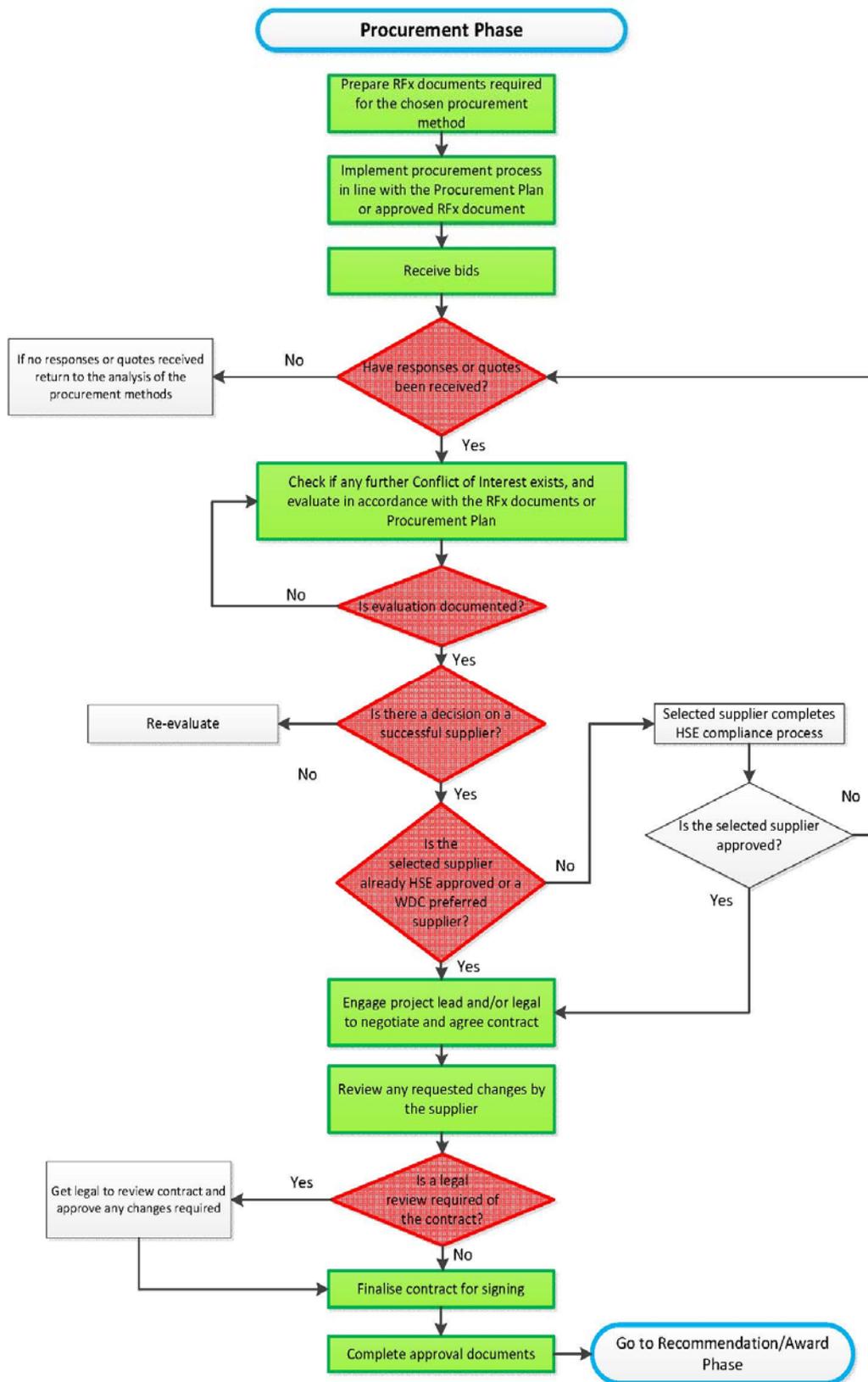
Step	Description	Guiding Information
1.	Procurement Need	Prior to undertaking any procurement, the need for procurement should be established. To ensure that the correct goods, services and/or works are received by WDC, it is important to understand what is required. These requirements need to be clearly articulated with the suppliers to enable them to effectively offer goods, services and/or works. Upon completion of the procurement process these must be recorded in the contract or on the requisition.
2.	Estimate Cost and Risk	Once the need is clearly defined, the person leading the process needs to estimate the cost and risk. The cost should be the full cost of the procurement as defined in the Procurement Policy, and the risk needs to be considered in line with WDC risk thresholds. This will then provide guidance as to the correct procurement process to follow.
3.	Correct threshold	Ensure that the total value is below \$150,000 and either a low or medium risk, if it is not then go to either the \$150,000 to \$250,000 and low or medium risk step by step guide or the over \$250,000 and low or medium risk or any spend which is high risk step by step guide.
4.	Conflict of Interest and Confidentiality	Complete the WDC Conflicts of Interest and Confidentiality template(s). If there is no conflict of interest, go to step 6.
5.	Conflict of Interest resolution	If there is a Conflict of Interest, discuss this with your Line Manager or the Delegated Authority / Sponsor for this spend and agree a plan for managing the Conflict. NB: this may include removal of the individual from the procurement process if it could materially impact the outcome or produce a potential conflict for the individual or any supplier(s) involved.
6.	Preferred Suppliers	Are you using Preferred Suppliers? (Preferred Suppliers are defined in the Procurement Policy Glossary of Terms). If you are, go to step 7, if you are not using a Preferred Suppliers, go to step 9.
7.	Using Preferred Suppliers	Ensure that the Preferred Suppliers are contracted to perform the services. Undertake the works or supply the goods that you require, if they are not go, to step 9.
8.	Time and Materials Supplier rates	The Preferred Supplier rates may already be established if they are then get the supplier to provide time and materials quotes so that you can assess the total cost, if the rates are not already provided get the supplier to provide these as well. Ensure that the supplier is prepared to carry out the work under their existing contract if they are go to step 19, if they are not, go to step 9.
9.	Procurement Exemption	If you are not going to comply with the Procurement Policy requirements for this level of spend, complete a Procurement Exemption form. If you are complying with Procurement Policy, go to step 13. NB: this is designed to support the rationale for going outside of the general procurement process and where there is legitimacy to this the procurement exemption provide support to the procurer.
10.	Procurement Exemption Sign Off	Once the Procurement Exemption is complete it needs to be assessed and signed off by the Tender Sub-Committee.
11.	Exemption approval	If the procurement exemption is approved, go to step 13. If the procurement exemption is not approved go back to step 6 and reassess the suppliers to be engaged.
12.	Local Procurement Options	Consider utilising local procurement options, ensuring to document those considerations in the procurement documentation i.e. Purchase Order notes, approval documentation, Business Paper or Procurement Plan.
13.	Quoting process	For spend under \$150,000 it is likely that a quoting process will be utilised, ensure that you receive the required number of quotes in line with the Procurement Policy. If you are not going to receive the required number of quotes, go to step 9, unless you have an approved Procurement Exemption. Ensure that you have clearly articulated what you require so that all of the suppliers have adequate information to provide you with a full quote. It is preferable that the quotes are requested in writing, however if these are requested verbally ensure that the responses are in writing or that you have documented these and that they are clearly detailed in the Purchase Order.
14.	Receiving quotes	Ensure that you have received all of the quotes before you make a final decision, if you have evaluate, make a decision and, go to step 15.
15.	HSE	At the time of requesting quotes, it is essential to establish whether the supplier(s) are HSE approved, if they are, go to step 17.
16.	HSE approval process	If the supplier(s) are not HSE approved outline the requirements to be approved to the supplier. If required, utilise the HSE team / expert to provide assistance in explaining the requirements to the supplier(s). It is acceptable to allow them to quote and undertake the full HSE approval process if they are successful, but this <u>must</u> be completed prior to the award of the contract or the raising of the Purchase Order.

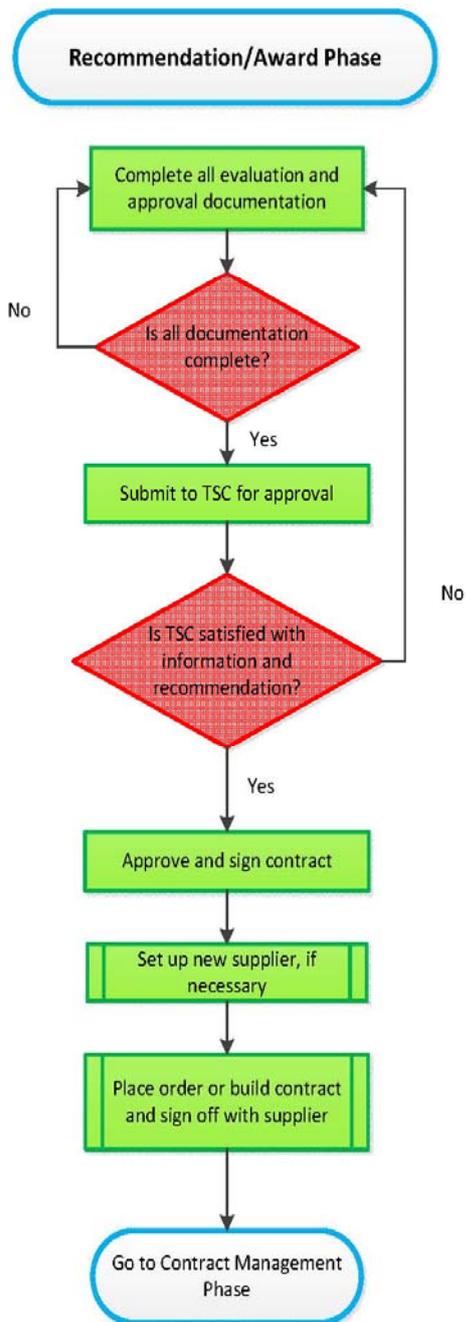
Step	Description	Guiding Information
		If the supplier will not undertake the HSE approval process or does not gain approval, then go back to step 13 if you have other quotes you can consider or, step 6 if you have no other quotes to consider.
17.	Finalising Arrangements	Complete the final commercial negotiations. Include any final technical negotiations in this process and ensure that HSE approval has been attained and any Insurance Certificates required have been received.
18.	Supplier Set Up	If the chosen Supplier is a new supplier, <u>after</u> they have met the HSE requirements of WDC, ensure that they are set up on the system. Once this is completed or if they are already on the system go to Step 19.
19.	Order	Award the contract and/or provide a Purchase Order detailing the services to be provided, the works to be undertaken and/or the goods to be supplied. NB: No work should commence before the contract is signed or Purchase Order sent or before the Insurance and HSE requirements are completed. Inform the unsuccessful suppliers and provide the opportunity for feedback, if required. Ensure all Procurement information is correctly recorded and filed.

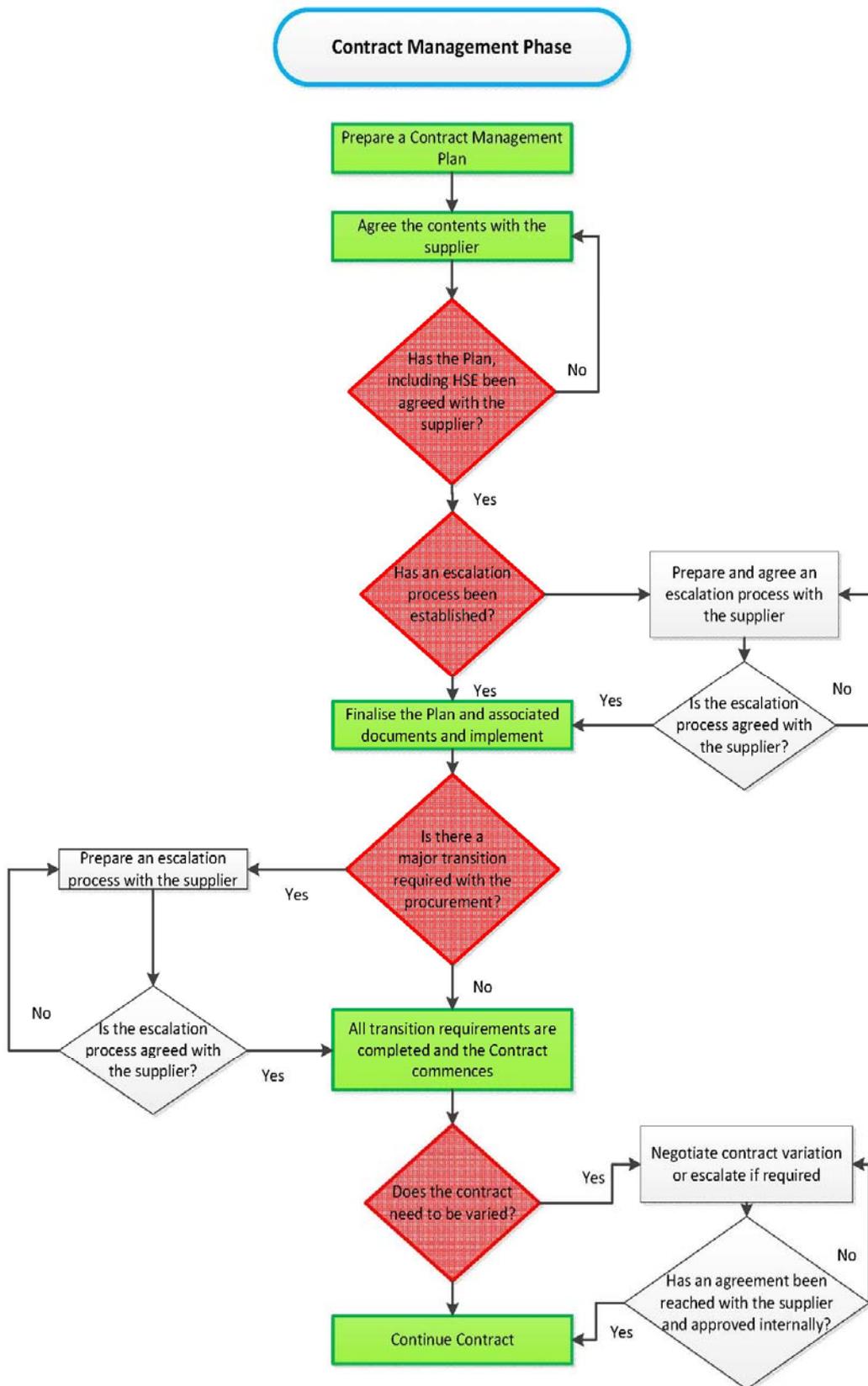
DRAFT

PROCUREMENT BETWEEN \$150,000 AND \$250,000 & LOW OR MEDIUM RISK









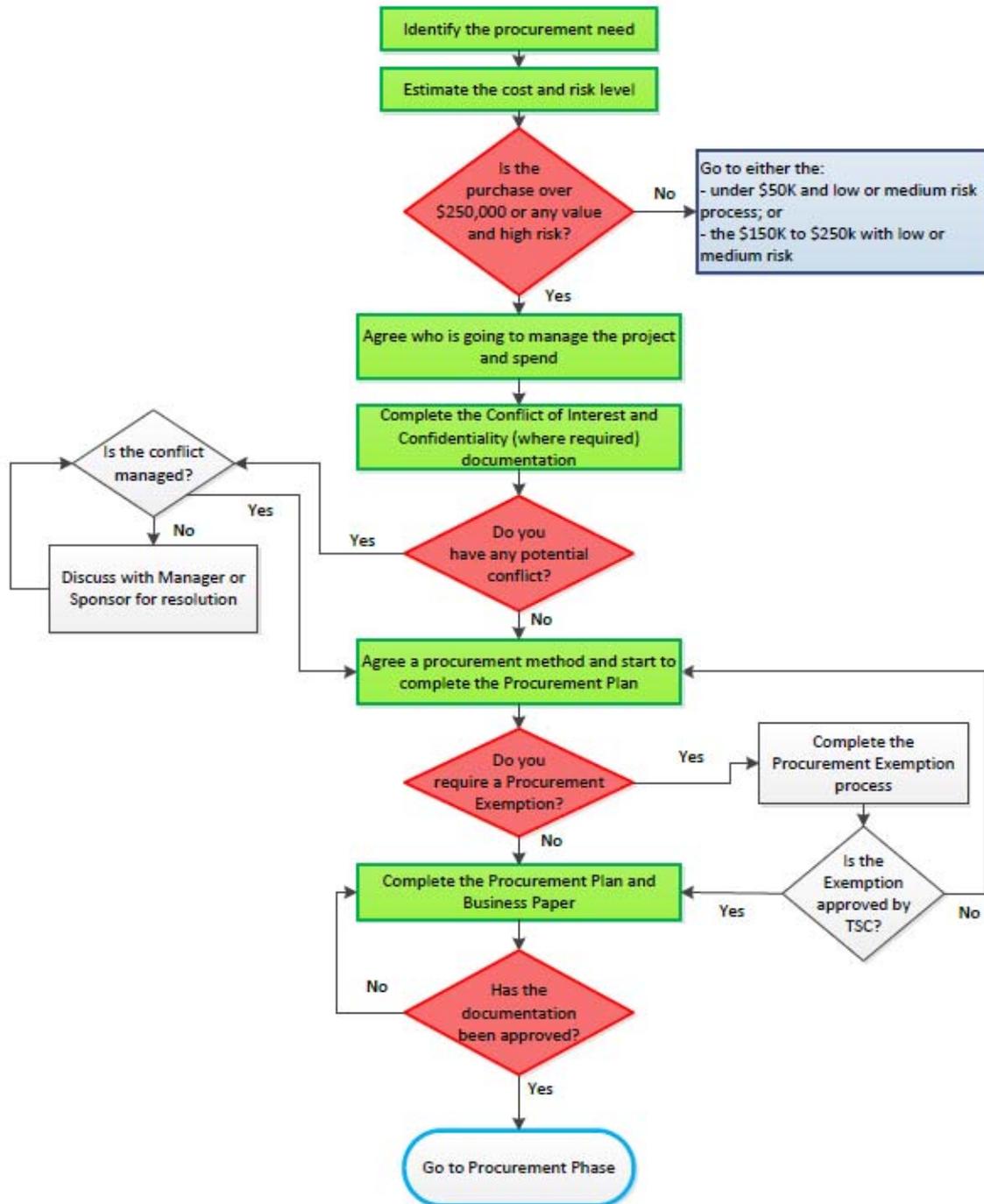
PROCUREMENT BETWEEN \$150,000 AND \$250,000 & LOW OR MEDIUM RISK STEP BY STEP GUIDE

