

**Document No:** A578857

## **Report To:            Audit and Risk Committee**



**Meeting Date:**        12 October 2021

**Subject:**                **Declaration of Members' Conflicts of Interest**

### **Purpose of Report**

- 1.1     The purpose of this business paper is for 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

The Chairperson will invite Committee 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 Committee member must provide the following information relating to the Declaration:

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

<b>Elected Member Name:</b>		
<b>Item(s) of Business on the Order Paper</b>	<b>Reason for Declaration</b>	<b>Type of Conflict</b> Financial Non-Financial Conflict of Roles Pre-Determination
Item No -	•	•



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.

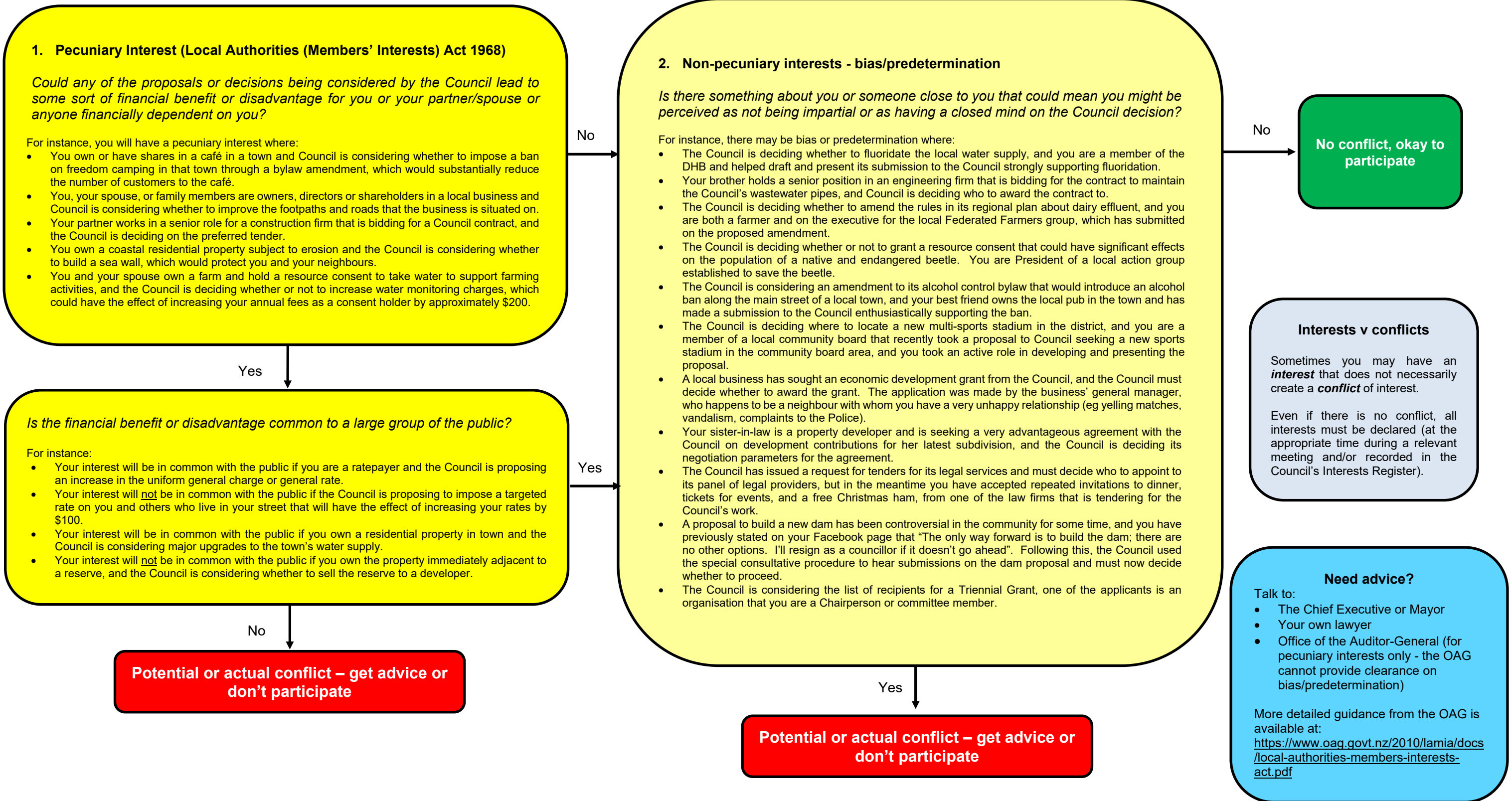
A Conflict of Interest may exist where the employee:

- 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!**

# Managing conflicts of interest

A conflict of interest is a situation where the responsibilities you have in your work for a public organisation are affected by an interest or relationship you have in your private life.

Having a conflict of interest does not necessarily mean you have done anything wrong. It all depends on how you manage it.

