
Trans-Pacific Partnership Agreement – Submissions made to the Nelson 2060 Consultation

1. Purpose of Report

- 1.1 To forward the submissions regarding the Trans-Pacific Partnership Agreement (TPPA) received to the Nelson 2060 consultation to Council – Governance for consideration.

2. Recommendation

- 2.1 There is no staff recommendation on this matter.

3. Background

- 3.1 Council received a number of submissions to the Nelson 2060 consultation regarding the TPPA being negotiated by Central Government. A list of the relevant submissions is included as Attachment 1.
- 3.2 At the 9 April 2013 Framing Our Future Committee meeting to hear submissions to the Nelson 2060 consultation, it was decided to forward the TPPA related submissions to the 23 April 2013 Council – Governance meeting for consideration.
- 3.3 It seems that these submissions were prompted by the passing of a resolution by the Auckland Council Regional Development and Operations Committee, at its 6 December 2012 meeting. An extract of the minutes of this meeting, including the resolution is included as Attachment 2.
- 3.4 The Trans-Pacific Partnership (TPP) aims to create a regional free trade agreement involving the following Asia Pacific countries: Australia, Brunei Darussalam, Canada, Chile, Malaysia, Mexico, Peru, Singapore, the United States, Viet Nam and New Zealand. The agreement is intended to deepen economic ties between its diverse members by opening up trade in goods and services, boosting investment flows, and promoting closer links across a range of economic policy and regulatory issues.
- 3.5 Some concerns have been expressed in relation to the secrecy surrounding the negotiations and that the agreement will favour the interests of US firms over the interests of New Zealand residents.

- 3.6 This is a national treaty negotiation and it is unclear how much influence local government can have over the content and direction of the negotiations.

4. Conclusion

- 4.1 Council have been provided with the submissions received and copies of the information from Auckland Council. Staff have undertaken no further research and, as such, are not in a position to make a recommendation on this matter.

Chris Ward

Manager Strategic Response

Attachments

- Attachment 1: Index of TPPA Submitters ([1493945](#))
Attachment 2: Extract of Auckland Council Regional Development and Operations Committee Minutes 6 December 2012 ([1493910](#))

No Supporting information follows.

Framing Our Future - Nelson 2060 Strategy

Extract of Submissions Index regarding the TPPA:

Page Number	Submission Number	Agenda Page	Name	Organisation
23	11	29	Beate Baden	Nelson TPPA Free
28	13	34	Timothy Wright	
33	16	39	Diana Maskill	Nelson TPPA Free
38	18	44	Gwynn Davies	
51	21	57	Jay Berkow	Nelson TPPA Free
81	30	87	Roger Bray	
112	44	118	S Standish	
122	49	128	Jonathan Pivac	Nelson TPPA Free
124	50	130	Verena Gruner	Riverside Community
126	51	132	Sandra Rowlands	
128	52	134	Euan Coad	
130	53	136	Charles Mersmans	RCTB
132	54	138	Klaus Wendlandt	Nelson TPPA Free
134	55	140	Florian Pruls	
136	56	142	Barbara Cole	
138	57	144	Kathryn Francis	
142	59	148	Jenny Harris-Mackay	
144	60	150	Cameron Harris-Mackay	
146	61	152	Masen Vincent	
148	62	154	Tristan Vincent	
150	63	156	Frank Ryan	Nelson TPPA Free
192	L1	192 – late	Alison Horn	
203	L6	203 – late	Joan Skurr	

Extract of Submissions Index on TPPA & Other

Page Number	Submission Number	Agenda Page	Name	Organisation
29	14	35	Stephen Zanetti	
44	19	50	Mary Ellen O'Connor	
47	20	53	Brendan Santorini	
56	22	62	Graeme O'Brien	Nelson TPPA Free
63	24	69	Venus Biesold	Nelson TPPA Free
72	27	78	Rosemary Callaghan	
79	29	85	Gwendolyn Bray	