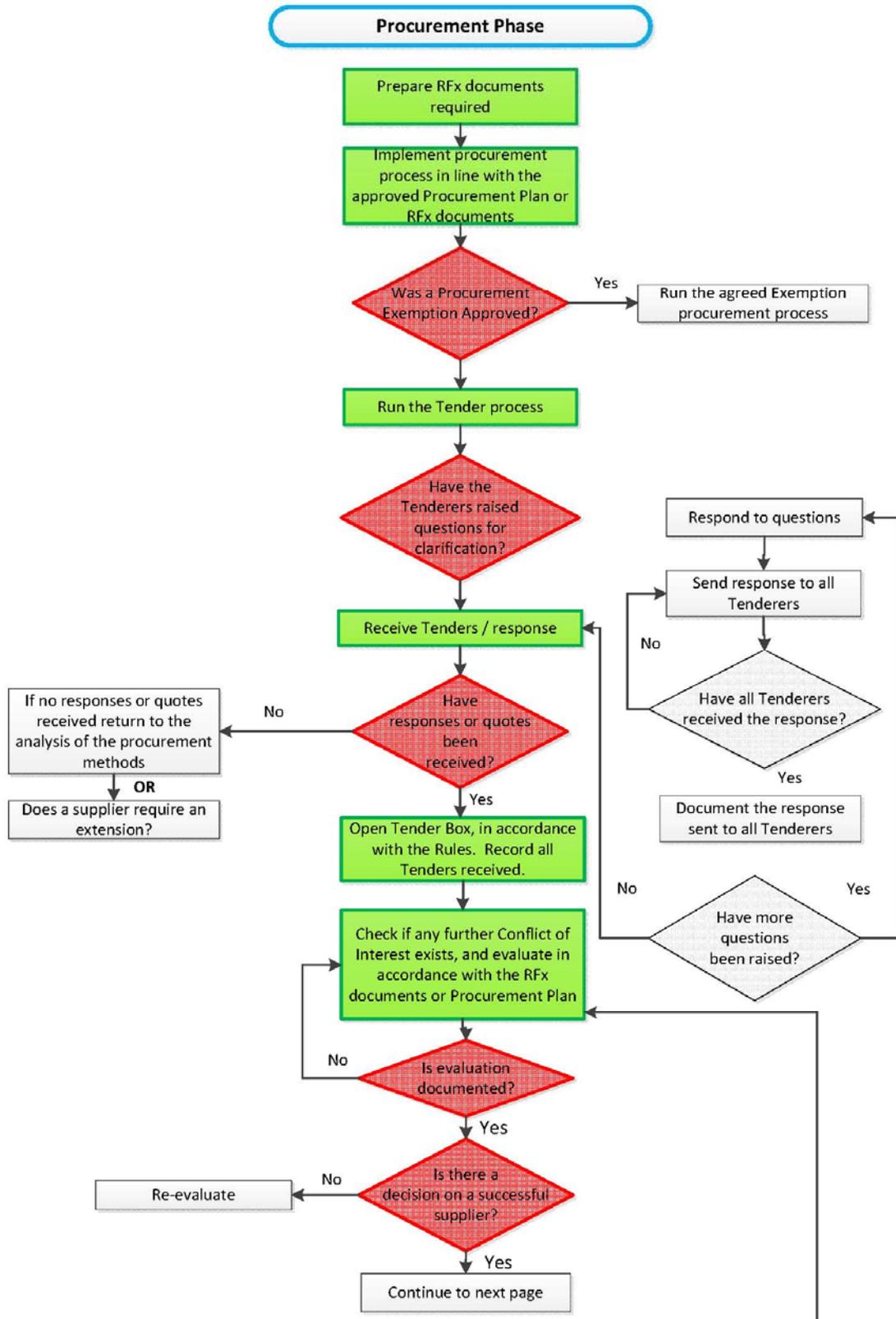
Step	Description	Guiding Information
1.	Procurement Need	Prior to undertaking any procurement, the need for procurement should be established. To ensure that the correct goods, services and/or works are received by WDC, it is important to understand what is required. These requirements need to be clearly articulated with the suppliers to enable them to effectively offer goods, services and/or works. Upon completion of the procurement process these must be recorded in the contract or on the requisition.
2.	Estimate Cost and Risk	Once the need is clearly defined, the person leading the process needs to estimate the cost and risk. The cost should be the full cost of the procurement as defined in the Procurement Policy, and the risk needs to be considered in line with WDC risk thresholds. This will then provide guidance as to the correct procurement process to follow.
3.	Correct Threshold	Ensure that the total value is between \$150,000 and \$250,000 and either a low or medium risk, if it is not then go to either the below \$50,000 and low or medium risk step by step guide or the over \$250,000 and low or medium risk or any spend which is high risk step by step guide.
4.	Procurement Lead	Establish who is going to lead the Procurement process and be responsible for completing all of the procurement documentation
5.	Conflict of Interest and Confidentiality	Complete WDC's Conflicts of Interest and Confidentiality template(s). If there is no conflict of interest, go to step 7.
6.	Conflict of Interest resolution	If there is a Conflict of Interest, discuss this with your Line Manager or the Delegated Authority / Sponsor for this spend and agree a plan for managing the Conflict. NB: this may include removal of the individual from the procurement process if it could materially impact the outcome or produce a potential conflict for the individual or any supplier(s) involved.
7.	Procurement Methodology	For spend between \$150,000 and \$250,000 you may decide to utilise a quoting process or an RFX process, ensure that you receive the required number of quotes or bids in line with the Procurement Policy. If you are not going to receive the required number of quotes or intend to use an invited RFX process you will need to complete a Procurement Exemption as part of this process. Ensure that you have clearly articulated what you require so that all of the suppliers have adequate information to provide you with a full quote. It is preferable that the quotes are requested in writing, however if these are requested verbally ensure that the responses are in writing or that you have these documented and clearly detailed in the Purchase Order.
8.	Procurement Plan	If there is a Business Case or Project Plan that covers all the required procurement applicable to this level of spend in the Procurement Plan then this can be substituted for the Procurement Plan (for clarity comply with all sections relating to Procurement Plan using your alternate document). Otherwise complete the Procurement Plan sections applicable to this threshold of spend in the Procurement Plan, to assist a suite of tools have been developed in WDC procurement templates.
9.	Preferred Suppliers	Are you using Preferred Suppliers? (Preferred Suppliers are as defined in the Procurement Policy Glossary of Terms). If you are, go to step 10, if you are not using a Preferred Suppliers, go to step 12.
10.	Using Preferred Suppliers	Ensure that the Preferred Suppliers are contracted to perform the services. Undertake the works or supply the goods that you require, if they are not go, to step 12.
11.	Time and Materials Supplier rates	The Preferred Supplier rates may already be established if they are the get the supplier to provide time and materials quotes so that you can assess the total cost, if the rates are not already provided get the supplier to provide these as well. Ensure that the supplier is prepared to carry out the work under their existing contract if they are go to step 31, if they are not, go to step 12.
12.	Procurement Exemption	If you are not going to comply with Procurement requirements for this level of spend or if you intend to use an invited tender process complete a Procurement Exemption form. If you are complying with the Procurement Policy, go to step 15. NB: this is designed to support the rationale for going outside of the general procurement process and where there is legitimacy to this the procurement exemption provide support to the procurer.
13.	Procurement Exemption Sign Off	Once the Procurement Exemption is complete it needs to be assessed and signed off by the Tenders Sub-Committee.
14.	Procurement Exemption Approval	If the Procurement Exemption is approved, go to step 15. If the Procurement Exemption is not approved, go back to step 7 and reassess the suppliers to be engaged.
15.	Procurement Plan Approval	Upon completion of the Procurement Plan this should be approved by the Tenders Sub-Committee.
16.	Build Procurement Documents	Depending on whether a quoting or an RFX process is being utilised, build the appropriate documents to enable you to go to market for either quotes or formal responses. Ensure that you build in sufficient negotiation time and flexibility. This should also include providing a draft contract where appropriate, requested changes can then be marked up by the supplier as part of their submission. (NB: It is often good to add this in as a weighted criterion in the evaluation, especially as this can minimise their requested changes to those which are material).
17.	Build Evaluation Documents	Prior to going to market it is important to develop and sign off the evaluation criteria and methodology, what the weightings are and the panel who will be evaluating the responses (this should include both technical and commercial reviews).

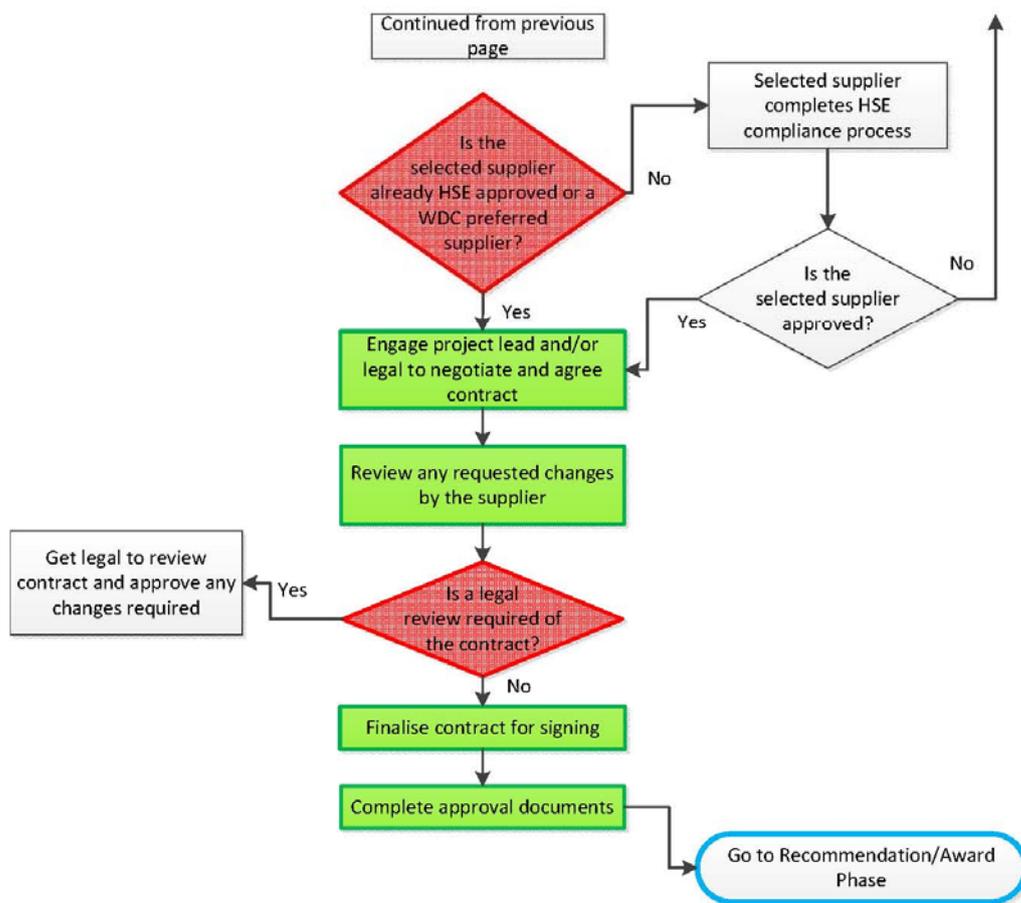
Step	Description	Guiding Information
18.	Go To Market	<p>Once all the documents have been completed (and if required, signed off). The Procurement Lead should go to market, this may be a direct process if a quoting methodology is used, or an invited or an open tender process if an RFX process is being used. If an open process is being used it is important that you follow WDC requirements and use the correct system (TenderLink or GETS).</p> <p>Ensure that your process provides for an adequate amount of time for the suppliers to respond. This will ensure that you get the most complete and well developed responses from the suppliers.</p> <p>Ensure that you have clearly articulated how you want the documentation provided (paper, memory stick, electronically), where the information is to be sent to, the number of copies and any specific splits (such as non-commercial copies for technical only evaluators).</p> <p>Ensure that there is also a clear deadline for submissions, regardless of whether you run a quoting or RFX process so that all suppliers are working to the same rules and timelines.</p>
19.	Quote or RFX Questions	<p>If any supplier seeks clarification on anything to do with the Procurement Documents, the question and response should be shared with all other bidders in writing.</p> <p>The only exception to this is if the information requested by the supplier is of a personal nature to their bid / quote, the Procurement Lead should then decide whether this information should be kept proprietary or shared with all bidders and inform the supplier prior to answering the question. In the event the information would be shared the supplier should make a final decision on whether they want the question answered or whether they want to withdraw the question (this is likely if they feel it would have a detrimental impact on their bid / quote).</p>
20.	Bid Receipting	<p>All bids / quotes should be received by the deadline. Any supplier bid which is late must be approved by the person with delegated authority. WDC should only extend the deadline if there is a significant reason for allowing an extension of time (e.g. a significant change or addition to the scope).</p> <p>No bids / quotes should be opened prior to the deadline, if these are being received electronically, they should not be reviewed, however they can be printed ready for the deadline.</p> <p>All bids or quotes should be registered. If paper copies are provided / printed these should be initialled and witnessed at the time of opening and recorded on the bid opening sheet. If electronic copies are to be utilised these should be recorded on the bid opening sheet.</p>
21.	Evaluation	<p>The evaluation panel established in step 17, now undertake the evaluation subject to no further Conflicts of Interest being identified. Ensure that the right documentation is received by each evaluator (e.g. if they are undertaking a technical only evaluation do not provide the commercial documentation). Provide a timeline for the panel to feedback their evaluations.</p> <p>Upon completion of the individual evaluations the Procurement lead may bring the evaluation team together to go through the evaluations and collate the results with the team (this is useful if you want a deep understanding of their rationale, often used on technically complex or large scale tenders) or collate the results and feed back to the team (this is less time consuming and often used on straight forward tender processes).</p> <p>It is important that the evaluation team are on board with the final decision. Therefore there should be an opportunity to challenge and review the results of the evaluation to ensure that the correct decision is being made.</p> <p>At this point all appropriate due diligence should also be undertaken as part of the evaluation process.</p>
22.	Evaluation Sign Off	<p>It is important that all of the evaluators sign off on the evaluation, process, results and final decision prior to proceeding. If this cannot be agreed the results should be escalated for a final decision.</p> <p>If there is a requirement for any other sign off of the evaluation prior to proceeding, this should be undertaken at this stage.</p>
23.	Supplier Selection	<p>Advise the selected supplier of their selection and the intention to enter into formal negotiations, do not advise the other bidders of being unsuccessful at this stage as you still need to complete the negotiation process.</p>
24.	HSE	<p>At the time of requesting quotes, it is essential to establish whether the supplier(s) are HSE approved, if they are go to step 26.</p>
25.	HSE Approval Process	<p>If the supplier(s) are not HSE approved outline the requirements to be approved to the supplier. If required, utilise the HSE team / expert to provide assistance in explaining the requirements to the supplier(s).</p> <p>It is acceptable to allow them to bid or quote and undertake the full HSE approval process if they are successful, but this <u>must</u> be completed prior to the award of the contract or the raising of the Purchase Order.</p> <p>If the supplier will not undertake the HSE approval process or does not gain approval, then go back to step 21 if you have other quotes you can consider or, step 7 if you have no other quotes to consider.</p>
26.	Negotiation Preparation	<p>Identify the negotiating person or team.</p> <p>Review the tender documentation and establish the technical and commercial points of negotiation.</p> <p>Review the contract and identify any changes requested by the supplier.</p>
27.	Legal Team Review	<p>Where there are significant changes to contract ensure the Legal Team undertake a review of the changes.</p> <p>If you are unsure whether they are significant ask the Legal Team to advise.</p>