You need to ask yourself not just whether the interest or relationship means you are biased, but also whether someone looking in from the outside could have reasonable grounds to think you might be.

The “rules” for managing conflicts of interest in the public sector are generally stricter than in the private sector. If you work for a public organisation, the public needs to have confidence that any decisions you make:

- are made impartially and for the right reasons; and
- are not influenced by personal interests or ulterior motives.

Any decisions about conflicts of interest should take into account the core public service values:

- integrity;
- impartiality
- trustworthiness;
- respect; and
- responsiveness.



## Tips for managing conflicts

- Make sure you know what rules apply to you, whether in your employment contract, contract for services, terms of appointment, or any internal policies of the entity you work for.
  - Declare any interests you have that might pose a conflict. This shows you are being open. It will also help the entity you work for avoid putting you in a situation where a conflict might arise, or to manage a conflict if one arises.
  - Follow any rules or guidance provided by the entity you work for when deciding how to manage a conflict.
- As a minimum, declare any conflicts you have as soon as you become aware of them, preferably in writing.
  - Think about what else you might need to do to manage the conflict. Get advice if you need to. Talk to your manager, or if you are on a board, the chairperson.
  - You need to consider ethics as well as legal rules. Just because it's not unlawful to participate, that does not necessarily mean it would be appropriate to participate.

**If in doubt, stay out.**



## When you have to make a decision, ask yourself:

### FINANCIAL

- Do you stand to gain or lose financially from the decision?
- Does someone close to you – like an immediate family member – or a business you are involved with stand to gain or lose financially from the decision?

A situation does not need to involve cash changing hands to be considered a financial interest. A financial interest could, for example, relate to an effect on the value of property.

A financial interest might be direct or indirect. In situations that someone close to you or a business you are involved with has a financial interest, you might be considered to share their interest.

Financial interests are generally treated more strictly than other types of interest. If you have a financial conflict of interest, the law presumes you are biased. This is why you should automatically treat a financial conflict of interest seriously, even if it seems trivial to you.

For some entities in the public sector, there are specific statutory requirements that apply to managing the financial conflicts of interest, which you need to be aware of.

### NON-FINANCIAL

- Is someone close to you or an organisation you are involved with likely to be affected by the decision you make?
- If so, is there a risk that you will be seen to be biased in your decision because of this relationship or association?

If you have a conflict of interest, but not one from which you stand to gain or lose financially, the law does not automatically assume you are biased.

This does not necessarily mean a non-financial conflict is less serious than a financial conflict – but there is generally more room for judgement about whether it is acceptable for you to participate.

Questions you need to think about include:

- How close is your relationship with this other person or organisation?
- Will they be directly affected by the decision?
- How seriously will they be affected?

### CONFLICT OF ROLES

Will a second organisation you have a role in (entity B) be affected by the decision you are making for the public organisation you work for (entity A)?

If so:

- Is there a risk that you will be seen to be acting in the interests of entity B rather than entity A?
- If you participate in this decision, is there a risk that you might breach obligations you owe to either entity – for example, a duty of loyalty or confidentiality?

The issue with a conflict of roles is not so much whether you personally have a conflict, but whether the interests of the two organisations conflict.

If you have a conflict of roles, you will need to consider whether it is appropriate for you to participate in the decision-making process “on both sides of the table”. You will also need to think about whether you are going to be in a position to fulfil your obligations to both entities at the same time.



If there is a risk that there might be conflicts at some point during the decision-making process, you should discuss your situation with both entities. This gives each an opportunity to consider the risks from their perspective and decide whether they are comfortable with you participating on both sides.

### PRE-DETERMINATION

Is there anything you have previously done or said that might make people think you are not going to listen fairly to all the relevant information before you make your decision?

It is accepted that people working for public entities will have their own views on many matters, and, in many cases, might already have views on what the “right answer” to an issue is.

You are not required to approach every decision as though you have given it no prior thought, or have no existing knowledge or opinion. However, you are required to keep an open mind, and you must be prepared to change or adjust your views if the evidence or arguments warrant it.

That means you need to take care that what you do or say does not make it look like you have already made your decision before you have considered all the relevant information and evidence.

## Where to read more

FINANCIAL	NON-FINANCIAL	CONFLICT OF ROLES	PRE-DETERMINATION
Paragraphs 3.7-3.11	Paragraphs 3.12-3.24	Paragraphs 3.25-3.31	Paragraphs 3.32-3.40
Scenarios 3, 5	Scenarios 1, 2, 3, 9, 11	Scenarios 8, 10	Scenarios 4, 7
If you are an elected member of a local council, or a member of the governing body of any other entity to which the Local Authorities (Members' Interests) Act 1968 applies, please also read our Guide on that Act.			