Extract of Submitters on TPPA & Other Cont'd

Page Number	Submission Number	Agenda Page	Name	Organisation
84	31	90	Annie	
88	33	94	Janet Whittington	Stoke Sunday Market
93	35	99	Sabine Mueller	Nelson TPPA
95	36	101	J Brandt	
100	38	106	Helmut Janssen	Adaptive Resource Management Ltd
102	39	108	Colin Robertson	
108	42	114	Joachim Lang	Nelson TPPA Free
110	43	116	Paul Bieleski	
140	58	146	Cheryl Lasseau	
156	66	162	Jacqueline Gibson	
171	69	177	John Morrison	
184	73	190	Lisa Gant	
194	L2	194 – late	David Ayre	
198	L4	198 – late	Zachary Domike	
201	L5	201 – late	David Jones	Nelson TPPA Free
206	L7	206 – late	Carl Horn	
226	L11	226 – late	Jon Luff	The White House Inc
229	L12	229 – late	J G Campbell	
246	L16	246 – late	Britta Hietz	

Extract of Minutes

ATTACHMENT 2

Of a meeting of the Regional Development and Operations Committee
Held in the Reception Lounge Level 2, Auckland Town Hall, 301-305
Queen Street, Auckland on Thursday, 6 December 2012 at 10.07am.

Extract Begins:

26. Presentation on the Trans-Pacific Partnership and Free Trade Agreements - Recommendation from the Economic Forum

Deputy Mayor Hulse exited the meeting at 2:22 pm.

MOVED by Cr MA Hartley, seconded Cr W Walker:

That the Regional Development and Operations Committee:

- a) encourages the government to conclude negotiations on the Trans-Pacific Partnership and Free Trade Agreements in a way that provides net positive benefits for Auckland and New Zealand.

Resolution number RDO/2012/265

MOVED by Cr MA Hartley, seconded Cr W Walker:

Cr Northey moved an amendment, by way of addition to the original recommendation, seconded by Cr Casey:

- a) ..., that is, provided the Partnership and Agreements achieve the following objectives:
 - i. Continues to allow the Auckland Council and other councils, if they so choose, to adopt procurement policies that provide for a degree of local preference; to choose whether particular services or facilities are provided in house, by council controlled organisations (CCOs) or by contracting out; or to require higher health and safety, environmental protection, employment rights and conditions, community participation, animal protection or human rights standards than national or international minimum standards.
 - ii. Maintains good diplomatic and trade relations and partnerships for Auckland and New Zealand with other major trading partners not included in the agreement, including with China.
 - iii. Provides substantially increased access for our agriculture exports, particularly those from the Auckland region into the US market;
 - iv. Does not undermine PHARMAC, raise the cost of medical treatments and medicines or threaten public health measures, such as tobacco control;
 - v. Does not give overseas investors or suppliers any greater rights than domestic investors and suppliers, such as through introducing Investor-State Dispute Settlement, or reduce our ability to control overseas investment or finance;

- vi. Does not expand intellectual property rights and enforcement in excess of current law;
- vii. Does not weaken our public services, require privatisation, hinder reversal of privatisations, or increase the commercialisation of government or of Auckland Council or other local government organisations;
- viii. Does not reduce our flexibility to support local economic and industry development and encourage good employment and environmental practices and initiatives like Council Cadetships, COMET and the Mayor's Taskforce for Jobs which enable marginalised young people to develop their skills and transition into meaningful employment;
- ix. Contains enforceable labour clauses requiring adherence to core International Labour Organisation conventions and preventing reduction of labour rights for trade or investment advantage;
- x. Contains enforceable environmental clauses preventing reduction of environmental standards for trade or investment advantage;
- xi. Has general exceptions to protect human rights, the environment, the Treaty of Waitangi, and New Zealand's economic and financial stability;
- xii. Has been negotiated with real public consultation including regular public releases of drafts of the text of the agreement, and ratification being conditional on a full social, environmental and economic impact assessment including public submissions.

A division was called for, voting on which was as follows:

For:

Councillors: Dr Cathy Casey
Sandra Coney
Alf Filipaina
Ann Hartley
Mike Lee
Richard Northey
David Taipari
Patience Te Ao
Wayne Walker

Against:

Councillors: Hon Chris Fletcher
Des Morrison
Calum Penrose
Noelene Raffills
Sir John Walker
Penny Webster
George Wood

Cr Anae Arthur Anae, Cr Cameron Brewer, Mayor Len Brown, Cr Michael Goudie, Deputy Mayor Penny Hulse, Cr Dick Quax and Cr Sharon Stewart were not in the room at the time of voting.