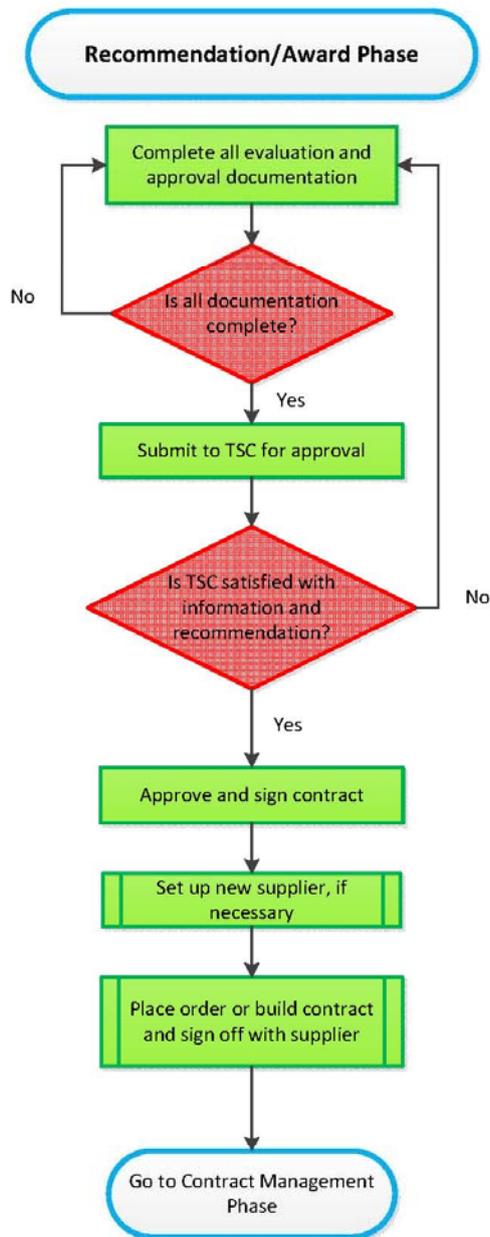
Step	Description	Guiding Information
28.	Legal Team Sign Off	If the Legal Team sign off the changes, go to step 29. If the Legal Team do not sign off the changes negotiate the terms in line with the Legal Team's guidance and, go to step 29. If all aspects of the contractual negotiations are not agreed escalate for resolution, if resolution is successful, go to step 29. If resolution cannot be reached, go to step 21 and reconsider the supplier to be selected.
29.	Commercial Negotiation	Complete the final commercial negotiations. Include any final technical negotiations in this process and ensure that HSE approval has been attained and any Insurance certificates required have been received. If all aspects are agreed by the parties, go to step 30. If all aspects are not agreed escalate for resolution, if resolution is successful, go to step 30. If resolution cannot be reached, go to step 21, and reconsider the supplier to be selected.
30.	Complete Recommendation to Award Documentation	Ensure all of the Procurement Plan, Evaluation and all Approval Documentation is completed.
31.	Approval process	Submit for final approval to the Delegate Authority holder or the designated person with the delegation provided to them.
32.	Final Approval	If approval is given, go to step 33. If approval is not given either: a. if additional approval information is required, go to step 30; b. if additional evaluation is required, go to step 21; c. if the process is to be run, go to step 7; or d. end the process and inform all Suppliers of the decision not to proceed.
33.	Supplier Set Up	If the chosen Supplier is a new supplier, <u>after</u> they have met the HSE and Insurance requirements of WDC, ensure that they are set up on the system. Once this is completed or if they are already on the system go to Step 34.
34.	Order	Award the contract and / or provide a Purchase Order detailing the services to be provided, the works to be undertaken and/or the goods to be supplied. NB: No work should commence before the contract is signed or Purchase Order sent or before the Insurance and HSE requirements are completed. Inform the unsuccessful suppliers and provide the opportunity for feedback, if required. Ensure all Procurement information is correctly recorded and filed.
35.	Contract / Supplier Management	Assess the need for on-going contract management and the level required, if there is no need for Contract / Supplier Management (e.g. one off purchase), go to Step 37.
36.	Contract / Supplier Management Framework	Agree the required Contract / Supplier Management with the supplier; this should include all documents, reports, meetings and HSE requirements to be produced or attended, their frequency and the owner.
37.	Escalation Process	Agree with the supplier an escalation process for both commercial and technical issues, and go to step 38, or if it has been established in step 35 that there is no need for Contract / Supplier Management (e.g. one off purchase), go to Step 39.
38.	Contract / Supplier Management Framework	Build the framework based on the agreed documentation in Step 36.
39.	Transition	Determine whether there is a transition plan required. If not, go to Step 42.
40.	Transition plan	Create a full transition plan with the supplier; this should take into consideration timeframes, operational issues / challenges associated with the change, resources and employee awareness requirements.
41.	Transition	Undertake transition and complete process.
42.	Contract Commencement	Commence contract on the agreed start date.
43.	Contract Variations	During the life of the contract, if the contract needs to be varied identify the variation required and negotiate / agree with the supplier.
44.	Variation approval	Seek approval to vary contract from the Delegated Authority budget holder. If agreed write variation to contract, sign off with supplier, get authorised WDC sign off, implement and file variation with the other procurement documentation. If not agreed, go to step 45 and continue the contract, or, step 37 to escalate.
45.	Continuance	Continue Contract in line with agreed Contractual Terms.

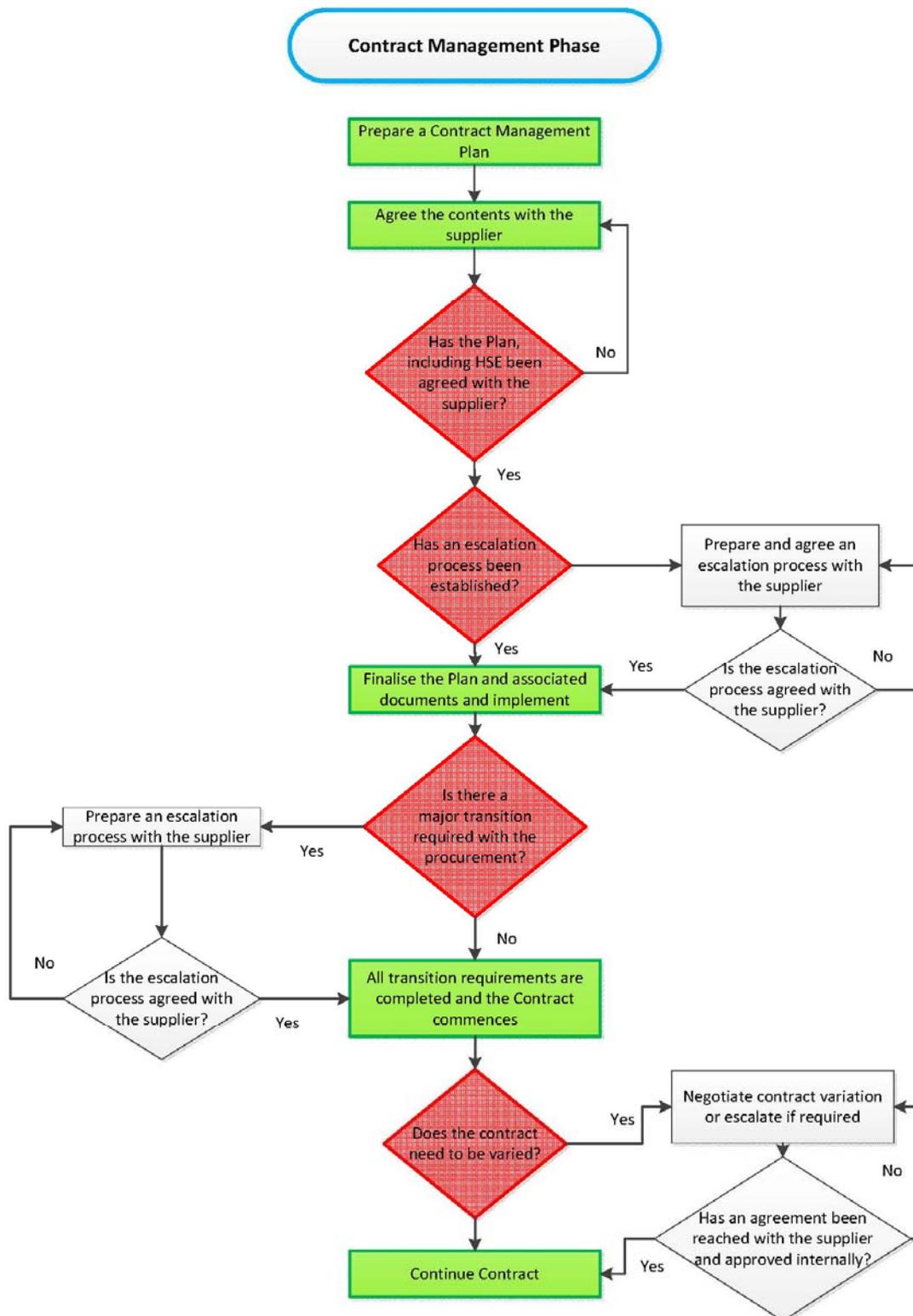
PROCUREMENT OVER \$250,000 & LOW OR MEDIUM RISK OR ANY VALUE WITH HIGH RISK











PROCUREMENT OVER \$250,000 & LOW OR MEDIUM RISK OR ANY VALUE WITH HIGH RISK STEP BY STEP GUIDE

Step	Description	Guiding Information
1.	Procurement Need	Prior to undertaking any procurement, the need for procurement should be established. To ensure that the correct goods, services and/or works are received by WDC, it is important to understand what is required. These requirements need to be clearly articulated with the suppliers to enable them to effectively offer goods, services and/or works. Upon completion of the procurement process these must be recorded in the contract or on the requisition.
2.	Estimate Cost and Risk	Once the need is clearly defined, the person leading the process needs to estimate the cost and risk. The cost should be the full cost of the procurement as defined in the Procurement Policy, and the risk needs to be considered in line with WDC risk thresholds. This will then provide guidance as to the correct procurement process to follow.
3.	Correct Threshold	Ensure that the total value is over \$250,000 and low or medium risk or any spend which is high risk, if it is not then go to either the below \$150,000 and low or medium risk step by step guide or \$150,000 to \$250,000 and low or medium risk step by step guide.
4.	Procurement Lead	Establish who is going to lead the Procurement process and be responsible for completing all of the procurement documentation
5.	Conflict of Interest and Confidentiality	Complete your WDC's Conflicts of Interest and Confidentiality template(s). If there is no conflict of interest, go to step 7.
6.	Conflict of Interest Resolution	If there is a Conflict of Interest, discuss this with your Line Manager or the Delegated Authority / Sponsor for this spend and agree a plan for managing the Conflict. NB: this may include removal of the individual from the procurement process if it could materially impact the outcome or produce a potential conflict for the individual or any supplier(s) involved.
7.	Procurement Methodology	For spend over \$150,000 or high risk you will be running an RFx process unless otherwise approved via a procurement exemption (NB an invited RFx process will require approval via an exemption), ensure that you receive the required number of bids in line with the Procurement Policy. If you are not going to receive the required number of quotes you will need to complete a Procurement Exemption as part of this process. Ensure that you have clearly articulated what you require so that all of the suppliers have adequate information to provide you with a full submission. Or provide them with the opportunity to develop a response based on their experience if you do not have clarity, detail or believe that they are best placed to provide this. Also consider whether you want to run a one or two stage process, if you expect a large amount of responses it may be preferable to run an EOI process ahead of the RFx to shortlist the tenderers to an acceptable level.
8.	Procurement Plan	If there is a Business Case or Project Plan that covers all the required procurement applicable to this level of spend in the Procurement Plan then this can be substituted for the Procurement Plan (for clarity comply with all sections relating to Procurement Plan using your alternate document). Otherwise complete the Procurement Plan sections applicable to this threshold of spend in the Procurement Plan, to assist a suite of tools have been developed in the WDC Procurement Toolkit.
9.	Procurement Exemption	If you are not going to comply with Procurement Policy requirements for this level of spend or if you intend to use an invited tender process complete a Procurement Exemption form. If you are complying with Procurement Policy, go to step 15. NB: this is designed to support the rationale for going outside of the general procurement process and where there is legitimacy to this the procurement exemption provide support to the procurer.
10.	Procurement Exemption Sign Off	Once the Procurement Exemption is complete it needs to be assessed and signed off by the Tenders Sub-Committee.
11.	Procurement Exemption Approval	If the Procurement Exemption is approved, go to step 12. If the Procurement Exemption is not approved, go back to step 7 and reassess the suppliers to be engaged.
12.	Procurement Plan Approval	Upon completion of the Procurement Plan this should be approved by the Tenders Sub-Committee.
13.	Build Procurement Documents	Depending on whether a quoting or an RFx process is being utilised, build the appropriate documents to enable you to go to market for either quotes or formal responses. Ensure that you build in sufficient negotiation time and flexibility. This should also include providing a draft contract where appropriate, requested changes can then be marked up by the supplier as part of their submission. (NB: It is often good to add this in as a weighted criterion in the evaluation, especially as this can minimise their requested changes to those which are material).
14.	Procurement Document Review	Prior to going to market it is advisable to get an independent review of the documents. This does not need to be an external review, but by ensuring that somebody with knowledge who has not been involved putting the tender documents together reviews the documents enables you to have an impartial view on them and identify any gaps or issues that the supplier may face before they arise.
15.	Build Evaluation Documents	Prior to going to market it is important to develop and sign off the evaluation criteria and methodology, what the weightings are and the panel who will be evaluating the responses (this should include both technical and commercial reviews).

Step	Description	Guiding Information
16	Go To Market	<p>Once all the documents have been completed (and if required, signed off). The Procurement Lead should go to market, this may be a direct process or an invited tender process if a Procurement Exemption has been approved or an open tender.</p> <p>If a Procurement Exemption approved process is being used then follow the agreed methodology.</p> <p>If an open process is being used it is important that you follow WDC requirements and use the correct system (TenderLink or GETS).</p> <p>Ensure that your process provides for an adequate amount of time for the suppliers to respond. This will ensure that you get the most complete and well developed responses from the suppliers.</p> <p>Ensure that you have clearly articulated how you want the documentation provided (paper, memory stick, electronically), where the information is to be sent to, the number of copies and any specific splits (such as non-commercial copies for technical only evaluators).</p> <p>Ensure that there is also a clear deadline for submissions, regardless of whether you run a closed or open RFX process so that all suppliers are working to the same rules and timelines.</p>
17.	Advising Suppliers	<p>In an open tender situation, there may be certain suppliers it would be beneficial to have bidding. It is acceptable to advise these suppliers that you have gone to market and where they can find the information should they wish to bid.</p>
18.	EOI or RFX Questions	<p>If any supplier seeks clarification on anything to do with the Procurement Documents, the question and response should be shared with all other bidders in writing.</p> <p>The only exception to this is if the information requested by the supplier is of a personal nature to their bid, the Procurement Lead should then decide whether this information should be kept proprietary or shared with all bidders and inform the supplier prior to answering the question. In the event the information would be shared the supplier should make a final decision on whether they want the question answered or whether they want to withdraw the question (this is likely if they feel it would have a detrimental impact on their bid).</p>
19.	Bid Receipting	<p>All bids / quotes should be received by the deadline. Any supplier bid which is late must be approved by the person with delegated authority. WDC should only extend the deadline if there is a significant reason for allowing an extension of time (e.g. a significant change or addition to the scope).</p> <p>No bids / quotes should be opened prior to the deadline, if these are being received electronically, they should not be reviewed, however, they can be printed ready for the deadline.</p> <p>All bids or quotes should be registered. If paper copies are provided / printed these should be initialled and witnessed at the time of opening and recorded on the bid opening sheet. If electronic copies are to be utilised these should be recorded on the bid opening sheet.</p>
20.	Evaluation	<p>The evaluation panel established in step 15, now undertake the evaluation subject to no further Conflicts of Interest being identified. Ensure that the right documentation is received by each evaluator (e.g. if they are undertaking a technical only evaluation do not provide the commercial documentation). Provide a timeline for the panel to feedback their evaluations.</p> <p>Upon completion of the individual evaluations the Procurement lead may bring the evaluation team together to go through the evaluations and collate the results with the team (this is useful if you want a deep understanding of their rationale, often used on technically complex or large scale tenders) or collate the results and feed back to the team (this is less time consuming and often used on straight forward tender processes).</p> <p>It is important that the evaluation team are on board with the final decision. Therefore there should be an opportunity to challenge and review the results of the evaluation to ensure that the correct decision is being made.</p> <p>At this point all appropriate due diligence should also be undertaken as part of the evaluation process.</p>
21.	Evaluation Sign Off	<p>It is important that all of the evaluators sign off on the evaluation, process, results and final decision prior to proceeding. If this cannot be agreed the results should be escalated for a final decision.</p> <p>If there is a requirement for any other sign off of the evaluation prior to proceeding, this should be undertaken at this stage.</p>
22.	Supplier Selection	<p>Advise the selected supplier of their selection and the intention to enter into formal negotiations, do not advise the other bidders of being unsuccessful at this stage as you still need to complete the negotiation process.</p>
23.	HSE	<p>At the time of requesting quotes, it is essential to establish whether the supplier(s) are HSE approved, if they are go to step 25.</p>
24.	HSE Approval Process	<p>If the supplier(s) are not HSE approved outline the requirements to be approved to the supplier. If required, utilise the HSE team / expert to provide assistance in explaining the requirements to the supplier(s).</p> <p>It is acceptable to allow them to bid and undertake the full HSE approval process if they are successful, but this <u>must</u> be completed prior to the award of the contract or the raising of the Purchase Order.</p> <p>If the supplier will not undertake the HSE approval process or does not gain approval, then go back to step 20 if you have other quotes you can consider or, step 7 if you have no other quotes to consider.</p>
25.	Negotiation Preparation	<p>Identify the negotiating person or team.</p>