## WAITOMO DISTRICT COUNCIL AUDIT, RISK AND FINANCE COMMITTEE

### MINUTES OF A MEETING OF THE WAITOMO DISTRICT COUNCIL AUDIT, RISK AND FINANCE COMMITTEE HELD IN THE COUNCIL CHAMBERS, QUEEN STREET, TE KUITI ON TUESDAY 17 AUGUST 2021 AT 9.15AM

**PRESENT:** Independent Chairperson Bruce Robertson, Mayor John Robertson, Deputy Mayor Guy Whitaker, Councillors Phil Brodie, Allan Goddard, Lisa Marshall, Janene New and Sue Smith

**IN ATTENDANCE:** Steve Bramley (SGL Funding Limited), Chair of the King Country Sport and Recreation Centre Steering Group

Paul Charman (Waitomo News)

Chief Executive; General Manager – Business Support; Manager – Governance Support; General Manager – Infrastructure Services, Manager – Strategy and Policy and General Manager – Community Services (for part only) and Leader – Communications and Engagement (for part only)

<b>1. Declarations of Member Conflicts of Interest</b>
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Members declared interests/conflicts of interest in respect to the Agenda as set out below:

Item(s) of Business on the Order Paper	Reason for Declaration	Type of Conflict <i>Financial / Non-Financial / Conflict of Roles / Pre-Determination</i>
Order Paper Public Excluded Item No. 1 – Presentation – King Country Indoor Sport and Recreation Centre Steering Group	<ul style="list-style-type: none"> <li>• Mayor Robertson</li> </ul> Council appointee to Steering Group	Interest Only
Order Paper Public Excluded Item No. 1 – Presentation – King Country Indoor Sport and Recreation Centre Steering Group	<ul style="list-style-type: none"> <li>• Cr Goddard</li> </ul> Council appointee to Steering Group	Interest Only
Order Paper Public Excluded Item No. 1 – Presentation – King Country Indoor Sport and Recreation Centre Steering Group	<ul style="list-style-type: none"> <li>• Cr New</li> </ul> Trustee of Game on Charitable Trust	Conflict of Roles

The Committee agreed that as this is a Presentation from the Steering Group Chairperson no conflicts of interest occur in this instance.

**Resolution**

The declarations be received.

Robertson/Brodie                  Carried



## **2. Confirmation of Minutes – 11 May 2021**

### **Resolution**

The Minutes of the Waitomo District Council Audit, Risk and Finance Committee meeting of 11 May 2021, including the Public Excluded minutes, be confirmed as a true and correct record.

Goddard/Whitaker                      Carried

## **3. Mastercard Expenditure Report (April – June 2021)**

The Committee considered a business paper presenting for the Committee's information and consideration, details of expenditure incurred via Waitomo District Council issued Corporate Mastercard.

### **Resolution**

The Mastercard Expenditure Report for the period April – June 2021 be received.

B Robertson/Whitaker                      Carried

## **4. Progress Report: Procurement Summary Schedule (April 2021 – June 2021)**

The Committee considered a business paper presenting a summary of the procurements made in the period April 2021 to June 2021 in accordance with WDC's Procurement Policy.

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

### **Resolution**

The Progress Report: Procurement Summary Schedule (April 2021 to June 2021) be received.

B Robertson/J Robertson                      Carried

## **5. Staff Submission to the Construction Contracts (Retention Money) Amendment Bill**

The Committee considered a business paper providing a brief on a staff submission made to the Construction Contracts (Retention Money) Amendment Bill.

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

The Chairperson requested that a report on retentions be provided to the Audit Risk and Finance Committee as least once per year. The General Manager – Business Support undertook to provided reporting on retentions in the annual reporting.

### **Resolution**

The business paper on Staff Submission to the Construction Contracts (Retention Money) Amendment Bill be received.

B Robertson/New                      Carried

## **6. Local Government Funding Agency – Quarterly Report to Shareholders for the year ended June 2021**

The Committee considered a business paper presenting the Local Government Funding Agency Quarterly Report to Shareholders for the year ended 30 June 2021

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

### **Resolution**

- 1 The business paper on Local Government Funding Agency – Quarterly Report to Shareholders for the year ended June 2021 be received.
- 2 The Local Government Funding Agency – Quarterly Report to Shareholders for the year ended June 2021 be received.

Whitaker/J Robertson Carried

## **7. Progress Report for Year Ended 30 June 2021**

The Committee considered a business paper providing a high-level summary of progress on:

- Council's Activities (quarterly progress reports); and
- Council's Budget (quarterly financial reporting); and
- How Council is delivering against the service performance measures (quarterly non-financial reporting).

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

The Committee requested that future quarterly reports include a summary providing information on what any surplus consists of i.e. what is permanent savings and what is a surplus due to the timing of works.

### **Resolution**

The business paper on Progress Report for the year ended 30 June 2021 be received.

Brodie/Whitaker Carried

## **8. Risk Management Framework**

The Committee considered a business paper presenting the Risk Management Framework for adoption.