The division was declared CARRIED by 9 votes to 7.

CARRIED

The substantive motion was put:

Resolution number RDO/2012/266

MOVED by Cr MA Hartley, seconded Cr W Walker:

That the Regional Development and Operations Committee:

- a) encourages the government to conclude negotiations on the Trans-Pacific Partnership and Free Trade Agreements in a way that provides net positive benefits for Auckland and New Zealand, that is, provided the Partnership and Agreements achieve the following objectives:**
- i. Continues to allow the Auckland Council and other councils, if they so choose, to adopt procurement policies that provide for a degree of local preference; to choose whether particular services or facilities are provided in house, by council-controlled organisations (CCOs) or by contracting out; or to require higher health and safety, environmental protection, employment rights and conditions, community participation, animal protection or human rights standards than national or international minimum standards.**
 - ii. Maintains good diplomatic and trade relations and partnerships for Auckland and New Zealand with other major trading partners not included in the agreement, including with China.**
 - iii. Provides substantially increased access for our agriculture exports, particularly those from the Auckland region into the US market;**
 - iv. Does not undermine PHARMAC, raise the cost of medical treatments and medicines or threaten public health measures, such as tobacco control;**
 - v. Does not give overseas investors or suppliers any greater rights than domestic investors and suppliers, such as through introducing Investor-State Dispute Settlement, or reduce our ability to control overseas investment or finance;**
 - vi. Does not expand intellectual property rights and enforcement in excess of current law;**
 - vii. Does not weaken our public services, require privatisation, hinder reversal of privatisations, or increase the commercialisation of government or of Auckland Council or other local government organisations;**
 - viii. Does not reduce our flexibility to support local economic and industry development and encourage good employment and environmental practices and initiatives like Council Cadetships, COMET and the Mayor's Taskforce for Jobs which enable marginalised young people to develop their skills and transition into meaningful employment;**
 - ix. Contains enforceable labour clauses requiring adherence to core International Labour Organisation conventions and preventing reduction of labour rights for trade or investment advantage;**
 - x. Contains enforceable environmental clauses preventing reduction of environmental standards for trade or investment advantage;**
 - xi. Has general exceptions to protect human rights, the environment, the Treaty of Waitangi, and New Zealand's economic and financial stability;**
 - xii. Has been negotiated with real public consultation including regular public releases of drafts of the text of the agreement, and ratification being conditional on a full social, environmental and economic impact assessment including public submissions.**

CARRIED

Building Act 2004: Delegation to Approve or Withdraw Independently Qualified Persons

1. Purpose of Report

- 1.1 To consider an addition to the Council's Delegations Register to allow officers to have authority to approve or withdraw Independently Qualified Persons (IQP) as defined in the Building Act 2004.

2. Recommendation

THAT the Council delegates the authority to approve or withdraw registration of Independently Qualified Persons under the Building Act 2004 to the following officers:

- ***Executive Manager Regulatory; and***
- ***Manager Building.***

3. Background

- 3.1 Independently Qualified Person means a person (as defined by Section 7 of the Building Act 2004) -
- a) *Who is accepted by a territorial authority as being qualified to -*
 - i. *carry out or supervise all or some of the inspection, maintenance, and reporting procedures required for a specified system stated in a compliance schedule; and*
 - ii. *certify that those procedures have been fully complied with; and*
 - b) *Whose acceptance under paragraph (a) has not been withdrawn by the territorial authority.*
- 3.2 An IQP has the competence to carry out inspections, assessments and provide certification that establishes that a building's systems such as alarm systems, emergency lighting and mechanical ventilation are in necessary working order. This is commonly known as the Building Warrant of Fitness check.
- 3.3 The South Island Independently Qualified Persons Registration Panel (the Panel), has been approving Independently Qualified Persons as being

suitably qualified to carry out inspections and maintenance for specified systems under the Building Act 2004. The Panel comprises members from constituent South Island Councils. It has a constitution but it does not have any statutory authority or mandate.