Step	Description	Guiding Information
		Review the tender documentation and establish the technical and commercial points of negotiation. Review the contract and identify any changes requested by the supplier.
26.	Legal Team review	Where there are significant changes to contract ensure the Legal Team undertake a review of the changes. If you are unsure whether they are significant ask the Legal Team to advise.
27.	Legal Team Sign Off	If the Legal Team sign off the changes, go to step 28. If the Legal Team do not sign off the changes negotiate the terms in line with the Legal Team's guidance and, go to step 28. If all aspects of the contractual negotiations are not agreed escalate for resolution, if resolution is successful, go to step 28. If resolution cannot be reached, go to step 20 and reconsider the supplier to be selected.
28.	Commercial Negotiation	Complete the final commercial negotiations. Include any final technical negotiations in this process and ensure that HSE approval has been attained and any Insurance Certificates required have been received. If all aspects are agreed by the parties, go to step 29. If all aspects are not agreed escalate for resolution, if resolution is successful, go to step 30. If resolution cannot be reached, go to step 20, and reconsider the supplier to be selected.
29.	Complete Recommendation to Award Documentation	Ensure all of the Procurement Plan, Evaluation Documentation and all Approval Documentation are completed.
30.	Approval process	Submit for final approval to the appropriate person with the Delegate Authority holder or the designated person with the delegation provided to them.
31.	Final Approval	If approval is given, go to step 32. If approval is not given either: a. if additional approval information is required, go to step 29; b. if additional evaluation is required, go to step 20; c. if the process is to be run, go to step 7; or d. end the process and inform all Suppliers of the decision not to proceed.
32.	Supplier Set Up	If the chosen Supplier is a new supplier, <u>after</u> they have met the HSE and Insurance requirements of WDC, ensure that they are set up on the system. Once this is completed or if they are already on the system go to Step 33.
33.	Order	Award the contract and / or provide a Purchase Order detailing the services to be provided, the works to be undertaken and/or the goods to be supplied. NB: No work should commence before the contract is signed or Purchase Order sent or before the Insurance and HSE requirements are completed. Inform the unsuccessful suppliers and provide the opportunity for feedback, if required. Ensure all Procurement information is correctly recorded and filed.
34.	Contract / Supplier Management	Assess the need for on-going contract management and the level required, if there is no need for Contract / Supplier Management (e.g. one off purchase), go to Step 40.
35.	Contract / Supplier Management Framework	Agree the required Contract / Supplier Management with the supplier; this should include all documents, reports, meetings and HSE requirements to be produced or attended, their frequency and the owner.
36.	Escalation Process	Agree with the supplier an escalation process for both commercial and technical issues, and go to step 37 or if it has been established in step 35 that there is no need for Contract / Supplier Management (e.g. one off purchase), go to Step 38.
37.	Contract / Supplier Management Framework	Build the framework based on the agreed documentation in Step 35.
38.	Transition	Determine whether there is a transition plan required. If not, go to Step 41.
39.	Transition Plan	Create a full transition plan with the supplier; this should take into consideration timeframes, operational issues / challenges associated with the change, resources and employee awareness requirements.
40.	Transition	Undertake transition and complete process.
41.	Contract Commencement	Commence contract on the agreed start date.
42.	Contract Variations	During the life of the contract, if the contract needs to be varied identify the variation required and negotiate / agree with the supplier.
43.	Variation Approval	Seek approval to vary contract in line with the Delegated Authority budget holder. If agreed write variation to contract, sign off with supplier, get authorised WDC sign off, implement and file variation with the other procurement documentation. If not agreed, go to step 44 and continue the contract, or, step 36 to escalate.
44.	Continuance	Continue Contract in line with agreed Contractual Terms.

Appendix 1 – Government Procurement Charter

The Charter sets out government's expectations of how agencies should conduct their procurement activity to achieve the best value for money.

Government agencies spend approximately \$41 billion a year on a wide range of goods and services from third party suppliers. We need to ensure that government procurement delivers the best value for money for all New Zealanders while supporting the delivery of better public services throughout New Zealand.

Agencies should identify their key priorities and seek to meet as many of these expectations as practical.

The New Zealand government directs agencies to:

1. **Seek opportunities to include New Zealand businesses.** Openly work to create opportunities for local businesses and small-to-medium enterprises to participate in your procurement processes.
2. **Undertake initiatives to contribute to a low emissions economy and promote greater environmental responsibility.** Ensure that economic and social development can be implemented on a sustainable basis with respect for the protection and preservation of the environment, reducing waste, carbon emissions and pollution.
3. **Look for new and innovative solutions.** Make sure you don't overprescribe the technical requirements of a procurement, give businesses the opportunity to demonstrate their expertise.
4. **Engage with businesses with good employment practices.** Ensure that the businesses you contract with operate with integrity, transparency and accountability, and respect international standards relating to human and labour rights. For businesses operating within New Zealand, ensure that they comply with all New Zealand employment standards and health and safety requirements.
5. **Manage risk appropriately.** Responsibility for managing risks should be with the party – either the agency or the supplier – that is best placed to manage the risk. Agencies and suppliers should work together on risk mitigation strategies.
6. **Encourage collaboration for collective impact.** Look to support greater collaboration, both across-agency and across-businesses to give likeminded groups the opportunity to find common solutions within your procurement opportunities.

Procurement Recovery Plan (Covid-19)

Purpose:

1. The purpose of this document is to outline Waitomo District Council’s procurement activity in response to the Covid-19 pandemic.
2. This document has been prepared in line with the Emergency Procurement section of the Council’s Procurement Policy 2020.
3. The purpose of this proposed Procurement Recovery Plan is to assist with the effectiveness of Waitomo’s economic recovery from the Covid-19 pandemic. The Plan is intended to facilitate the planning and sourcing of goods, services and/or works needed during this time, and ensuring a high level of probity continues.
4. To aid the effectiveness of the Procurement Recovery Plan, the Plan aims to remove time constraints for decision making, resulting in greater speed, simplicity and flexibility in procurement processes and rules.

Proposed Procurement Recovery Plan (Covid-19) Methods

A. Adjust the Value Thresholds

For the duration of the Recovery Plan the following approach will be taken to procurement:

Level	New Proposed Value	Requirement
1	Up to \$50,000	<ul style="list-style-type: none"> 1 quote Consider local procurement 1 up approval
2	Up to \$100,000	<ul style="list-style-type: none"> 3 quotes Consider local procurement General Manager* approval, documented through agreed processes
3	Up to \$250,000	<ul style="list-style-type: none"> 3 quotes Consider local procurement Business Paper to Tenders Subcommittee for approval
4	Over \$250,000	<ul style="list-style-type: none"> Procurement Plan Closed or Open Tender Business Paper to Tenders Subcommittee for approval

*At any time, the General Manager may decline to exercise the delegation.

B. Contract Hierarchy

To expedite Waitomo District’s economic recovery and to mobilise a range of projects quickly, the existing Contract Hierarchy requirement (section 5 of the Procurement Policy) of procuring goods and/or services through All of Governments, Regional or Syndicated contracts first, will be suspended for procurement relating to the response to the Covid-19 pandemic.

Where feasible, Waitomo District Council will initially seek quotes for goods and/or services from local suppliers.

All suppliers are still required to provide the goods and/or services at an appropriate level of quality and experience.

C. Direct Appointment

To assist with boosting and stimulating the region's economy efficiently, Council will utilise direct appointment of suppliers for critical and urgent goods and/or services.

D. Tendering Process

To expedite Waitomo District's economic recovery and to mobilise a range of projects quickly, the existing two-stage tendering process be suspended.

Council will utilise the Lowest Price Conforming (where appropriate) and Price Quality Method tender evaluation processes. The evaluation of all tenders will be conducted in one Tender Evaluation Team meeting and reported to Tenders Subcommittee for consideration and approval.

E. Existing Contract Extensions

Critical contracts that are due to expire within the next 12 months may be extended for a term up to 12 months, subject to the approval of the Tenders Subcommittee.

F. Timeframe

This proposed Procurement Recovery Plan will remain valid until 31 October 2021.

Procurement Water Reform Plan

Purpose:

1. The purpose of this document is to outline Waitomo District Council’s procurement activity in response to the Water Reform Programme (Programme), Funding Agreement and Delivery Plan.
2. This document has been prepared in line with the Value Threshold and Requirements and Emergency Procurement sections of Council’s Procurement Policy 2020.
3. The purpose of this proposed Plan is to assist Council with the quick mobilisation of projects relating to the Programme and in response to the timeframes and obligations imposed by the funding party. This Plan is intended to facilitate the planning and sourcing of goods, services and/or works needed during the Programme and Delivery Plan ensuring a high level of probity continues.
4. To aid the effectiveness of the Water Reform projects, the Plan aims to remove time constraints for decision making, resulting in greater speed, simplicity and flexibility in the procurement rules and processes, which will also result in assisting with economic recovery in the district.

Proposed Water Reform Procurement Methods

A. Adjust the Value Thresholds and Requirements

For the duration of the Water Reform Programme the following approach will be taken to procurement:

Level	Proposed Threshold (Capex and Opex)	Value (Capex)	Requirement
1	Up to \$50,000 (and low-med risk)		<ul style="list-style-type: none"> 1 quote Consider local procurement 1 up approval
2	Between \$50,000 and \$250,000 (and low-med risk)		<ul style="list-style-type: none"> 3 quotes Consider local procurement General Manager – Infrastructure Services* approval, up to \$100K documented through agreed processes; <u>or</u> Chief Executive approval, between \$100K and \$250k documented through agreed processes.
3	Between \$250,000 and \$500,000		<ul style="list-style-type: none"> 3 quotes Consider local procurement Business Paper to Tenders Subcommittee for approval
4	Over \$500,000 (And all high risk)		<ul style="list-style-type: none"> Procurement Plan Closed Tender or Open Tender Business Paper to Tenders Subcommittee for approval

*At any time, the General Manager may decline to exercise the delegation.

B. Contract Hierarchy

To expedite Waitomo District’s economic recovery and to mobilise a range of projects quickly, the existing Contract Hierarchy requirement (section 5 of the Procurement Policy) of procuring goods and/or services through All of

Governments, Regional or Syndicated contracts first, will be suspended in relation to procurement for the Water Reform Programme.

Where feasible, Waitomo District Council will initially seek quotes for goods and/or services from local suppliers, including from Waitomo District Council's Council-controlled Organisation.

Council-controlled organisations (CCO's) perform a vital role in helping councils achieve their strategic goals, by delivering a range of services on behalf of a council. Waitomo District Council has a collaborative and cooperative relationship with its CCO and views its CCO as a partner in the delivery of Council's objectives, priorities and benefits for the Waitomo District. Council will, where appropriate, utilise the relationship, skills and expertise of its CCO to provide services required by the Water Reform programme, and in accordance with the CCO's Statement of Intent.

All suppliers are still required to provide the goods and/or services at an appropriate level of quality and experience.

C. Tendering Process

To expedite Waitomo District's economic recovery and to mobilise a range of projects quickly, the existing two-stage tendering process be suspended.

Council will utilise the Lowest Price Conforming (where appropriate) and the Price Quality Method tender evaluation processes. The evaluation of all tenders will be conducted in one Tender Evaluation Team meeting, reported to Tenders Subcommittee for consideration and approval.

D. Timeframe

This proposed Procurement Water Reform Plan will remain valid until 30 June 2022, in line with the Water Reform Programme timeframes.

Document No: A493560

Report To: Council



Meeting Date: 27 October 2020

Subject: Annual Report 2019/20 – Adoption

Type: Decision Required

Purpose of Report

- 1.1 The purpose of this business paper is to present the Draft Annual Report 2019/20 (Draft AR) recommended by Council's Audit Risk and Finance Committee for Council's consideration and adoption.

Background

- 2.1 The Draft AR encapsulates the financial and non-financial performance of Waitomo District Council for the year ended 30 June 2020.
- 2.2 The Audit Risk and Finance Committee (ARFC) of Council received the Draft AR at the meeting held on 13 October 2020.

Commentary

- 3.1 Council's auditor, Deloitte, has completed the audit of the Draft AR and attended the ARFC meeting of 13 October 2020 to discuss the audit as well as present their report regarding the audit.
- 3.2 The ARFC considered the Draft AR on 13 October 2020. A copy of the business paper to the ARFC on this matter is enclosed with this paper as Attachment 1. The Report to ARFC on the audit from Deloitte is also enclosed as Attachment 2.

Analysis of Options

- 4.1 Council has the option of adopting the draft AR or requesting further information/changes from the ARFC (which recommends the Annual Report to Council for adoption).
- 4.2 The usual date that Council must adopt the Annual Report is 31 October 2020 however due to the COVID-19 Pandemic, this date has been extended to 31 December 2020.
- 4.3 As Council is currently developing the 2021-31 10 Year Plan. It is recommended that the Annual Report be adopted prior to 31 October so as not to interrupt the 2021- 31 10 Year Plan development project.

Considerations

5.1 Risk

- 5.2 The Draft AR has been audited and no issues have emerged from this audit. It has also been assessed by the ARFC of Council at a prior meeting and matters raised at

the ARFC have been taken into account. Therefore the residual risk of misstatement is negligible.

5.3 If Council chooses not to adopt the Draft AR at this meeting, while it may still comply with the extended timeframes due to COVID-19, it is highly likely to impact on the current 10 Year Plan development project.

5.4 Consistency with Existing Plans and Policies

5.5 This Draft AR measures our performance against year two of the 2018-2028 10 Year Plan, and nothing in this Draft AR is inconsistent with existing plans and policies.

5.6 Significance and Community Views

5.7 The financial performance of Council in the past year is a significant matter to be shared with the District Community. The Annual Report and Summary Annual Report will be available on Council's website and in Council offices and library.

Recommendation

6.1 It is recommended that Council adopt the audited Annual Report 2019/20. A copy of the Annual Report 2019/20 is enclosed separately and forms part of this business paper.

Suggested Resolutions

- 1 The business paper on the Annual Report 2019/20 – Adoption be received.
- 2 The Chief Executive be delegated authority to ensure any formatting/grammatical changes and feedback from Council is accurately reflected in the Final Annual Report 2019/20 prior to publication.
- 3 The audited Annual Report 2019/20 be adopted.



TERRENA KELLY
GENERAL MANAGER – STRATEGY AND ENVIRONMENT



ALISTER DUNCAN
GENERAL MANAGER – BUSINESS SUPPORT

20 October 2020

Attachment 1: ARFC Business Paper - 13 October 2020 (A491784)

Separate Enclosure: Separate Enclosure: **CONFIDENTIAL** Deloitte Report to ARFC (A492779) Separate Enclosure: Draft Annual Report 2019/20 (Doc No A481615)

Document No: A491784

Report To: Audit, Risk and Finance Committee



Meeting Date: 13 October 2020

Subject: Adoption of the Annual Report 2019/20

Type: Decision Required

Purpose of Report

- 1.1 The purpose of this business paper is to present the Draft Annual Report 2019/20 (Draft AR) for consideration and, subject to any amendments, to recommend AR to Council for adoption.
- 1.2 Council's auditors (Deloitte) will be in attendance at the ARFC meeting at 9:30am to discuss the audit and to present the Audit Report.