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

### **Resolution**

- 1 The business paper on Risk Management Framework be received.
- 2 The Audit, Risk and Finance Committee adopt the Risk Management Framework.

New/Marshall Carried

**9. Progress Report: Three Waters Reform Project Delivery – 30 June 2021 – Preparation for the Reform – Tranche 2**

The Committee considered a business paper providing an update on Three Waters Reform Project Delivery (Tranche 1) for the period ended 30 June 2021 and preparation for reform (Tranche 2).

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

**Resolution**

The business paper on Progress Report for the period ended 30 June 2021 be received.

B Robertson/Brodie Carried

**10. Progress Report: WDC Resource Consents – Compliance Monitoring**

The Committee considered a business paper providing a progress report on compliance reporting against Resource Consent conditions.

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

**Resolution**

The Progress Report: Resource Consent – Compliance Monitoring be received.

Brodie/J Robertson Carried

Paul Charman (Waitomo News) left the meeting at 10:55am.

The General Manager – Community Services entered the meeting at 10:56am.

**11. Progress Report: Health and Safety**

The Committee considered a progress report on Waitomo District Council Health and Safety systems and processes.

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

The Chairperson asked that any incidents reported within the wider PCBU i.e. including external Contractors be included in future reporting.

**Resolution**

The Progress Report: Health and Safety be received.

New/Smith Carried

**12. Motion to Exclude the Public**

The Committee 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	Ground(s) under section 48(1) for the passing of this resolution
1. Presentation – King Country Indoor Sport and Recreation Centre – Steering Group	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)(1)
2. Bank Deposit – 8 June 2021	Section 7(2)(a) To protect the privacy of natural persons, including that of deceased natural persons	Section 48(1)(a)(1)

- 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 – Business Support	Portfolio Holder
General Manager – Community Services	Portfolio Holder
Leader – Communications and Engagement	Communications

- 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.

B Robertson/Smith      Carried

The General Manager – Infrastructure Services and Manager – Strategy and Policy left the meeting at 11:02am.

<b>13. Consideration of Public Excluded Items for the purpose of making information Public following Council's decision taking</b>
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Following consideration and decision taking of items of business with the public excluded, the Committee agreed that the following information be made public:

**1 Presentation – King Country Indoor Sport and Recreation Centre – Steering Group**

Resolution 1 only be made public as follows:

***Resolution***

*1 The Presentation from King Country Indoor Sport and Recreation Centre Steering Group be received.*

Note: The business paper and remainder of Resolutions for this item are not made public for the reasons set out in Item 12 - "Motion to Exclude the Public" of these Minutes.

**2 Bank Deposit – 8 June 2021**

The Resolution only be made public as follows:

***Resolution***

*The business paper on Bank Deposit – 8 June 2021 be received.*

Note: The business paper for this item is not made public for the reasons set out in Item 12 - "Motion to Exclude the Public" of these Minutes.

B Robertson/Brodie                      Carried

There being no further business the meeting closed at 2:18pm

Dated this            day of            2021.

BRUCE ROBERTSON  
**INDEPENDENT CHAIRPERSON**

Confidential Confidential

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**Document No:** A578367

## **Report To: Audit, Risk and Finance Committee**



**Meeting Date:** 12 October 2021

**Subject:** **Draft Annual Report 2020/21**

**Type:** Decision Required

### **Purpose of Report**

- 1.1 The purpose of this business paper is to present the Draft Annual Report 2020/21 for consideration and, subject to amendment, recommendation to Council for adoption.
- 1.2 Council's Auditors (Deloitte) will be in attendance at the meeting via Zoom to discuss and provide an update on the audit process.

### **Background**

- 2.1 The Draft Annual Report 2020/21 (Draft AR) shows the financial and non-financial performance of Waitomo District Council for the year ended 30 June 2021.
- 2.2 The Audit, Risk and Finance Committee (ARFC) received an Unaudited Progress Report (PR) for the year ended 30 June 2021 at the 17 August 2021 meeting.

### **Commentary**

- 3.1 **Audit Progress**
- 3.2 With the Alert Level 4 lockdown in August 2021 and the restrictions on operations since returning to Alert Level 2, the progress of the annual report development has been delayed. These delays have impacted the progress of the subsequent audit of the annual report which, due to Alert Level 2 restrictions, has been completed off-site.
- 3.3 The Draft AR document is still progressing through the final review stages with Deloitte. At the time of writing this business paper, there are a number of matters still to be audited including valuation testing for Investment in ICL, land and building revaluation testing, journal entry testing and the completion of the review of the annual report document. It is expected that a number of these items will be completed or significantly advanced prior to the committee meeting.
- 3.4 No significant changes are expected from the finalisation of the remaining items and final audit review. It is anticipated that any changes will be minor in nature and likely to be in relation to note disclosure and commentaries rather than changes to the actual financial results. There will also be editorial or formatting changes that will be incorporated in the final document to be adopted.
- 3.5 An audit report is typically provided at the ARFC meeting; however, as there are still outstanding items to be completed by the auditors, the audit report will now be provided at the Council meeting on 26 October 2021.
- 3.6 Auditors will be present at the meeting via Zoom to provide an update on the audit progress and there will be an opportunity for the Committee to discuss any matters relating to the annual report and audit process.