- 3.4 Nelson City Council has relied upon the South Island Independently Qualified Persons Registration Panel to determine the Independently Qualified Persons who are competent to provide building warrant of fitness documentation and to be accepted as IQP's.
- 3.5 While this process has worked well in the past, legal advice is that this process may be open to challenge in light of recent case law. To ensure a more robust system is in place, the Panel is likely to adopt a new procedure at its next meeting.
- 3.6 The new procedure will involve:
 - a) The South Island Independently Qualified Persons Registration Panel receiving applications for registration and assessing those applications;
 - b) The Panel making a recommendation to the relevant Council(s);
 - c) Each relevant Council formally accepting, or declining to accept, the registration of each Independently Qualified Person. The Panel will send a letter or email to each member Territorial Authority listing the Independently Qualified Persons recommended for acceptance or withdrawal. Each Territorial Authority through its delegated officer(s) will then make its own decision to accept or not accept the Panel's recommendation. The Territorial Authority then advises the South Island Independently Qualified Persons Registration Panel secretary of its decision and files the letter or email in its own filing system as a record of its decision.
- 3.7 Each member Territorial Authority must have one or more staff members with some delegated authority to consider and accept or not accept a recommendation by the Panel under Section 7 of the Building Act 2004.
- 3.8 While the Panel ensures that each Independently Qualified Person has the skills and qualifications required to carry out Independently Qualified Persons functions, there will also be a new process in dealing with complaints against Independently Qualified Persons. This is based on the process from the Ministry of Building Innovation and Employment for complaints against Licensed Building Practitioners. This process is a tried and tested approach.

4. Discussion

Delegation

- 4.1 The definition of Independently Qualified Persons in Section 7 (a) of the Building Act 2004 requires each Council, by resolution, to delegate the acceptance and withdrawal of an Independently Qualified Person to one

or more staff if decisions made by staff in relation to IQP's are to be legally sustainable.

- 4.2 The delegated staff will need to consider the Panel's recommendations, make the decision, sign the standard form, return a copy to the Panel secretary and keep a copy of the decision in the Council's records system.
- 4.3 The Panel's website for recording approvals will continue to operate as it has in the past.
- 4.4 All South Island Councils are part of the Panel and it is expected that all members will contribute staff to sit on the Panel from time to time. It is expected that the Panel will meet every eight weeks (this will depend on how many Independently Qualified Persons have applied or the number of complaints received). The chairperson of the Panel will be elected from the member Councils.

Financial Implications

- 4.5 The Council presently meets its own costs associated with engaging with the South Island Independently Qualified Persons Registration Panel. Whilst the Independently Qualified Persons process is self funding for administration, it does cost member Councils to send staff to attend the Panel meetings in Timaru. The Panel meets approximately every two months, but it is expected that Nelson City Council will have a staff member attend a meeting of the Panel only two or three times annually.
- 4.6 The Independently Qualified Persons registration fees are paid to the member Council acting as secretary for the Panel. Complaint investigations may incur additional costs which may be levied on an even cost to each member Council.

5. Conclusion

- 5.1 The current practice for approving or withdrawing Independently Qualified Persons without a proper delegation from the Territorial Authority accepting (or withdrawing) a person as an IQP is in the long term not satisfactory, and open to challenge if any person takes issue with a decision made.
- 5.2 Nelson City Council is a member of the South Island Independently Qualified Persons Registration Panel and will continue to gain benefit from the Panel's initial consideration of persons recommended to be accepted or withdrawn from being qualified to undertake the requirements of an IQP as defined in Section 7 of the Building Act 2004.
- 5.3 Nelson City Council needs to delegate the making of the final decision to accept or withdraw persons as being qualified to be IQP's to appropriate staff to be consistent with the Building Act 2004 and new procedures to be adopted by the South Island Independently Qualified Persons Registration Panel.

Simon Childs
Building Compliance Officer

Attachments

None.

Supporting information follows.