Background

- 2.1 The Draft AR shows the financial and non-financial performance of Waitomo District Council for the year ended 30 June 2020.
- 2.2 The Audit, Risk and Finance Committee (ARFC) received an Unaudited Interim Financial Report (IFR) for the year ended 30 June 2020 at the 11 August 2020 ARFC meeting and Council received an Unaudited Interim Non-Financial Report at the 25 August 2020 Council meeting.
- 2.3 As well as presenting the Draft AR for the ARFC's consideration this paper also provides a summary of significant changes since the IFR and commentaries on Council and Group results.
- 2.4 At the time of writing this business paper, the Draft AR report document is still progressing through the final review stages with Deloitte. No significant changes are expected from this review however there may be editorial or formatting changes that will be incorporated in the final document to be adopted.

Commentary

- 3.1 **Significant Changes since the Unaudited IFR**
- 3.2 The unaudited IFR was presented at the 11 August 2020 ARFC meeting, while the financial results and position were still in the process of being finalised. There have been subsequent changes to the results due to finalising the ledgers and the significant changes are discussed in section 3.3 to 3.9.
- 3.3 **Statement of Comprehensive Revenue and Expense**
- 3.4 Total revenue has decreased from \$33.5 million in the IFR to \$33.2 million in the Draft AR mainly arising from the removal of rates on council owned properties.
- 3.5 Total expenditure increased from \$28.3 million to \$28.5 million. The main changes include the reclassification of road marking costs that were recognised as capital

expenditure in the IFR and reclassified to operating expenditure in the Draft AR. Additional professional services costs and depreciation expense were recognised within the roads activity, along with costs recognised for Mokau water supply operations and the back scanning project. Other minor adjustments have also been made as part of finalising the ledgers.

3.6 As a result of these changes to revenue and expenditure, the total surplus for the year has decreased from \$5.1 million in the IFR to \$4.6 million in the Draft AR.

3.7 The loss on valuation of the investment in ICL of \$2.6 million was recognised in other comprehensive revenue and expense.

3.8 Further to this, the roads and solid waste assets revaluation was also completed and an increase on revaluation of \$16 million was recognised.

3.9 These items along with the changes to total surplus discussed in 3.4 and 3.5, increased the total comprehensive revenue and expense from \$4.7 million as reported in the IFR to \$17.6 million.

3.10 **Statement of Financial Position**

3.11 Total assets increased from \$367.2 million in the IFR to \$380.5 million mainly as a result of:

- Loss on revaluation of the investment in ICL \$2.6 million
- Increase in revaluation of roads and solid waste assets of \$16 million

3.12 Total equity increased from \$322.6 million in the IFR to \$335.5 million mainly as a result of:

- Increase in revaluation reserve of \$16 million from the roads and solid waste revaluation.
- Increase in Other Reserves as a result of the final reserve transfers, offset partly offset by a decrease in the Available for sale reserve from the loss on valuation of ICL investment.

3.13 **Draft 2019-20 Annual Report Highlights**

3.14 **Statement of Financial Performance (page 58)**

3.15 The budget provided a surplus of \$4.6 million (below the forecast surplus of \$5.1 million). The main variances are detailed below.

3.16 **Revenue**

3.17 Revenue was \$2.3 million less than budget due to:

- As a result of excluding rates revenue on council owned properties from the actuals, rates revenue was \$0.3 million less than forecast.
- Subsidies and grants were also \$2.3 million less than budget as only 49% of the forecast physical works programme was completed therefore the associated NZTA subsidy revenue was significantly below forecast for the year. The completion of the capital expenditure programme was impacted by available internal capacity which initially delayed project delivery. Progress was further impacted by the COVID-19 pandemic response. The delayed projects will now be undertaken in the 2020/21 year.

- Investment income was \$0.3 million less as no dividend was received from ICL due to the impact of COVID-19 on earnings and increased business uncertainty.
- Fees and charges revenue was \$0.5 million more due to increased landfill disposal revenue as higher volumes of waste were received, trade waste revenue and quarry royalty revenue were also more than forecast. Additional revenue was also received for complex resource consent applications (where costs associated with planning consultants were recovered from applicants) and fees for building control services.
- Other revenue including gains/(losses) was \$0.1 million more than budget due to a gain on the revaluation of investment property, a funding contribution for costs associated with the district plan review and gain on the sale of motor vehicles.

3.18 Operating expenditure was \$1.8 million less than budget due to:

- Employee benefit expenditure was \$0.1 million more than budget for organisational capacity and resourcing requirements.
- Finance costs were \$0.6 million less than budget due to a reduced public debt level than forecast and interest rates were less than anticipated at the time the budget was prepared. Further to this the capital expenditure programme was delayed and will now be spent in the next financial year. This reduced finance costs for Leadership, Community Service, Solid Waste, Sewerage, Water Supply and Roads activities.
- Other expenditure was \$1.3 million less than budget due to:
 - Rates paid on council owned property being excluded. The budget figure included rates on council owned property.
 - Grant expenditure for the proposed North King Country Indoor Sports and Recreation Centre was not spent.
 - Reduced operations and maintenance costs for all sewerage schemes. In particular expenditures for electricity, sludge disposal, sampling and chemicals were less for Te Kuiti.

3.19 **Statement of Financial Position (page 60)**

3.20 Total equity was \$6.2 million more than expected due to:

- The surplus was \$0.5 million less than budget.
- Other reserves were \$1.2 million more than budget. Included in other reserves are council created reserves, cashflow hedging reserve and available for sale reserve. Council created reserves were \$5.4 million more than budget as depreciation reserves and activity surpluses were more than forecast. Cashflow hedging reserve was \$1.1 million less than budget due to the loss on cashflow hedges. There was also a \$2.6 million decrease in the Available for sale reserve for the reduction in fair value of the investment in Inframax Construction Ltd to \$8.8 million.
- The revaluation reserve was \$9.6 million more than budget arising from the revaluation of roads and solid waste assets.

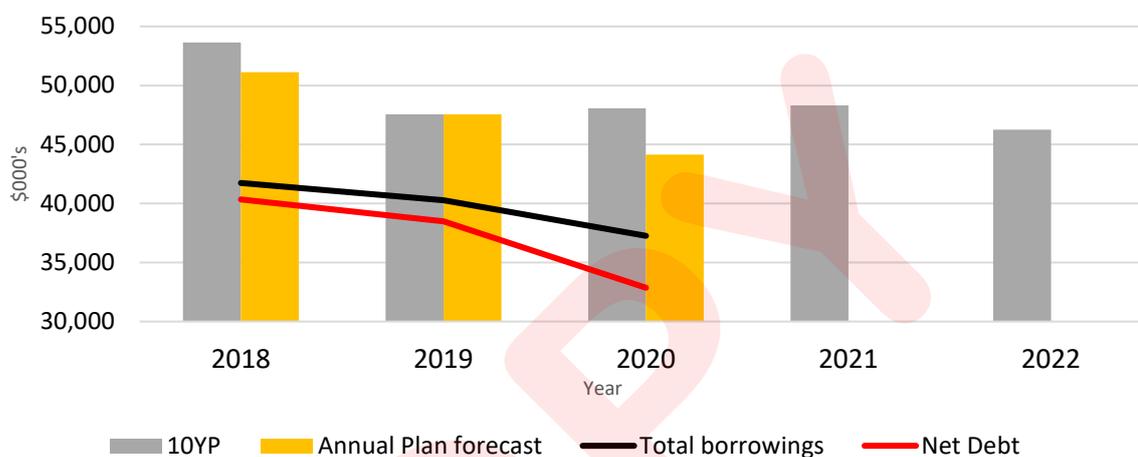
3.21 Current assets were \$2.6 million more due to a higher level of cash and cash equivalents at balance date than the budget arising from a lower level of operating expenditure than forecast. These were offset partly by reduced receivables.

- 3.22 Current liabilities were \$12.6 million less due to a lower portion of current borrowings than anticipated in the budgets. Overall borrowings were also less than budget. There was also a lower level of payables at balance date than was forecast.
- 3.23 Non current assets were \$3.3 million less than expected due to the decrease in the value of other financial assets from the valuation of Inframax Construction Ltd. The value of the investment reduced to \$8.8 million due to the subsidiary's projected revenue and increased business uncertainty. Intangible assets were less than anticipated as the COVID-19 pandemic response impacted on the progress of the information services projects.
- 3.24 Non current liabilities were \$5.7 million more than budget due to a higher non current portion of borrowings being recognised. Derivative financial instruments were also \$0.9 million more than expected.
- 3.25 **Capital Expenditure**
- 3.26 Total capital expenditure for the year ended 30 June 2020 was \$6.1 million against a budget of \$12.4 million or 49% of our forecast programme.
- 3.27 Projects were deferred due to the COVID-19 pandemic, which brought a halt to capital works and the related tenders during the lockdown and a sluggish restart in the final quarter of the year. These projects have now been deferred to the 2020/21 year.
- 3.28 Some of the major projects completed were:
- The resource consent for the landfill volume expansion was granted during the year.
 - The construction of the Kiritehere and Waikawau toilets were completed. This project was fully funded by a grant from the Tourism Infrastructure Fund.
 - Aerodrome safety improvements were completed.
 - Completed road pavement rehabilitation of a 1.4km long section of Totora Road.
 - 0.3km of previously narrow footpaths were widened on Te Kumi Road.
 - Resurfaced 25.7km of sealed roads
 - Re-metalled 51km of unsealed roads
 - Reactive and planned road maintenance of urban roads (50km sealed and 3km unsealed)
 - Maintenance of 162 bridges
 - Renewal of 1110 metres of drainage and culverts
 - Maintained and or replaced 323 signs/markers and 94 posts.
 - Installed additional monitoring instruments at the Mokau and Piopio Water Treatment Plants.
 - Improvement of SCADA across all Water Treatment Plants undertaken.
 - Monitoring bore drilled at the Te Kuiti domain to investigate alternative water supply.
 - Improvements to council's website

- Alpha One integration for online building consent applications
- Improvements to our cyber security and end point virus protection for Council's information systems.

3.29 Borrowings

3.30 Council's 2018-28 10YP provides a forecast for borrowings. This forecast is updated each year through the annual plan process. The following graph illustrates the trends in the level of borrowings over the last three financial years compared to both planning documents.



3.31 These trends show that actual borrowings have reduced to **\$37.3 million** at 30 June 2020 and are significantly less than forecast in 10YP and annual plan. Net debt was **\$32.9 million** at 30 June 2020.

3.32 Council has continued to manage the funding of the capital works programme from a mixture of subsidies and grants funding, available reserves and borrowing.

3.33 Group Performance

3.34 At 30 June 2020, total equity for the Group was \$337.7 million, an increase of \$22.1 million from the prior year. This increase in equity reflects the net asset increases as detailed below.

3.35 The Group's after tax profit of \$4.9 million.

3.36 Current assets increase of \$0.9 million arising from the increase in cash and cash equivalents at balance date offset partly by reduced receivables owing.

3.37 Current liabilities increase of \$1 million from the increase in level of current borrowings recognised and increases in employee entitlements owing at year end and derivative financials instruments.

3.38 Non current assets increase of \$17.3 million arising mostly from the revaluation of roads and solid waste assets.

3.39 Non current liabilities decrease of \$4.9 million due mainly to a portion of Council's borrowings reclassified to current borrowings.

3.40 **Statement of Service Performance (Key Performance Indicators)**

3.41 The Statements of Service Performance provide detailed information on the performance measures and targets for each of the significant activities. The performance summary is given on pages 19-20 of the Draft AR with more detailed information disclosed within each activity on pages 21-56 of the Draft AR.

3.42 Of the 76 key performance indicators measured, 63 (83%) (2019: 82%) were achieved and 13 (17%) (2019: 18%) were not achieved.

3.43 **Audit**

3.44 Auditors will be present at the meeting to report on the audit process and present the Audit report. The Report to ARFC from the Auditors is enclosed separately as Enclosure 2 to this business paper.

Analysis of Options

4.1 ARFC has the option of recommending the adoption of the Annual Report to Council or requesting further information/changes from its staff and auditors. The usual date that Council must adopt the Annual Report is 31 October 2020 however due to the COVID-19 Pandemic, this date has been extended to 31 December 2020.

4.2 As Council is currently developing the 2021-31 10 Year Plan. It is recommended that the Annual Report be adopted prior to 31 October as not to interrupt the 2021-31 10 Year Plan development project.

Considerations

5.1 **Risk**

5.2 There is potential risk that some revenue included in the financial statements is subsequently not converted to cash. The raising of invoices and recognition of income is carried out with management review and approval to minimise this risk. Debtors and other receivables are actively monitored and reviewed. The risk is also mitigated by the recognition of a provision for doubtful debt at 30 June 2020.

5.3 There is a risk that the accounting estimates and judgments used when performing valuations over assets may not reflect the assets actual condition or, the useful lives do not reflect the actual consumption of benefits of the asset. To minimise this risk, infrastructural asset valuations have been determined in reference to industry guidelines and adjusted for local conditions. Asset inspections, deterioration and condition modeling are also carried out as part of asset management planning.

5.4 There is a risk that the financial results and position stated within this report is materially different for those assets were not revalued at 30 June 2020. These assets include water, wastewater, stormwater and land and building assets. To minimise this risk, an assessment of the fair value of significant assets in between revaluation years has been completed by external valuers.

5.5 There is a risk that the accounting estimates and judgements used when performing the valuation of the investment in ICL may result in the actual value of the investment being different than the fair value reflected in the Annual Report. In deriving the valuation of the investment, the valuers noted that it was not possible to assess with any certainty the implications of COVID-19 on the Company's financial performance or the economy as a whole and that the Valuer's advice was

subject to significant caveats and caution due to the uncertainty that exists for businesses including access to capital, supply chain disruption, demand for products and services and the extent and duration of measures implemented by the Government and various authorities to contain and/or prevent the spread of COVID-19.

5.6 There is a risk that some financial assets may become impaired, but that the impairment amount is unknown. This will cause an over statement of carrying value of the asset in this report, that would subsequently need to be corrected in a later report.

5.7 Consistency with Existing Plans and Policies

5.8 This Draft AR measures our performance against year two of the 2018-2028 Ten Year Plan, and nothing in this Draft AR is inconsistent with existing plans and policies.

5.9 Significance and Community Views

5.10 The financial performance of Council in the past year is a significant matter to be shared with the District Community. The Annual Report and Summary Annual Report will be available on Council's website and in Council offices and library.

Recommendation

- 6.1 The Draft Annual Report 2019/20 be recommended to Council for adoption.
- 6.2 A copy of the Draft Annual Report 2019/20 is enclosed separately and forms part of this business paper.

Suggested Resolutions

- 1 The business paper on Adoption of Annual Report 2019/20 be received.
- 2 The Audit, Risk and Finance Committee recommend the audited Annual Report 2019/20 be referred to Council for adoption.



TINA HITCHEN
FINANCE MANAGER



TERRENA KELLY
GENERAL MANAGER – STRATEGY AND ENVIRONMENT

8 October 2020

Separate Enclosure 1: Draft Annual Report 2019/20 (A492949)

Separate Enclosure 2: **Confidential:** Deloitte Report to the Audit and Risk Committee for the year ended 30 June 2020 (A492779)

Document No: A494465

Report To: Council



Meeting Date: 27 October 2020

Subject: Te Kuiti and District Historical Charitable Trust (previously Society) – Provision of Services Agreement 2020/2021

Type: Decision Required

Purpose of Report

- 1.1 The purpose of this business paper is to inform Council of the winding up of the action taken by Te Kuiti and District Historical Society Incorporated to form a new organisation known as the Te Kuiti and District Historical Charitable Trust.
- 1.2 This business paper also seeks a Council decision on whether or not to assign Year Three of the Provision of Services Grant Agreement from the now wound-up Te Kuiti and District Historical Society Incorporated to the newly formed Te Kuiti and District Historical Charitable Trust.

Background

- 2.1 At its meeting of 25 September 2018, Council considered and approved funding applications to the Provision of Services (POS) Grant Fund.
- 2.2 The POS Grant Fund forms part of Waitomo District Council's (WDC) broader Community Development Fund Policy.
- 2.3 POS Grants provide funding to "not for profit" organisations who undertake to deliver services that complement Council's Long Term Plan objectives.
- 2.4 These organisations offer services that make a significant contribution to the achievement of WDC's Community Outcomes and improve wellbeing within the District, but are outside the scope of services provided by WDC.
- 2.5 The standard term of POS Grants is three years.