## 3.7 **Significant Changes since the Unaudited PR**

3.8 The unaudited PR was presented at the 17 August 2021 ARFC meeting, while the financial results and position were still in the process of being finalised. There have been subsequent changes to the results from finalising the ledgers and the significant changes are discussed in section 3.9 to 3.17.

## 3.9 **Changes to Statement of Comprehensive Revenue and Expense**

3.10 Total revenue has increased from \$36.8 million in the PR to \$37.8 million in the Draft AR mainly arising from the gains recognised for forestry assets (\$0.5m) and investment properties (\$0.8m). These increases were partly offset by the elimination of rates revenue for council owned property \$0.4m.

3.11 Total expenditure remained at \$29.7 million. Since the PR was completed, there were losses on asset disposals for water, stormwater, sewerage and community services assets recognised as part of finalising the asset ledger. These were offset by elimination of rates paid on council owned property, resulting in no change to total expenditure.

3.12 As a result of these changes to revenue and expenditure, the total surplus for the year has increased from \$7.1 million in the PR to \$8.1 million in the Draft AR.

3.13 The water, wastewater, stormwater and land and buildings assets revaluations at 30 June 2021 were also completed with an increase on revaluation of \$14.5 million recognised. A gain on cash flow hedges of \$1.4 million was also recognised.

3.14 These items along with the changes to total surplus discussed above, increased the total comprehensive revenue and expense from \$8.5 million as reported in the PR to \$24.0 million.

## 3.15 **Changes to Statement of Financial Position**

3.16 Total assets increased from \$386.4 million in the PR to \$402.4 million mainly as a result of:

- Increase in water supply, sewerage, stormwater, land and buildings assets of \$14.5 million due to the revaluation of these asset classes
- Receivables increased by \$0.5 million due to an increase in Waka Kotahi subsidy receivable and GST receivable at 30 June 2021
- Forestry asset value increase of \$0.5 million
- Increase in investment property valuation of \$0.8 million.

3.17 Total equity increased from \$344.0m in the PR to \$359.5 million mainly as a result of the increase in revaluation reserve of \$14.5 million from the revaluation of water supply, sewerage, stormwater, land and buildings assets.

## 3.18 **Draft 2020-21 Annual Report Highlights**

### 3.19 **Statement of Service Performance (Key Performance Indicators)**

3.20 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 21-54 of the Draft AR.

3.21 Of the 76 key performance indicators measured, 68 (89%) (2020: 83%) were achieved and 8 (11%) (2020: 17%) were not achieved.

### 3.22 **Statement of Financial Performance (page 56)**

3.23 For the financial year, we report a net surplus of \$8.1 million against a budgeted surplus of \$3.0 million. The main variances are detailed below.

3.24 Revenue was \$2.8 million more than budget. The main drivers for this variance are provided in the following paragraphs.

- 3.25 Subsidies and grants were \$1.4 million more than budget as additional roading subsidy was received for the construction of Te Ara Tika. This project was included in a prior year budget. Three Waters Reform Stimulus Programme funding was also received to fund additional capital expenditure projects that were not included in the budget.
- 3.26 Fees and charges revenue was \$0.3 million more due to greater landfill disposal revenue from increased fees and charges, increased trade waste revenue due to increased volumes discharged and quarry royalty revenue due to the increased volume of mined quarry metal. 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.
- 3.27 Other revenue including gains/ (losses) was \$1.5 million more than budget due to a gain on the valuation of investment property, a gain on forestry assets, a gain on the sale of surplus land and depreciation recovered on the sale of motor vehicles.
- 3.28 This additional revenue is partly offset by rates revenue which was \$0.4 million less than budget. This was the result of eliminating rates revenue on council owned properties, the budget included rates revenue on council owned properties.
- 3.29 Operating expenditure was \$2.3 million less than budget. The main drivers for the reduced expenditure are provided in the following paragraphs.
- 3.30 Employee benefit expenditure was \$0.3 million less than budget for organisational capacity and resourcing requirements.
- 3.31 Finance costs were \$0.2 million less than budget as public debt was less than forecast and interest rates were less than anticipated at the time the budget was prepared.
- 3.32 Other expenditure was \$2.2 million less than budget. The main drivers for the reduction in expenditure were:
- Elimination of rates paid on council owned property. The budget figure included rates on council owned property.
  - Grant expenditure for the proposed North King Country stadium was not spent.
  - Due to the size and complexity of the district plan review, this project was budgeted to be completed over the number of years. The budget was not fully spent and will continue in the next financial year.
  - Planned risk management expenditure was delayed due to the organisational resource being re-directed to support the Three Waters Reform Programme.
  - These reductions in expenditure were partly offset by additional depreciation expense was incurred on road assets as a result of the increase in the value of road assets at 30 June 2020.
- 3.33 **Statement of Financial Position (page 57)**
- 3.34 Total equity was \$21.2 million more than expected. The main drivers for this increase are provided in the following paragraphs.
- 3.35 The surplus was \$5.2 million more than budget.
- 3.36 Other reserves were \$3.9 million more than budget. Council created reserves were \$13 million more than budget as depreciation reserves and activity surpluses were more than forecast. The cashflow hedging reserve was \$1 million more than budget due to a gain on cashflow hedges.
- 3.37 The revaluation reserve was \$20 million more than budget arising from the revaluation of land and buildings, water supply, sewerage and stormwater assets that were revalued during the year, along with the increase in the value of roads and solid waste assets in the prior year. These increases were more than anticipated at the time the budgets were prepared.
- 3.38 Current assets was \$5.6 million more due to a higher level of cash and cash equivalents at balance date than the budget. Cash and cash equivalents were more than forecast arising mainly from operating expenditure which was less than budget and additional revenue received. This was offset partly by reduced receivables.