Supporting Information	
1. Fit with Purpose of Local Government	The performance of Regulatory functions is one of the stated purposes of Local Government. This service needs to be cost effective. Through this shared-services approach to the administration of the Independently Qualified Persons process, Councils in the South Island save money and time.
2. Fit with Community Outcomes and Council Priorities	Good leadership – the Independently Qualified Persons process is robust, fair and efficient. Other community outcomes such as people friendly places are supported by ensuring competent persons carry out inspections and other functions relating to keeping buildings safe for public use.
3. Fit with Strategic Documents	N/A.
4. Sustainability	Ensuring buildings are fit for purpose is a sustainable management of this resource.
5. Consistency with other Council policies	The recommended process is consistent with the required statute and assists in achieving organisational Key Performance Indicators in statutory compliance.
6. Long Term Plan/Annual Plan reference and financial impact	Supports achieving building safety measures. There is minimal financial impact as staff attendance at the Panel meetings is offset by the larger costs of administering the Independently Qualified Persons process on our own.
7. Decision-making significance	This is not a significant decision in terms of the Council's Significance Policy.
8. Consultation	Council's Senior Legal Advisor supports the proposed delegation. Consultation has not been undertaken with any external parties.
9. Inclusion of Māori in the decision making process	There has been no consultation with iwi regarding this delegation.
10. Delegation register reference	A Council decision.

Council Communications

1. Purpose of Report

- 1.1 To consider the development of a formal Council communications policy.

2. Recommendation

THAT the Elected Members Code of Conduct is used to provide guidance to Councillors on appropriate communications;

AND THAT at the time of the next review, the Elected Members Code of Conduct be updated to reflect the additions outlined in this report (1469016) that will give additional effect to the relevant principles of the Office of the Auditor General's 'Good Practice for Managing Public Communications by Local Authorities'.

3. Background

- 3.1 At its meeting of 13 November 2012 the Audit, Risk and Finance Committee resolved

THAT the development of a formal Council communications policy be considered at an upcoming Council – Governance meeting.

- 3.2 This was in response to issues raised at its 2 October 2012 and 13 November 2012 meetings regarding Councillors' Profiles as part of the 'My City, My Council' publicity campaign. It was noted at the meeting that the Office of the Auditor General's guide 'Good Practice for Managing Public Communications by Local Authorities' (Attachment 1) was very helpful and that the guide recommended that every Council consider adopting a formal communications policy, with the guide providing principles for such a policy.

4. Discussion

- 4.1 The Office of the Auditor General's guide 'Good Practice for Managing Public Communications by Local Authorities', contains 13 principles that the guide suggests should underpin a Council's policy and practice on communications. The Council organisation reflects these principles

through its Media Policy and Live Nelson Editorial Policy, with these policies underpinning the Council's practice on communications. A Branding Guide and processes/procedures also support the Council's communications practice.

- 4.2 Principles 9 to 13 of the Auditor General's guide relate specifically to the conduct of Elected Members in relation to Council communications.
- 4.3 Guidance for Councillors regarding appropriate communications is currently provided through the Elected Members Code of Conduct. The relevant excerpt is included in Attachment 2. Providing information about communications for Councillors in this way is the practice of over a dozen councils who were consulted in preparing this report.
- 4.4 The Elected Members Code of Conduct will be reviewed this year prior to its adoption by the new Council following the Local Government Elections 2013. This provides an opportunity to review and align the information in the Elected Members Code of Conduct with the Auditor General's guide rather than developing a separate communications policy.
- 4.5 The specific principles in the Auditor General's guide that relate to the conduct of Elected Members has been assessed against the current guidance contained in Council's Elected Members Code of Conduct and communications policies and processes. On the whole these already reflect the principles in the guidance. Several suggestions have been made below for updating the Elected Members Code of Conduct in relation to the guidance.

Principles of the 'Good Practice for Managing Public Communications by Local Authorities'	Current guidance in the Elected Members Code of Conduct and other Council Policies
<p>Principle 9 Communications by Members of their personal perspective, views or opinions (as opposed to communication of Council matters in an official capacity) should:</p> <ul style="list-style-type: none"> • be clearly identified as such; and • be confined to matters that are relevant to the role of local authorities (under sections 10 and 11 of the Local Government Act). 	<p>This is mostly covered by the current wording in the Elected Members Code of Conduct (see Attachment 2).</p> <p><i>Additional wording could be added to the Elected Members Code of Conduct relating to any comments needing to be confined to matters that are relevant to the role of local authorities.</i></p>