Commentary

- 3.1 The Te Kuiti and District Historical Society Incorporated (trading as Te Kuiti Museum & Gallery) was successful in making a Council POS Grant application for \$45,000 (\$15,000.00 per annum) for the 2018-2021 period.
- 3.2 The POS arrangements were satisfactorily completed for the 2018/2019 and 2019/2020 financial years and the POS grant distributed accordingly.
- 3.3 On 6 August 2020 a letter was received from the Te Kuiti and District Historical Charitable Trust advising that the Te Kuiti and District Historical Society Incorporated (the Society) had been wound up, and that a new legal entity had been formed known as the Te Kuiti and District Historical Charitable Trust (the Trust). A copy of the letter from the Trust is attached for Council's reference.

- 3.4 The Society ceased operating as at 30 September 2019 and were wound up on 6 July 2020.
- 3.5 The Trust now requests that the POS Agreement and associated funding be assigned to the Trust with effect from 1 July 2020.
- 3.6 The Trust's rules are silent as to its intended 'purpose' however the Compliance Team at the Charities Services are satisfied that the Trust's purposes are charitable and compliant with legislation.
- 3.7 The Trust's Solicitor has advised that the purpose of the Trust was deliberately described in a way to enable the Trust to conduct such charitable activities as it may decide from time to time. As at 7 August 2020, WDC understands that the Trust's chosen purpose is the acquisition, operation and management of the Te Kuiti Museum & Gallery, and the Te Kuiti Railway House.
- 3.8 Council's approval is required for the entering into a POS Agreement for 2020/2021 with the Trust, including the assigning of the value for Year Three of the Agreement with the Society to the Trust.

Considerations

4.1 **RISK**

- 4.2 No significant risks have been identified.

4.3 **CONSISTENCY WITH EXISTING PLANS AND POLICIES**

- 4.4 This decision is consistent with existing plans and policies.
- 4.5 The Provision of Services funding arrangement is provided for as part of the Community Development Fund Policy. The Policy intent is to assist the delivery of Council's vision of creating a better future with vibrant communities and thriving business.

4.6 **SIGNIFICANCE AND COMMUNITY VIEWS**

- 4.7 This decision is not a significant decision in terms of Council's Significance and Engagement Policy.

Suggested Resolutions

1. The business paper on Te Kuiti and District Historical Charitable Trust (previously Society) – Provision of Services Agreement 2020/2021 be received.
2. Council approve/not approve entering into a Provision of Services Agreement for the 2020/21 financial year with the Te Kuiti and District Historical Society Incorporated to the Te Kuiti and District Historical Charitable Trust.



HELEN BEEVER

GENERAL MANAGER – COMMUNITY SERVICES

Attachment: Letter from Te Kuiti Museum & Gallery dated 6 August 2020
(A494519)



Te Kuiti and District Historical Charitable Trust Trading as Te Kuiti Museum & Gallery
123 Rora Street, Te Kuiti 3910 Ph. 078787687 tekuitimuseumandgallery@gmail.com

6th August 2020

Waitomo District Council
P O Box 404
Te Kuiti

TO : The Waitomo District Council Committee

This is to advise the Council that the Te Kuiti and District Historical Society Incorporated has been wound up and we are now the Te Kuiti and District Historical Charitable Trust.

We stopped trading under the Historical Society as at 30th September 2019 as you will see from our Financial Statement.

All dealings that were under the Te Kuiti and District Historical Society Inc. have now ceased and we work under the Trust, but still Trading as Te Kuiti Museum and Gallery.

Our Purpose is to receive monies from the Museum and Gallery Exhibition and distribute the proceeds enhancing and growing the gallery and exhibition, and also other charitable purposes in the Waitomo District Community.

Our background and Aims and Objectives remain the same. A copy is attached.

Yours sincerely,

Jan Kearins
Secretary





Te Kuiti and District Historical Charitable Trust Trading as Te Kuiti Museum & Gallery
123 Rora Street, Te Kuiti 3910 Ph. 078787687 tekuitimuseumandgallery@gmail.com

AIMS AND OBJECTIVES:

- To conserve and protect our Cultural and Historical Heritage and artefacts.
- Museum and Gallery open and administered following the New Zealand museums Incorporated Code of ethics and professional practice.
- Have resources available to all ages and ethnic groups, families, youth to the aged, those rurally isolated, schools and community groups.
- Deliver well-resourced information workshops or evenings for various groups.

OBJECTIVES:

Protect and Preserve our local heritage by conservation processes and showcasing artefacts and other resources.

Encourage participation in community issues while promoting social, economic and cultural equity.



Document No: A493588

Report To: Council



Meeting Date: 27 October 2020

Subject: **Progress Report: Delivery against Communications Strategy**

Type: Information Only

Purpose of Report

- 1.1 The purpose of this Business Paper is to brief Council on progress made in respect of the Communications Strategy.

Background

- 2.1 The Communications Strategy 2018 was adopted by Council in October 2018.
- 2.2 The focus of the strategy is to guide Council's day-to-day communications activities, set Council's expectations for media and allow better and more genuine engagement between Council and the community.
- 2.3 The Communications Strategy is attached as Appendix 1.

Commentary

3.1 **COMMUNICATION ACTIVITY**

- 3.2 The following provides a summary of the communication activity that has taken place in support of achieving the seven key objectives of the Strategy.

- 3.3 WDC uses a range of communications channels to inform and engage with residents and ratepayers, including; our website, social media, radio, print media, forms and guides, and community newsletters.

3.4 **OBJECTIVE 1: PROMOTE THE VALUE OF COUNCIL'S ROLE IN THE COMMUNITY**

- 3.5 The following mechanisms promote the value of Council's role in the community.

- (a) Waitomo District Library:

- The library provides range of services including reading programmes, electronic resources, recommended books.
- Frequent updates are made to the Library webpage and social media, with an increase in promotions over this period. Promotions included how to join, library hours, and other programmes such as holiday reading programmes.

- (b) Civil Defence Emergency preparedness:
- The promotion of civil defence emergency management is undertaken in conjunction with the Waikato Region Civil Defence Emergency Management (CDEM) Group.
 - During the COVID-19 Pandemic Alert Levels Four and Three, a State of National Emergency was in place. The Western Waikato Emergency Operating Centre (WWEOC), a joint EOC for Waitomo District Council, Otorohanga District Council and Waipa District Council, was activated and operating in support of the Health-led emergency response. The WWEOC was supported by ensuring regular press releases from the WWEOC were issued to the Waitomo community.
- (c) Community Services activities and projects:
- **This is the area that receives the highest engagement on social media**, indicating the importance of these activities within our community.
 - Examples of proactive communications updates during this period include **removal of the Ministry of Works building, Redwood Park make-over and sign competition, Piopio Hall work, Mokau Jetty and the Te Kuiti Town clock.**
- (d) Solid Waste Management and Minimisation:
- Promotion of kerbside waste audit.
 - Promotion of 'Plastic Free July', including a Facebook competition encouraging followers to share tips for reducing plastic consumption.
 - Monthly promotion of Love Food Hate Waste through the Waitomo News cooking column.
 - Guide to Composting created and distributed.
 - Publication of transfer station opening hours and fees and charges in Community Newsletters.
 - Promotion of two waste minimisation workshops held in Te Kuiti.
- (e) Animal **Control Service**:
- Publication of impounded dogs.
 - Publication of Dog Registration and annual fees for 2020/21.
- (f) Rates **Newsletter**
- Provided useful rates related information including; what rates are made up of, how to pay your rates and how to apply for a rates rebate.

3.6 **OBJECTIVE 2: ENCOURAGE INVOLVEMENT IN LOCAL DECISION-MAKING**

3.7 Communication messages were implemented for the following work programmes to ensure that the community were informed and engaged in the process, and of the outcomes.

- Fees and Charges 2020/21.
- Waitomo District Resident Survey 2020.
- Council Meetings – providing the community information on upcoming meetings, and the key decisions that were made.

3.8 **OBJECTIVE 3: ENSURE COMMUNITIES ARE WELL INFORMED ON COUNCIL'S ACTIVITIES/OPERATIONS**

3.9 The COVID-19 pandemic significantly impacted council operations, particularly during Alert Levels 4 and 3, as the government implemented the alert levels rapidly. The resulting mandatory changes to Council's services (to providing essential services only) were initially communicated via social media and Council's website. Newspapers were not operating during these initial stages. The website had an alert on COVID-19 on the 'landing' page and a dedicated services update page.

3.10 From May, advertisements were placed in the Waitomo News, and media releases and social media posts were published regularly to update the community. As discussed above, media releases from the WWEOC were also published on Council's website and facebook. When practicable, other important community related COVID-19 information was also published, including:

- Opening hours for Community Based Assessment Centres (CBACs)
- How to download the government COVID-19 contact tracer mobile app; and
- How businesses can create a QR code for the required contact tracing notices.

3.11 In addition to the above:

- Council meetings were publicised each month.
- Temporary roads closures, bridge repairs, footpath renewals and issues with the roading network as a result of weather events were communicated by media releases, across Council's website and Facebook page.
- Urgent issues i.e. temporary road closures / blocked roads and weather warnings were communicated in a timely manner to the community.

3.12 **OBJECTIVE 4: SUPPORT COUNCIL'S REPUTATION IN THE DISTRICT**

3.13 The following initiatives have been undertaken in relation to this objective:

- Ensuring Council's website is updated with information, publications and news as required;
- Distribution of service request queries received via social media to appropriate WDC departments;
- Coordination of media requests and responses are facilitated;
- Development and publication of media releases on the website and shared on social media;
- Sharing positive stories, photos and events on social media to support a positive reputation in the District.

3.14 **OBJECTIVE 5: SUPPORT COUNCIL'S REPUTATION WITHIN THE LOCAL GOVERNMENT (LG) SECTOR**

3.15 The following initiatives have been undertaken in relation to this objective:

- Continued promotion of the services provided by WDC in relation to its role as a Local Government
- Publication of Local Government New Zealand media releases
- NZTA priority traffic updates relevant to our area.

3.16 **OBJECTIVE 6: ATTRACT PEOPLE TO LIVE OR WORK IN AND VISIT THE WAITOMO DISTRICT**

3.17 The following initiatives have been undertaken in relation to this objective:

- Proactively posting on our Te Kuiti Visitor information Facebook page
- Sharing of social media posts from Hamilton and Waikato Tourism
- Sharing of posts about local business development news, and tourism opportunities; including Te Waka news and events
- Distribution of 'New Resident Welcome Packs' in liaison with Customer Services.

3.18 **OBJECTIVE 7: PROMOTE A SENSE OF COMMUNITY AND PRIDE OF PLACE**

3.19 The following initiatives have been undertaken in relation to this objective:

- Promotion of the Youth Council; including the Youth Council featuring as the Waitomo Young achievers after organising the 'Battle of the Valley's event' and promotion of the rangatahi photo competition.
- Promoting the importance of recycling and disposing of litter responsibly, including supporting and promoting Legendary Te Kuiti community clean up days.
- Supporting and promoting community events and initiatives, including Yellow Day in Te Kuiti.
- Co-hosting of events on our Facebook page including Sport Waikato, Te Waka, Legendary Te Kuiti, MSD and Manipoto Whanau Ora to increase reach to a wider audience and to ensure people are informed about opportunities to participate in events of local interest, which are not necessarily Council-specific;
- Promotion of local services like the Library, Aquatic Centre, Visitor Information Centre, and Landfill.
- Promotion of council run events, including Colour Run and 2020 Citizen Awards (both postponed due to COVID-19).
- Promotion of grant and funding opportunities as well as the benefit the community is seeing from our contributions.

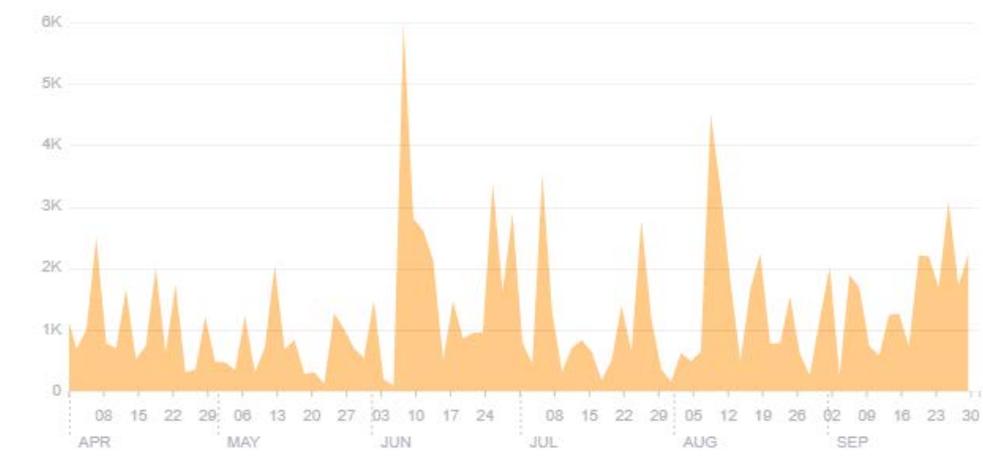
3.20 **KEY STATISTICS**

3.21 **SOCIAL MEDIA**

3.22 WDC Facebook page:

- Page **likes** have increased to 3,112 (15% increase).
- Post engagement has increased by 34%
- Post frequency has increased with a focus on engaging information and photos.

Post Reach 1 April 2020 – 30 September 2020



3.23 Animal Control Facebook page:

- **Page likes have increased to 1,283 (increase of 9%).**

3.24 Te Kuiti Visitor Information Centre page

- **Page likes have increased to 1104 (increase of 2%).**

3.25 **Website**

3.26 The website is an important tool for WDC. A new website was launched in March the year, earlier than planned due to the COVID-19 Pandemic Alert Levels and subsequent lockdown. Launching the new website enabled WDC to utilise functionality and tools that weren't available on the previous website (i.e. alert banners).

3.27 The website focuses on improving the user experience by making information easy to find. However, it is noted that there is an ongoing project to review and enhance content on the website over time.

3.28 Enhancements to the website include online payment functionality, with customers now able to pay rates, dog registration and water bills online.

3.29 **Media Releases**

3.30 There has been an increased focus on proactively releasing media releases in relation to WDC business.

3.31 Media Releases are an important communication tool as they keep the community updated, and improve engagement and WDC presence in the community. Media releases are able to be utilised across multiple mediums: local papers, stakeholder newsletters, on social media.

3.26 Since April 2020, 29 media releases have been published.

Suggested Resolution

The Business Paper Progress Report: Delivery against Communications Strategy be received.



TERRENA KELLY
GENERAL MANAGER STRATEGY AND ENVIRONMENT

13 October 2020

Attachments: 1 Communications Strategy – 2018 (A412599)



Communications Strategy

2018

Table of Contents

Introduction.....	1
Communications Objectives	2
Communication Principles	3
Communication Methods.....	4
Key Audiences.....	5
Processes	6
Implementation of the Communications Strategy	7
Evaluation	8

Introduction

Communication is an essential part of good management and the effective delivery of Council services. We communicate to:

- Build support and advocacy,
- Engage the community and target audiences,
- Harness resources to create change, and
- Be authentic in demonstrating our core values.

Generally speaking, the “why” can be defined by five broad desired responses:

1. To raise awareness,
2. To build understanding,
3. To create a belief,
4. To create behaviour change, and
5. To generate advocacy.

Table 1: Why are we engaging with the community?

Awareness	Understanding	Belief	Behaviour Change	Advocacy
“Never heard of it/ them.”	“I get it – I can see this as important/ relevant to me.”	“I can relate to this – I want to get involved.”	“I will do something about this – and I know what to do.”	“Everyone needs to understand this and get involved.”
Build knowledge and consciousness	Education, engagement/ involvement	What’s the proposition for me? How is this relevant to me?	What’s the call to action? What do you want me to do about it?	Support and systems to facilitate systemic change

(Davies, 2011)

One flows from the other. You can’t drive behaviour change until you have awareness, understanding or belief.

Deliberate, planned and sustained communication effort from Council is critical to establish and maintain mutual understanding between Council and its community as well as its other stakeholders. It is also a key aspect of Council meeting its legislative requirements. The Local Government Act 2002 requires local authorities to assist and promote opportunities for public participation in local decision making. A Communications Strategy and an appropriately resourced function is an essential tool for meeting Council’s strategic objectives and statutory responsibilities.

This Communications Strategy aims to be a “broad statement of strategic direction” for Waitomo District Council’s approach to communications in both levels of service and function.

This strategy:

- Provides a guide to Council’s day-to-day communications activities;
- Sets Council’s expectations for media; and

- Allows Council to better engage with its community in a genuine way.

The Strategy has three key areas

1. Objectives
2. Principles
3. Processes

This strategy describes what Council wants to achieve, who it will engage with, through what channel and how we plan to evaluate the usefulness and effectiveness of Council communications.

Communications Objectives

Objectives are the specific results that we aim to achieve through communication. They are the backbone of the strategy and influence all aspects, including outcomes and actions. The Communication Objectives have been established taking into account Council's overall Vision for the District and strategic direction. They also take into account the broader local government environment.