3.39 Current liabilities were \$6.4 million less than budget due to a lower portion of current borrowings than anticipated in the budgets. Overall borrowings was also less than budget. This was partly offset by a higher level of payables at balance date than was forecast.

3.40 Non current assets were \$8.4 million more than expected due to the increase in value of investment property, forestry assets and property, plant and equipment. These increases were partially offset by the decrease in the value of other financial assets from the valuation of Inframax Construction Ltd to \$8.825 million that was recognised in the previous year (which was not included in the budget), and intangible assets which were less than anticipated.

3.41 Non current liabilities were \$0.7 million less than budget as derivative financial instruments were less than forecast.

3.42 **Capital Expenditure (pg 11-12)**

3.43 Total capital expenditure for the year ended 30 June 2021 was \$10.2 million against a budget of \$11.2 million or 91% of our forecast programme.

3.44 Included in the actual spend was additional expenditure for the Three Waters Reform Programme and also projects that were deferred to 2020/21 year from the previous financial year.

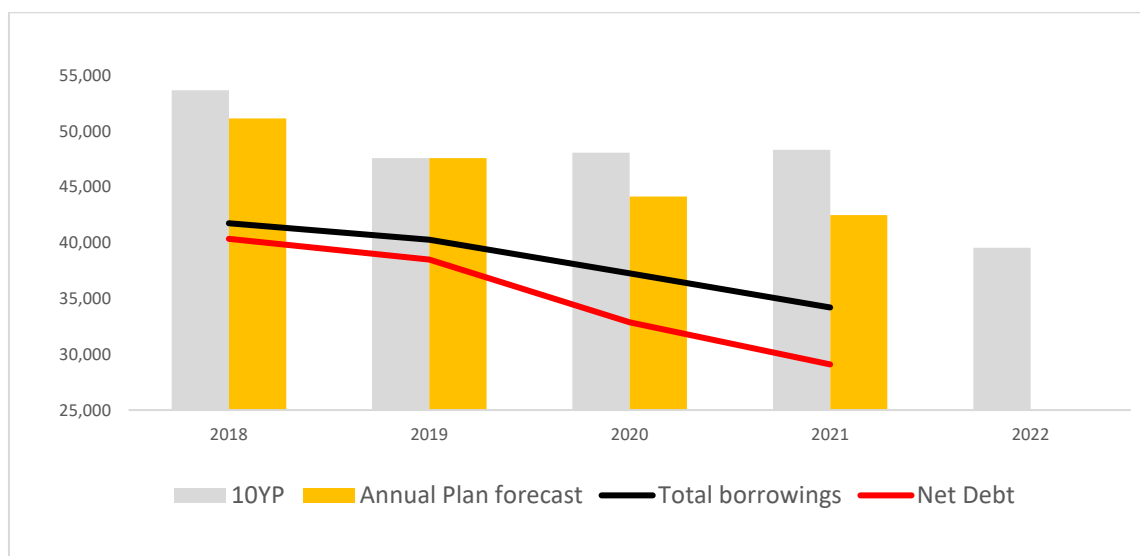
3.45 Some projects that were not completed during the year will be deferred to the 2021/22 year. Delays in these projects occurred due to internal resourcing, the impact on issues with global supply chains on availability of supplies and contractor availability.