Principles of the 'Good Practice for Managing Public Communications by Local Authorities'	Current guidance in the Elected Members Code of Conduct and other Council Policies
<p>Principle 10</p> <p>Politically motivated criticism of another Member is unacceptable in any Council funded communication by a Member.</p>	<p>The Manager Community Relations has oversight of all Council funded communication and this issue is specifically managed for, with the Mayor making final decisions where required.</p> <p>This issue is covered by the Live Nelson Editorial Policy.</p>
<p>Principle 11</p> <p>Care should be exercised in the use of Council resources for communications that are presented in such a way that they raise, or could have the effect of raising, a Member's personal profile in the community. In permitting the use of its resource for such communication, the Council should consider equitable treatment among all Members.</p>	<p>The Media Policy addresses that the Mayor, and Elected Members through the Mayor, have ownership of comment on all policy, governance, and significant events.</p> <p>This issue is covered by the Live Nelson Editorial Policy.</p> <p>Equitable treatment is provided through the rotation of the Councillor's Comment in Live Nelson with the subject matter of that column carefully defined through guidelines.</p>
<p>Principle 12</p> <p>A local authority must not promote, nor be perceived to promote, the re-election prospects of a sitting Member. Therefore, the use of Council resources for re-election purposes is unacceptable and possibly unlawful.</p>	<p>Council follows the Auditor General's guide in relation to communications in the pre-election period.</p> <p>A report to Council in the months preceding the Local Government Elections 2013 outlines the dates by which all communications by Elected Members on behalf of Council must cease.</p>
<p>Principle 13</p> <p>It should be recognised that the risk that communications by or about Members, in their capacities as spokespersons for Council, during a pre-election period could result in the Member achieving electoral advantage at ratepayers expense. The Chief Executive Officer should actively manage the risk in accordance with the relevant electoral law.</p>	

- 4.6 Additionally, the title of the 'Contact with the Media' section of the Elected Members Code of Conduct could be broadened. The Auditor General's guidance makes no distinction between communicating with the media and the community generally. The wording in the Elected Members Code of Conduct could equally be applied to Councillor communications with anyone in the community. This section could be re-titled as 'Communications with the Media and the Public'.

5. Conclusion

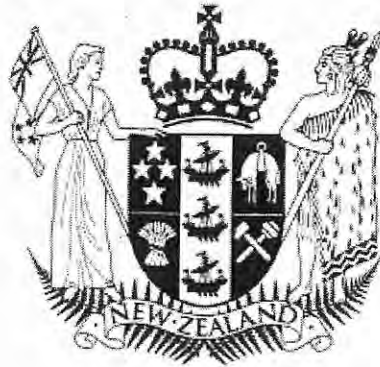
- 5.1 Councillors have requested that the development of a formal Council communications policy be considered using the Office of the Auditor General's 'Good Practice for Managing Public Communications by Local Authorities' as guidance. The principles within the guide are reflected in the Council's Media Policy and the Live Nelson Editorial Policy. It is therefore recommended that a separate communications policy is not required.
- 5.2 The Elected Members Code of Conduct contains guidance for Councillors in relation to appropriate Council communications. As the Elected Members Code of Conduct will be reviewed and adopted by the new Council following the Local Government Elections 2013 there is an opportunity to update this to give effect to the relevant principles in the guide rather than developing a separate communications policy.

Sarah Yarrow
Policy Adviser

Attachments

- Attachment 1: The Office of the Auditor General 'Good Practice for Managing Public Communications by Local Authorities' [1469181](#)
- Attachment 2: Excerpt from Elected Members Code of Conduct relating to Council Communications

No supporting information follows.



**The Controller and
Auditor-General**
Tumuaki o te Mana Arotake

**Good Practice
for Managing
Public Communications
by
Local Authorities**

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Foreword

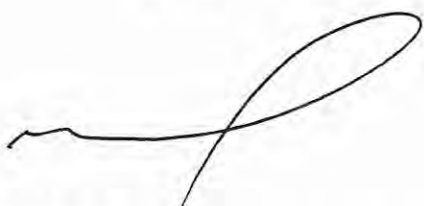
We first published our *Suggested Guidelines for Advertising and Publicity by Local Authorities* in 1996. We published a revised version of those *Guidelines* in 1999.

Since 1999, a number of factors have contributed to significant change in the environment in which local authorities are involved in “advertising and publicity”. Probably the two major factors are the advances in communications technology and the rate of adoption of the new technology, and (more recently) the enhanced requirements for communication in the Local Government Act 2002.