Council's Vision is ***"Creating a better future with vibrant communities and thriving business."*** One of the focus areas in Council's 2015-25 LTP is placing a greater emphasis on community and economic development. The objectives align to this.

In May 2015, Local Government New Zealand research (Local Government New Zealand, 2015) found that general public understanding of what Councils do is extremely low and, while seen as important to society, Councils generally had a poor reputation.

While it can be debated that a majority of those negative perceptions are in fact due to the quality of or issues with service delivery itself, some of the solution lies in effectively promoting what Councils are doing well and communicating in a transparent and up-front manner when things go wrong.

With this in mind, Waitomo District Council is focused on developing those relationships and creating an environment where its stakeholders want to communicate with Council.

Council communication policies must also take account of statutory obligations to consult with the community. *"The prime purpose of consultation is to enable the effective participation of individuals and communities in the decision-making of Councils. This will enable elected representatives to make better-informed decisions on behalf of those they represent."* (Department of Internal Affairs)

In accordance with the Local Government Act 2002 the following six principles apply when a Council undertakes consultation:

- Councils must provide anyone who will or may be affected by the decision, or anyone who has an interest in the decision, with reasonable access to relevant information;
- These people should also be encouraged to express their views to Council;
- People who are invited to present their views to Council should be given clear information about the purpose of the consultation and the scope of the decisions being made;
- People who wish to present their views must be given reasonable opportunity to present them;
- Councils should receive these views with an open mind and give them due consideration when making a decision; and

- Council should provide people presenting their views with information relevant to decisions and the reasons for them.

Based on the needs and requirements above Council has set out the following Objectives:

1. Promote the value of Council's role in the community,
2. Encourage involvement in local decision-making,
3. Ensure communities are well informed on Council's activities/ operations,
4. Support Council's reputation in the District,
5. Support Council's reputation within the Local Government (LG) sector,
6. Attract people to live or work in and visit the Waitomo District, and
7. Promote a sense of community and pride of place.

Although all of the above objectives are important, in line with its vision, Council has determined that Objective 6, to attract people to live or work in and visit the Waitomo District, is the most important communication objective. Objective 5 - Support Council's reputation with the LG sector was also identified as a key objective.

Prioritising objectives assists with resource allocation during implementation of the strategy.

Communication Principles

The communication principles have been established to guide the form and content of messaging. The principles have been set out to move Council's target audiences from their current thinking or understanding to the preferred position.

These are:

- **Proactive communications** on projects, milestones, activities to pre-empt issues;
- Drive **consistent and repeated messaging** through an integrated communications approach to build credibility and legitimacy;
- **Link messaging to WDC's strategic direction** - social, economic and cultural interests of people and communities. Maintain and enhance quality of the environment, and reasonably foresee needs for future generations.
- **Messaging language** to be such that it comes across as accessible, hands-on, specialists in our field and as having a firm grasp of the issues and avoid the risk of being perceived as a nameless, faceless, authoritarian organisation.
- Establish **strong brand recognition** of Council by ensuring all Council communications bear Council's clear and consistent brand - both in terms of messaging style, logo and collateral. This will promote the breadth of our work;
- Seek to **understand our community** and its target audiences by proactively establishing relationships with key stakeholders to enable two-way communication. This is **particularly important with Māori**, both in respect to obligations under the Local Government Act and the Resource Management Act and as critical participants in our economy and communities;
- **Tailor messaging** to key audiences to ensure that our messaging resonates and also that we are using our limited resources efficiently;

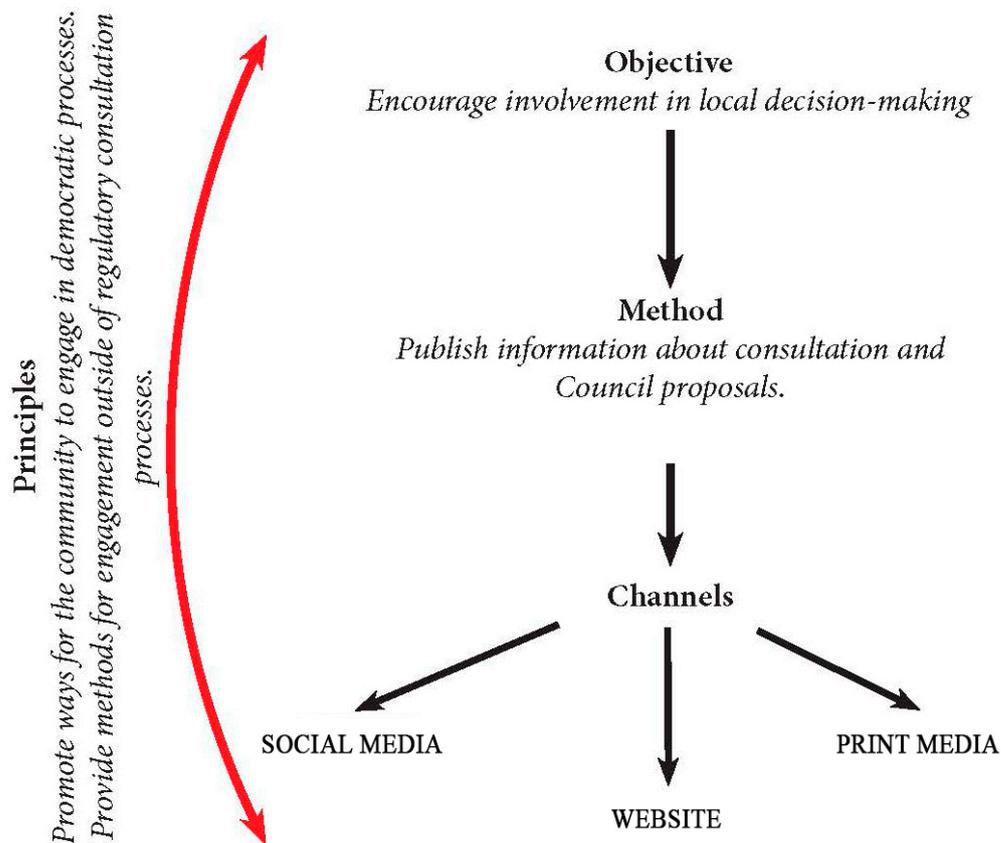
- Ensure internal stakeholders **understand our communications objectives** so we have a consistent message;
- Ensure our communications **clearly reflect Council’s collective position** and is 100% reliable to build trust and confidence;
- Ensure all communications are in **plain English, concise and balanced**;
- Ensure any **misinformation, biased or unfair information is addressed as soon as possible**;
- **Promote ways for the community to engage** in democratic processes. Provide methods for engagement outside of regulatory consultation processes.

Communication Methods

Methods are where the “rubber hits the road” for Council’s communications function. These are tasks, channels or campaigns that will bring into effect the objectives outlined previously. The principles will guide the messaging.

There may be a number of methods to achieve each objective. Subsequently, each method may be fed through a number of channels at Council’s disposal, both internal and external.

An example of how this may flow from objectives to principles, through to method is set out below.



Key Audiences

In order to maximise the penetration of communication resources, key audiences need to be identified.

Identifying leaders within those groups is essential to mobilising or soliciting feedback for various Council processes or projects. Likewise, understanding the motivations of those groups, the demographic of people that make up those groups and how they prefer to engage will inform tailored communications for each group.

The key audiences Council will engage are:

- District community in general,
- Businesses and business associations,
- Community Groups such as Ratepayers Group, Youth Council, Grey Power, Schools,
- Māori organisations,
- Media - local and regional,
- Central government and agencies, and
- Other Councils in the Waikato Region or Councils WDC shares a boundary with.

Council's stakeholder database aims to identify stakeholders and maximise the effectiveness of this resource.

The different channels that are used to communicate with the community are:

- Website
- Print media
- Social Media
- Radio
- Council publications; Rates newsletter, flyers, brochures/guides and posters.

Communicating online is a key element of communication in today's world. An effective website has become an essential means of communication for all organisations.

WDC's Customer Service Strategy includes a key action focused on providing technology solutions: *'Ongoing review of WDC website to provide online communications and transaction processing – i.e. 24/7 customer access'*.

WDC's website is an integral part of the way we deliver services to the community offering access to Council information 24 hours a day, seven days a week. It will be promoted as a key means of communicating and doing business with Council.

Processes

Processes outline a series of actions or steps taken in order to achieve the objectives. To ensure Council's messages are consistent, authentic, and accurate and in line with Council's collective position, it is important that there are robust processes for who can say what, when and to whom.

Forms and processes ensure that the objective of 'ensuring communities are well informed on Council activities/operations' is achieved.

The communications team lead the development of communications processes to ensure key messages are outlined early in the communication planning process, that spokespeople and project ambassadors are identified and contingencies for risks and challenges identified prior to the commencement of a project.

It is critical that all Council officers recognise, value, practice and take accountability for quality communication in their daily activities. In particular, when a new project or area of focus arises, staff will liaise with the communications team to prepare a plan for communication of the project.

Communications will be deployed prior to and following completion of public consultation.

Typically, Councils rationalise decisions on who will publically represent an issue in the media. WDC's Media Policy outlines who may speak to the media.

Communication involves not only keeping people informed about what Council is doing, but also providing people with the opportunity to provide feedback on Council's planning and decision making and how it is performing in its' service delivery.

Council will continue to actively seek feedback from the community with the support of the Communications team.

To assess performance, Council currently carries out annual Resident Satisfaction Surveys (RSS) as a means of gauging the satisfaction of residents with the activities it carries out and the services delivered. The RSS is a good means of gauging the satisfaction of residents.

The Customer Service Strategy provides for a range of targeted customer satisfaction surveys. These are implemented upon completion of the delivery of a specific Council service, such as building consents and provision of Elderly Persons Housing.

Council also communicates with it's communities on planning and decision making on matters such as:

- Long Term Plan and Annual Plans,
- Annual Report,
- Policies and Bylaws,
- Some Strategies and Plans,
- District Plan, and
- Certain Resource Management decisions.

Communications in the form of educational information is required from time to time, to support an improved level of community awareness.

Examples of the activities in which Council communications serve an education purpose are:

- Waste Minimisation,

- Responsible Dog Ownership, and
- Water Conservation.

Implementation of the Communications Strategy

Examples of how Council will implement its communication objectives are set out in the following table.

Objective	Example
Promote the value of Council's role in the community	<p>Regular sharing of service and project information via website, social media and print media.</p> <p>Ensure that the WDC logo and sponsorship is highlighted in communications.</p> <p>Publication of funding and grants information on the website.</p>
Encourage involvement in local decision-making	<p>Extensive promotion of opportunities to engage i.e. using various methods – website, social media, radio and print media.</p> <p>Provide advice on how to make a submission to Council.</p> <p>Communicate any opportunities to engage with Elected Members.</p> <p>Increase use of Mayor's Facebook page in consultation communications campaigns.</p> <p>Share snippets of consultation material on social media and radio in a way that is easy to understand and consider.</p>
Ensure communities are well informed on Council's activities/operations	<p>Proactively communicate significant operational activities and projects in a timely manner.</p> <p>Council operations/work that has the potential to significantly impact on the day-to-day service delivery will be publicly notified.</p>
Support Council's reputation in the District	<p>Promptly respond to Council issues with planned media release.</p> <p>Publish and share information about Council's performance and achievements.</p>

<p>Support Council's reputation within the LG sector</p>	<p>Contribute and showcase a particular success to 'Local Wins' under the LGNZ website.</p> <p>Share LGNZ news on Social media.</p>
<p>Attract people to live or work in and visit the Waitomo District</p>	<p>Promote District on social media.</p>
<p>Promote a sense of community and pride of place.</p>	<p>Encourage and promote compliance with Council's regulations, bylaws, policies and vision in Council communications.</p> <p>Communicate negative effects of vandalism/graffiti on community environment and image.</p> <p>Communicate successful collaboration and partnerships that result in positive outcomes for community groups and organisations.</p> <p>Promote Council services that support positive outcomes for community using various communication methods.</p>

Evaluation

Evaluation of the effectiveness of Council communications is increasingly important.

It is important that resources are used efficiently and demonstrating what works and what doesn't will help refine future communications strategies.

A six-monthly progress report to Council will provide an update on the actions and campaigns undertaken to meet the objectives set out in this strategy.

Document No: A484560

Report To: Council



Meeting Date: 27 October 2020

Subject: Draft Waitomo District Comprehensive Reserve Management Plan

Type: Decision Required

Purpose of Report

- 1.1 The purpose of this business paper is for Council to consider whether to pre-notify the draft Waitomo District Comprehensive Reserve Management Plan in accordance with Section 41(5) of the Reserves Management Act 1977.

Background

- 2.1 Waitomo District Council (WDC) is required under section 41 of the Reserves Act 1977 ('Reserves Act') as an "administering body" to prepare Reserve Management Plans for any reserves under its control, management or administration. Section 41(4) requires that Reserve Management Plans are kept under continuous review, so that, the plan is adapted to changing circumstances or amended in accordance with increased knowledge.
- 2.2 In line with Council's direction, a draft Waitomo District Comprehensive Reserve Management Plan (RMP) was developed to provide a framework to better facilitate discussions with stakeholders about the district's reserves. The draft RMP identifies reserves that are owned or administered by WDC along with their legal status, land area, location, purpose and current use.
- 2.3 The draft RMP also specifies the legislative context, strategic framework and identifies what activities can be undertaken on a reserve without Council approval (allowed activities) and which activities would require approval from Council before being undertaken (activities requiring authorisation). Each reserve also has an individual management plan that contains its name, legal description and a short description of its values (heritage, natural, recreation any other identified value).
- 2.4 In December 2019, key stakeholders were invited to an open day to facilitate initial discussions. Informal feedback was accepted until the end of February this year and stakeholder comments have been incorporated into the draft RMP.

Commentary

- 3.1 Section 41(5) – (6) of the Reserves Act sets out the process for notification and adoption of Reserve Management Plans. WDC is required give public notice of its intention to prepare a management plan, unless Council has determined by

resolution that written suggestions on the proposed plan would not materially assist in its preparation:

41(5) Before preparing a management plan for any 1 or more reserves under its control, the administering body shall—

(a) give public notice of its intention to do so; and

(b) in that notice, invite persons and organisations interested to send to the administering body at its office written suggestions on the proposed plan within a time specified in the notice; and

(c) in preparing that management plan, give full consideration to any such comments received.

(5A) Nothing in subsection (5) shall apply in any case where the administering body has, by resolution, determined that written suggestions on the proposed plan would not materially assist in its preparation.

- 3.2 As described in section 2.4, informal consultation with identified stakeholders occurred between December 2019 and February 2020. Interested parties and organisations were invited to provide both verbal and written suggestions. These were fully considered in the development of the draft RMP.
- 3.3 As informal targeted stakeholder consultation has already occurred, it is considered that seeking additional written suggestions on the draft RMP at this stage will not materially assist in its preparation, and the process will impose unnecessary costs on ratepayers. No party will be disadvantaged by Council not pre-notifying the draft RMP as the public and any interested groups will be able to provide submissions on the RMP once it is notified.

Analysis of Options

- 4.1 There are three reasonably practicable options available to Council, (1) do not give public notice pursuant to section 41(5) of the Reserves Act, and proceed to full notification of the RMP in 2021; or, (2) pre-notify the draft RMP as a framework for discussion, or (3) give public notice of WDC's intention to prepare and RMP without providing the draft RMP.
- 4.2 The first option would mean that the informal consultation which occurred with identified stakeholders between December 2019 and February 2020 would be accepted by Council as having provided sufficient feedback on which to develop the draft RMP's provisions. Interested parties and organisations were invited to provide both verbal and written suggestions which were fully considered in the development of the draft RMP. This option is low risk because the formal notification, submissions and hearing process still allows all members of the public and interested groups the opportunity to fully participate by making a submission.
- 4.3 The second option is to resolve to pre-notify the draft RMP as a framework for discussion. This option ensures that the public – rather than just identified stakeholders - understand which reserves are included in the draft RMP, the scope of the RMP, and it provides a framework to refine the use and long-term goals for each reserve. However, there is a cost element to this option and a requirement to devote resources to evaluating suggestions. Generally, pre-notification processes, unless they are highly targeted, do not result in major

changes to documents. So little is likely to be gained materially from wider, less targeted consultation in the form of public pre-notification under section 41(5).

- 4.4 The final option is to give public notice of WDC's intention to prepare the RMP without providing the draft RMP. This approach is in line with the Reserves Act but does not allow the public an overall picture of which land parcels are subject to the provisions of the draft RMP. There is also a risk that not defining the scope of the RMP could raise public expectations as to what the document's purpose is and the level of detail it contains. This option is unlikely to provide additional information that would assist with the further development and refinement of the RMP.
- 4.5 Option 1 is recommended – do not give public notice pursuant to section 41(5) of the Act.