3.46 Some of the major projects completed were:

- Renewal of Te Maika and Mokau jetties
- Continuation of the Te Ara Tika pedestrian overbridge project
- Aerodrome taxiway renewal
- Renewal of mixer and aerator components located at Te Kuiti wastewater plant
- Continuation of the installation of backflow preventers in Te Kuiti, Mokau and Piopio
- Resurfaced 25km of sealed roads
- Re-metalling of 54 km of unsealed roads
- A total of 657m of new footpaths were constructed during the year
- Continuation of the improvements to Mokau water treatment plant

3.47 **Borrowings**

3.48 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.



- 3.49 These trends show that actual borrowings have reduced to **\$34.2 million** at 30 June 2021 and are significantly less than forecast in 10YP and annual plan. Net debt was **\$29.1 million** at 30 June 2021.
- 3.50 **Benchmarks (pg 113-115)**
- 3.51 Financial reporting and prudence benchmarks are measured annually to enable an assessment of whether Council is prudently managing its revenues, expenses, assets, liabilities and general financial dealings.
- 3.52 These measures are made up of mandatory measures set by regulation and also council specific measures set in the Finance Strategy.
- 3.53 All measures were successfully achieved and well within the limits set.
- 3.54 **Group Performance (pg 14)**
- 3.55 At 30 June 2021, total equity for the Group was \$362.0 million, an increase of \$24.3 million from the prior year.
- 3.56 The Group's after tax surplus of \$7.9 million.
- 3.57 Despite challenging operating conditions with the ongoing effect of the COVID-19 pandemic on revenue and business operations, Council's subsidiary, Inframax Construction Ltd, reported a net profit after tax of \$0.5 million. Revenue was above forecast and the equity position of the Company improved, with an increase in the equity ratio to 60% and an increase in equity of the subsidiary to \$11.9 million.

## 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 2021 however due to the COVID-19 Pandemic, this date has been extended to 31 December 2021.
- 4.2 Due to other significant work programmes underway including the Three Waters Reform Programme, District Revaluation and the Exceptions Annual Plan 2022/23, it is recommended that the Annual Report be adopted prior to 31 October as not to interrupt the continuation of these other workstreams.

## Considerations

### 5.1 Risk

- 5.2 There is a 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 2021.
- 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 2021. These assets include roads and solid waste 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 In the financial statements, we have assumed there is no change in the valuation of the investment in ICL at 30 June 2021 and have retained the value of \$8.825 million. There is a risk that the accounting estimates and judgements used in 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 at 30 June 2020, the valuers at that time 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 three 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 Audit, Risk and Finance Committee recommend to Council the adoption of the Annual Report 2020/2021.
- 6.2 A copy of the Draft Annual Report 2020/21 is enclosed separately and forms part of this business paper.

## Suggested Resolutions

- 1 The business paper on Draft Annual Report 2020/21 be received.
- 2 The Audit, Risk and Finance Committee recommend to Council the adoption of the Annual Report 2020/2021, subject to any amendments agreed at this meeting and any further changes required as a result of completing the audit.



ALISTER DUNCAN  
**GENERAL MANAGER - BUSINESS SUPPORT**



ALEX BELL  
**GENERAL MANAGER - STRATEGY AND ENVIRONMENT**

5 October 2021

Separate Enclosure: Draft Annual Report 2020/21 (A579570)

**Document No:** A576947

## **Report To:            Audit, Risk and Finance Committee**



**Meeting Date:** 12 October 2021

**Subject:**                    **Progress Report: 2021 General Revaluation**

**Type:**                        Information Only

### **Purpose of Report**

- 1.1 The purpose of this business paper is to report on recent changes made by the Office of the Valuer General (OVG) relating to the timeline for the Waitomo District 2021 General Revaluation.

### **Background**

- 2.1 The Rating Valuations Act 1998 requires that every property in New Zealand must be revalued for rating purposes at least once every three years.
- 2.2 The last revaluation for the Waitomo District occurred in September 2018 and therefore the revaluation is due to be undertaken again in September 2021.
- 2.3 The values from the 2021 General Revaluation will be used for rating purposes from 1 July 2022.
- 2.4 In May 2021 the Committee was provided with the timetable for the General Revaluation of the Waitomo District. The OVG has now advised that the dates for the Waitomo District Revaluation have been changed.

### **Commentary**

- 3.1 Due to the COVID-19 outbreak and subsequent lockdown the OVG shifted the Auckland revaluation start date from early September to mid-October.
- 3.2 Additionally, valuation providers QV and Opteon reported difficulties completing other scheduled revaluations due to a disbursed workforce and prohibition on regional travel preventing staff moving between Districts for inspections and other revaluation tasks. This meant that they were unable to produce reliable and robust revaluations within the timeframes that were originally scheduled.
- 3.3 Accordingly, the OVG has reorganised the revaluation programme including altering all the implementation dates for its other revaluation responsibilities. The OVG consulted on that problem almost exclusively with QV and Opteon (rather than individual Councils) on the basis they had full visibility over their resourcing challenges and have the contractual delivery relationship with Councils.
- 3.4 The result is that the implementation date for the General Revaluation has been moved from 27 November 2021 to 22 January 2022.
- 3.5 The following timeline provides an updated high level summary of the key dates for the 2021 General Revaluation:

<b>Key Milestone</b>	<b>Description</b>	<b>Date of Action</b>
Data Integrity Checks	Includes review of data and data cleansing, updating information on certificate of titles, Maori Freehold land properties, earthquake prone buildings, leaky buildings and methamphetamine contaminated buildings.	Completed
Market Surveys	Surveys of rural, commercial and industrial properties to be sent to ratepayers in the Waitomo District.	Completed
Rates Newsletter Mail out	A Rates Newsletter will be sent to ratepayers in August, along with the rates invoice and assessment for the 2021/22 year. The rates newsletter will provide details on key information about the General Revaluation and the objection process.	Completed
Media, Website and Facebook	Key information about the General Revaluation and objection process will be communicated	Ongoing, Website updated
OVG Audit Date and files to OVG	The final DVR file sent to the OVG for audit.	<b>19 November 2021</b>  <i>(Previously 5 November 2021)</i>
Valuation Service Provider presentation to Council	Valuers from QV will present the key highlights of the General Revaluation to the Elected Members.  Present draft values to Elected Members prior to implementation.	<b>Workshop TBC – prior to implementation date in January</b>  <i>(Previously scheduled for November Council meeting)</i>
Public Notice	Upon the Valuer-General’s Certification of the General Revaluation, WDC will give public notice that the roll is open for inspection and notify the community of objection timeframes as per Rating Valuations Act – Section 12	<b>27 January 2022</b>  <i>(Previously 2 December 2021)</i>
Valuation Notice Mail Out	Notice of General Revaluation will be sent to owners and ratepayers, detailing the new property values and information on how to object to the new values as per the Rating Valuations Act – Section 13	<b>2 February 2022 (lodged with NZ Post)</b>  <i>(Previously 3 December 2021)</i>
Objections Close	Owners and ratepayers must have a minimum of 30 working days in which to lodge an objection after receiving the above valuation notice. Objections must be received by 18 March 2022. Objections are then forwarded to QV for further review of the values as per Rating Valuations Rules 2008 – Section 6	<b>18 March 2022</b>  <i>(Previously 24 January 2022)</i>



Key Milestone	Description	Date of Action
Ratepayers notified of result of objection	Once Quotable Value completes their review, owners and ratepayers will be notified of the result of their objection. If owners are still not satisfied with their value, they have the opportunity to have their objection heard by the Land Valuation Tribunal. This is a separate process with the Land Valuation Court.	As each objection is reviewed

- 3.6 The intention for Quotable Value staff to present the key highlights of the 2021 General Revaluation to Council prior to the valuation notices being sent to the owners/ratepayers remains. Due to completing the OVG audit in late November/early December, QV staff will be unable to attend the November Council meeting. The date of the presentation is still to be confirmed with Elected Members.
- 3.7 Rates modelling to assist with understanding the impact of the valuation and also to inform the development of EAP 2022/23 will be completed using the draft values. The values will not yet be approved by the OVG and will be subject to change, however it is expected that changes to values are not likely to be material overall and that the draft values will still provide Council with valuable information to assist decision making in setting the rates for the 2022/23 financial year.
- 3.8 Typically the closing date for objections to the new values is in early December. This generally allowed adequate time to process objections prior to the commencement of the new rating year. As the closing date for objections for this General Revaluation is 18 March 2022, there is a risk that some objections may not be complete as at 1 July 2022. This may result in amendments to individual rates accounts during the 2022/23 rating year as the objections are completed.
- 3.9 The changes to the key revaluation dates will be communicated to owners and ratepayers via Council's website, Facebook page and other general communications.

<b>Suggested Resolution</b>
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The Progress Report: 2021 General Revaluation be received.



ALISTER DUNCAN  
**GENERAL MANAGER – BUSINESS SUPPORT**

5 October 2021

**Document No:** A579520

## Report To: Audit, Risk and Finance Committee



**Meeting Date:** 12 October 2021

**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 The Committee may choose whether or not to consider any of the items 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	Ground(s) under section 48(1) for the passing of this resolution
1. Inframax Construction Limited: Financial Statements - 2020/2021 Financial Year	Section 7(2)(c)(1) (c) To protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information –  (i) would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied;	Section 48(1)(d) –  That the exclusion of the public from the whole or the relevant part of the proceedings of the meeting is necessary to enable the local authority to deliberate in private on its decision or recommendation in any proceedings to which this paragraph applies.

- 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:

<b>Staff Member</b>	<b>Reason for Remaining in Attendance</b>
Chief Executive	Council CEO
Manager – Governance Support	Committee Secretary
General Manager – Business Support	Portfolio Holder

- 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.



MICHELLE HIGGIE  
**MANAGER – GOVERNANCE SUPPORT**