We saw as a consequence of that significant change the clear need to revisit the *Guidelines* to reassess their validity and determine what changes might be needed to preserve their usefulness. This publication reflects the fresh approach we have taken to the subject – still principles-based, but with an emphasis on the wider concept of “communication” rather than “advertising and publicity”.

As previously, this update represents what we believe is a code of good practice. The guidance it contains is no more authoritative than that. Further, the guidance is intended neither to be an operating manual nor to cover every conceivable situation.

Local authorities will have to determine what practical application they make of our good practice guidance in particular situations. To do so, and to reflect the more open approach to disclosing how local government manages itself, we recommend that the adoption and application of the guidance in this publication be incorporated in a formal communications policy.



K B Brady
Controller and Auditor-General

14 April 2004

Contents

	<i>Page</i>
1 Introduction	7
The importance of Council communications	7
Why this guide?	7
The objects and scope of the guide	8
What is the status of the guide?	9
2 Scope – What are “Communications”?	10
3 Communications – Whose Responsibility?	12
4 Principles and Practice	14
Legitimacy and justification	14
Collective position	16
Standards of communication	17
Consultation and public debate	17
Communications by Members	19
Members’ personal profile	21
Communications in a pre-election period	22
5 Other Commonly Arising Issues	25
Use of surveys and market research	25
Joint ventures and sponsorship	25
Appendices –	
1 Principles of the Local Electoral Act 2001	27
2 Statistics New Zealand Principles Applicable to the Production of Official Statistics	28

1 Introduction

The importance of Council communications

- 1.1 Communication with the public is a major part of any Council's activities. It can consume large amounts of ratepayers' money.
- 1.2 Some types of public communications are mandatory – for example, notifying Council meetings, or issuing a statutory plan for consultation. Others are discretionary – for example, a Council-funded newsletter, a media release explaining a recent decision, or a pamphlet about disposal of household waste.
- 1.3 Councils communicate with the public by many different means. For any communication, a Council has a broad range of choices – both as to the medium to be used (e.g. whether to pay for newspaper advertising or use the Council's web site) and the degree of sophistication involved.
- 1.4 Choice introduces judgment and subjectivity. The dilemma of the communicator is in reconciling the potentially conflicting criteria of:
 - making the communication attractive so that the audience will give it their attention, absorb it, understand it, and (if that is what is expected) act on it;
 - meeting acceptable standards of probity; and
 - presenting accurate, complete, and fairly expressed information.
- 1.5 The skill required of the communicator is to observe the relevant principles and apply the highest possible standards, and, importantly, to learn from experience.

Why this guide?

- 1.6 Communication of information at public expense or in an official capacity always carries the risk of criticism. The commonest complaints (except for statutory notifications) are that a communication is unnecessary, unbalanced, or politically biased. The best defence to any complaint is that the communication meets acceptable standards.
- 1.7 The Auditor-General is often asked to express a view on whether a particular communication is acceptable. Some requests come from the Council, before publication. Others come from members of the public afterwards, complaining about what has been done.

- 1.8 Until 1996, there was no authoritative guidance as to what standards were acceptable in Council communications. Our suggested guidelines – first published in that year, and now updated for the second time – have aimed to fill that vacuum. Just as we bring an independent perspective to our job as the auditor of local authorities, we try to describe good practice that reflects not only the theory and practice of communications but also the expectations of the public.
- 1.9 We derive our guidance from:
- our knowledge of the kinds of official communications that may cause concern in both the central and the local government sectors;
 - our experience, not only in giving help to communicators but also in dealing with complaints from the public; and
 - our consultations with a range of Council communications staff and advisers and with Local Government New Zealand.
- 1.10 The feedback we received from our consultations was that independent guidance is a valuable and necessary aid, not only for Council Members but also for communications staff and advisers. Guidance can:
- provide a general framework for the conduct of a Council's communications activities;
 - help with clarifying roles and responsibilities – especially as between Members and communications staff and advisers; and
 - set benchmarks for particular types of communications – especially as to what is acceptable in the political context and at critical times such as during a pre-election period.