Considerations

5.1 **RISK**

- 5.2 There are no risks associated with option 1 as the Reserves Act specifically provides for Council to determine that written submissions will not materially assist in the preparation of the RMP. In addition, the public will be able to consider and submit on the draft RMP once it is formally notified contemporaneously with the Proposed District Plan in 2021.

5.3 **CONSISTENCY WITH EXISTING PLANS AND POLICIES**

- 5.4 The draft RMP has been written to align with the Proposed District Plan in order to reduce duplication and streamline administration between the two documents. The draft RMP is high level but suggests that provision should be made for detailed development planning for some of the larger reserves. This allows these reserves to use development plans to complement the RMP and address the specific needs of a reserve (or parts of a reserve).

5.5 **SIGNIFICANCE AND COMMUNITY VIEWS**

- 5.6 The level of engagement undertaken to date is considered appropriate to the significance of the issue and is compliant with the legislative requirements. The pre-notification process is not considered to be a significant decision pursuant to Council's Significance and Engagement Policy.

Recommendation

- 6.1 Council agree to apply section 41(5A) of the Reserves Management Act 1977, resolving that that written suggestions on the draft Waitomo District Comprehensive Reserve Management Plan would not materially assist in its preparation. Council agree to notify the draft Waitomo District Comprehensive Reserve Management Plan, contemporaneously with the Proposed District Plan, in accordance with Section 41(6) of the Reserves Management Act 1977 for the reasons detailed above.

Suggested Resolutions

- 1 The business paper 'Draft Waitomo District Reserve Management Plan – Pre-notification' be received.
- 2 Pursuant to Section 41(5) and 41(6) of the Reserves Management Act 1977, Council resolves:
 - (a) That in accordance with section 41(5A) of the Reserves Management Act 1977, written suggestions on the proposed (draft) Waitomo District Comprehensive Reserve Management Plan would not materially assist in its preparation; and
 - (b) To publicly notify the proposed (draft) Waitomo District Comprehensive Reserve Management Plan in accordance with Section 41(6) of the Reserves Management Act 1977 contemporaneously with the public notification of the Proposed District Plan.



TONY HALE

GENERAL MANAGER INFRASTRUCTURE SERVICES



TERRENA KELLY

GENERAL MANAGER STRATEGY AND ENVIRONMENT

27 October 2020

Document No: A482959

Report To: Council



Meeting Date: 27 October 2020

Subject: Kerbside Waste Audit Report 2020

Type: Information Only

Purpose of Report

- 1.1 The purpose of this business paper is to inform Council of the outcome of the WDC Kerbside Waste Audit conducted in July 2020.

Background

- 2.1 Solid waste management is a Significant Activity for the Waitomo District. The rationale for this service is to ensure that the natural environment is protected from the potential detrimental effects of solid waste disposal, and that the waste disposal needs of the District community are met.
- 2.2 The Waste Management Act 2008 (WMA) requires that a waste assessment should include forecasts of demands for certain waste services. The minimisation of certain waste streams benefits the social, economic and environmental wellbeing of the District.
- 2.3 An inventory of waste types has been compiled from a waste audit of the contents of the kerbside bag collection. In order to set priorities and establish benchmarks by which progress is monitored, a waste audit is carried out every two years. The audit identifies the type of waste being generated or recycled including quantities and source.
- 2.4 The Solid Waste Activity Management and Minimisation Plan (SWAMMP) determines that an audit of collected waste is carried out on a biennial basis to measure the effectiveness of current waste minimisation initiatives. The audit also informs any review of existing performance indicators, and effort to see how these can better achieve the minimisation of waste going to landfill.

Commentary

- 3.1 The 2020 Waste Audit was carried out over a Tuesday and a Friday, and a simple of bags were collected from Te Kuiti (urban), Waitomo village (rural), Piopio (rural) and Mokau (rural).
- 3.2 Differences in the average weight of rubbish bags, and number of rubbish bags, set out by each household, were found between urban and rural areas.

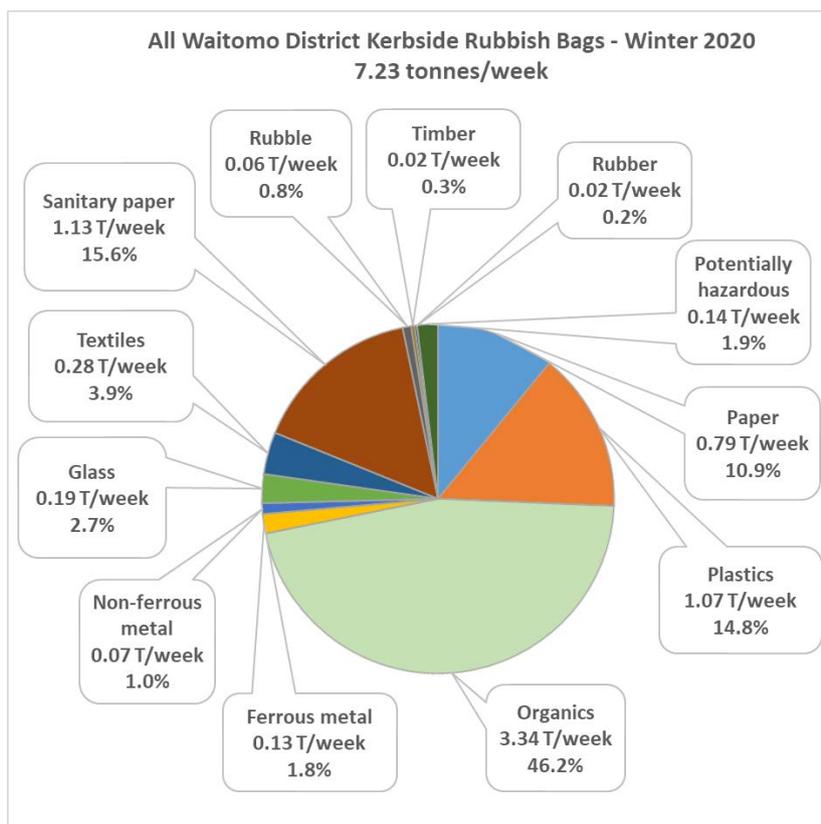
- 3.3 The average weight of an urban kerbside rubbish bag was 5.47 kg, while the average weight of a rural bag was 6.16kg. The average urban household set out 1.12 bags, compared to 1.21 bags from rural households. This gives an average household set out weight of 6.10 kg for urban households and 7.46kg for rural households.
- 3.4 As not all households set out kerbside waste every week, the average household set out weight cannot be regarded as equivalent to an average weekly kerbside waste generation.
- 3.5 The audit uses the twelve primary waste categories in the Ministry for the Environment’s Solid Waste Analysis Protocol (SWAP) 2002; being paper, plastics, putrescibles (organic materials/food waste), ferrous metals, non-ferrous metals (recyclable metals), glass, textiles, nappies and sanitary, rubble and concrete, timber, rubber and potentially hazardous items.
- 3.6 The table below details the changes in kerbside bag compositions since the 2016 waste audit.

Table 3.1 – Comparison of kerbside rubbish bag composition with previous waste audit results

Comparison of 2016 and July 2018 kerbside waste audits	2016	Winter 2018	Summer 2019	Winter 2020
Paper	12.8%	11.2%	11.1%	10.9%
Plastics	20.4%	14.6%	14.3%	14.8%
Organics	39.1%	41.5%	42.8%	46.2%
Ferrous metals	1.1%	1.8%	1.4%	1.8%
Non-ferrous metals	0.4%	1.0%	0.6%	1.0%
Glass	4.1%	2.4%	3.0%	2.7%
Textiles	4.9%	5.3%	6.2%	3.9%
Sanitary paper	16.1%	17.4%	16.5%	15.6%
Rubble	0.5%	3.4%	1.7%	0.8%
Timber	0.1%	0.2%	0.5%	0.3%
Rubber	0.3%	0.2%	0.2%	0.2%
Potentially hazardous	0.3%	1.1%	1.7%	1.9%
TOTAL	100.0%	100.0%	100.0%	100.0%

- 3.7 The pie chart below gives a visual snapshot of the contents of a kerbside rubbish bag based on figures from the 2020 audit.

Figure 1. Winter 2020 kerbside waste audit composition chart



- 3.8 The amount of rubble, concrete, timber, rubber, non-ferrous metals and potentially hazardous substances contained in the refuse bags collected in 2020 remains nominal.
- 3.9 This most recent audit results show a 4.7% increase in putrescible (organic materials/food) waste compared to the winter 2018 audit. This brings the overall total percentage of organic/food waste contained in the general refuse bags at almost 50%. This percentage has been steadily increasing over the last decade and is a trend that is seen nationally. Some councils in the region have already introduced food waste collections to address this including Hamilton City and Ruapehu District.
- 3.10 The table below shows the proportion of waste in kerbside rubbish bags that could have been diverted using these methods. Separate percentages are shown for urban, rural, and all kerbside rubbish bags. Weekly tonnages of each material are also shown.
- 3.11 The results from the 2020 waste audit also identified a 0.6% increase in recyclables against the 2018 Winter audit. The increase may be attributed to confusion around what can and cannot be recycled.

Table 3.2 - Diversion potential of Waitomo District rubbish bags - Winter 2020

Divertible materials in Waitomo District rubbish bags - Winter 2020	Urban rubbish bags	Rural rubbish bags	All kerbside rubbish bags	Tonnes per week
RECYCLABLE MATERIALS				
Paper - Recyclable	9.2%	7.8%	8.8%	0.63 T/week
Plastic - #1-2 containers	2.2%	2.1%	2.2%	0.16 T/week
Steel cans	0.7%	1.4%	0.9%	0.07 T/week
Aluminium cans	0.4%	0.2%	0.4%	0.03 T/week
Glass - Bottles/jars	2.1%	3.1%	2.4%	0.17 T/week
Subtotal	14.6%	14.6%	14.6%	1.05 T/week
COMPOSTABLE MATERIALS				
Kitchen waste	44.1%	37.1%	42.1%	3.04 T/week
Greenwaste	0.3%	0.1%	0.2%	0.02 T/week
Subtotal	44.5%	37.2%	42.3%	3.06 T/week
TOTAL DIVERTIBLE	59.0%	51.8%	56.9%	4.11/week

3.12 The table below shows a comparison in the amounts of Kerbside collection waste compared to other North Island Territorial Authorities. Note: Results for other districts are from previous years e.g. Hamilton City have recently upgraded to a wheelie bin collection service which also includes a food waste bin.

Table 3.3- Comparison of kerbside waste metrics to other areas

Comparison to other areas - Weight per household set out	Hamilton City	Tauranga City	Former Auckland City	Undisclosed North Island district	Waitomo District	Waitomo District
Date of audit(s)	June & Nov. 2017	2016-17	Dec-10	Mar-18	Jul-2018	Jul-2020
Kerbside waste services audited	Rates-funded bags - 2/week max	User-pay bags and bins	Rates-funded weekly 120-litre bins	User-pays bags and 120-litre bins	User-pays bags	User-pays bags
Kerbside recycling services available	Rates-funded weekly 45-litre crate	User-pays bins or crates	Rates-funded fortnightly 240-litre bin	Rates-funded fortnightly crates	Rates-funded weekly crates	Rates-funded weekly crates
Average household set out weight	8.45 kg	12.21 kg	9.91 kg	8.99 kg	6.92 kg	6.50 kg
Recyclable materials						
Recyclable paper	0.76 kg	1.09 kg	0.98 kg	0.72 kg	0.64 kg	0.57 kg
Recyclable plastic	0.16 kg	0.23 kg	0.23 kg	0.22 kg	0.11 kg	0.14 kg
Steel cans	0.08 kg	0.11 kg	0.09 kg	0.11 kg	0.06 kg	0.06 kg
Aluminium cans	0.01 kg	0.05 kg	0.02 kg	0.02 kg	0.02 kg	0.02 kg
Bottles/jars	0.14 kg	0.55 kg	0.26 kg	0.21 kg	0.13 kg	0.15 kg

Comparison to other areas - Weight per household set out	Hamilton City	Tauranga City	Former Auckland City	Undisclosed North Island district	Waitomo District	Waitomo District
Subtotal	1.15 kg	2.03 kg	1.59 kg	1.28 kg	0.97 kg	0.95 kg
Compostable materials						
Kitchen waste	3.11 kg	4.28 kg	3.71 kg	3.57 kg	2.51 kg	2.73 kg
Greenwaste	0.77 kg	2.07 kg	0.90 kg	0.14 kg	0.16 kg	0.02 kg
Subtotal	3.87 kg	6.35 kg	4.62 kg	3.71 kg	2.67 kg	2.75 kg
TOTAL DIVERTABLE	5.03 kg	8.39 kg	6.20 kg	4.99 kg	3.63 kg	3.70 kg
% recyclable	13.7%	16.7%	16.0%	14.3%	14.0%	14.6%
% compostable	45.8%	52.1%	46.6%	40.9%	38.6%	42.3%
Total divertable	59.5%	68.7%	62.6%	55.3%	52.5%	56.9%

- 3.13 WDC's SWAMMP provides seven performance targets for the Solid Waste activity, including a 1% per annum reduction in the quantity of recyclables such as paper and plastics, and 1% per annum reduction of organic material entering the landfill, as compared to the 2016 audit. These targets were not achieved this year.
- 3.14 The author of the audit report has noted that these performance measures cannot be accurately assessed based on the data available. To do so would require annual tonnage data for 2016, 2018 and 2020, and more granular data from the 2016 waste audit. That particular audit does not differentiate between recyclable and non-recyclable components of paper, plastic, glass, ferrous metal and non-ferrous metal.
- 3.15 The failure to meet these KPIs will continue unless there is a change in the level of service; for example, introducing a food waste collection. It is recommended this be reviewed as part of the work on a new Solid Waste Asset Management Plan.
- 3.16 A series of workshops were held this year to address the waste crisis and help facilitate behavior changes towards waste minimisation. These workshops were held in Te Kuiti and promoted Waste Free Living, Plastic Free July, as well as the use of reusable menstrual products as ways to minimise waste in the home.
- 3.17 Reducing food waste is a key strategy for meeting the goals of the Waste Minimisation Act. WDC joined a collective of councils around New Zealand to implement a national 'Love Food, Hate Waste' campaign to reduce food waste sent to landfills. Articles promoting ways to reduce food waste have featured in the Waitomo News and on WDC's Facebook page.
- 3.18 Other targeted educational materials include the publication of '*A Guide to Composting*' brochure available at front desk and the library as well as online.
- 3.19 Composting workshops are taking place in November 2020 at the Les Munro Centre. Attendees will benefit from a home composting subsidy scheme.
- 3.20 WDC will continue to provide educational material and public workshops about the importance of waste minimisation, and encourage residents to reduce, reuse and recycle.

- 3.21 The complete report submitted by Waste Not Consulting is enclosed separately and forms part of this business paper. The report provides more detailed information on waste audit findings.

Suggested Resolution

The business paper on Kerbside Waste Audit Report 2020 Results be received.



PARVA ZAREIE
MANAGER – WASTE MINIMISATION

October 2020

Separate Enclosure: Composition of Waitomo District Kerbside Waste – Winter 2020
(Doc #A481724)

Document No: A488837	
Report To: Council	
	Meeting Date: 27 October 2020 Subject: Motion to Exclude the Public for the Consideration of Council Business

Purpose

- 1.1 The purpose of this business paper is to enable consideration as to whether or not the public should be excluded from the consideration of Council business.
- 1.2 Council may choose whether or not to consider any of the items listed below in the public or public excluded portion of the meeting.

Commentary

- 2.1 Section 48 of the Local Government Official Information and Meetings Act 1987 gives the right, by resolution, to exclude the public from the whole or any part of the proceedings of any meeting, only on one or more of the grounds contained within that Section.

Suggested Resolutions

- 1 The public be excluded from the following part of the proceedings of this meeting.
- 2 The general subject of each matter to be considered while the public is excluded and the reason for passing this resolution in relation to each matter, as specified by Section 48(1) of the Local Government Official Information and Meetings Act 1987 are as follows:

General Subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Section 48(1) grounds for the passing of this resolution
1. Inframax Construction Limited – 2020 Annual General Meeting	Section 7(2)(a) – To protect the privacy of natural persons, including that of deceased natural persons	Section 48(1)(a)(i)

- 3 Council agree the following staff, having relevant knowledge to assist in the consideration of the items of business to be public excluded, remain in attendance to assist the Committee with its decision making:

Staff Member	Reason for Remaining in Attendance
Chief Executive	Council CEO
Manager – Governance Support	Committee Secretary

- 4 This resolution is made in reliance on Section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section 6 or Section 7 of that Act which would be prejudiced by the holding of the whole or relevant part of the proceedings of the meeting in the public.

A handwritten signature in blue ink, appearing to read 'M. Higgie', is positioned above the typed name.

MICHELLE HIGGIE
MANAGER – GOVERNANCE SUPPORT