The objects and scope of the guide

- 1.11 The statements of good practice in this guide are designed to meet three objectives in relation to a Council's communications practices:
- to ensure that Council communications resources are applied effectively and efficiently, and in a manner that produces good value for money;
 - to ensure that those who are permitted to use Council communications facilities do so for legitimate purposes; and
 - to promote appropriate standards of conduct by those who consume Council communications resources, or use Council facilities, or otherwise communicate on behalf of the Council.

- 1.12 This wide scope is consistent with our role as the auditor of local authorities, which includes examining the extent to which they, and their members and staff:
- carry out activities effectively and efficiently, consistent with Council's own policies;
 - comply with statutory obligations;
 - avoid wasteful use of resources; and
 - act with probity and financial prudence.¹
- 1.13 The guide itself is produced under the authority of section 21 of the Public Audit Act, as a report on matters arising out of the performance and exercise of those functions.

What is the status of the guide?

- 1.14 Our guidance is not binding on Councils. Each Council is free to adopt its own standards – which must of course be consistent with the relevant principles of the Local Government Act 2002 (LGA).²
- 1.15 We recommend that every Council consider adopting a formal communications policy framed to suit its particular needs. The policy should:
- embrace these guidelines – or a variation of them (stricter or otherwise) that the Council considers appropriate to its circumstances; and
 - clearly direct Members and communications staff and advisers³ on how the policy is to be applied in particular cases.
- 1.16 Although this guide is not binding on Councils, they and the public should be aware that it establishes the criteria that we will use in future in order to form a view on the appropriateness of a Council's public communications.

¹ Public Audit Act 2001, section 16.

² Section 14 of the LGA.

³ Including those engaged as consultants.

2 Scope – What are “Communications”?

2.1 Our guidance applies to any communication by a Council, or a Member or employee or office holder of a Council, or a Member of a Community Board, where:

- the Council meets the cost (wholly or in part); or
- the person making the communication does so in an official capacity on behalf of the Council or a Community Board.

2.2 We make no distinction between:

- mandatory and discretionary communications;
- communications in the Council’s own publications and the news media generally;
- Council-funded advertisements and other forms of publicity; or
- electronic (including web site or e-mail) and hard copy publication.

The underlying principles are the same in each case.

2.3 Common examples of communications by Councils include:

- statutory documents – such as draft, final, and summary versions of the Long Term Council Community Plan or an Annual Report under the LGA;
- information on a web site, or in a poster or pamphlet, about Council services available to the public, or the rights, entitlements, and responsibilities of people affected by a Council activity;
- newspapers and newsletters reporting Council news and activities;
- material explaining a particular proposal, decision, policy, or bylaw of the Council;
- marketing material promoting the Council, its communities, or a regional brand;
- Council-funded advertising about a particular event, proposal, or Council policy;
- educational material about issues affecting the community; and
- media releases initiating or responding to public comment about matters affecting the Council or its communities.

- 2.4 In a different category are communications by Members using Council resources or facilities. We address this type of communication in paragraphs 4.33-4.40 on pages 19-20.
- 2.5 The guide does not apply to:
- normal day-to-day correspondence between Members and their constituents on appropriate matters, *except* during a pre-election period when the content of the correspondence should not be inconsistent with Principle 12 on page 22; and
 - communications by Members using their own resources.

3 Communications – Whose Responsibility?

- 3.1 Corporate governance principles stress the different roles of the governing body and the management of an organisation. For local authorities, section 39 of the LGA reflects these principles.
- 3.2 Members (i.e. the governing body) and management of a Council share different elements of the communications function. In essence:
- Members are accountable to the community for the Council's decisions and actions. What the Council says in its communications is, therefore, ultimately the Members' responsibility.
 - The mechanics of communications are operational activities, which form part of the everyday business of the Council. Moreover, effective communication often requires professional input. Most Councils employ (or engage on contract) professional advice and assistance for some or all of their communications activities. The chief executive is responsible for the effective and efficient management of those people and their activities.
 - Communications is also an area of risk. Those who are authorised to communicate on behalf of a Council, and those who exercise editorial or quality control, need to have access to sources of professional advice when necessary (including legal and strategic communications advice). Obtaining that advice is also a management responsibility.
- 3.3 The communications function thus straddles the divide between governance and management in the Council organisation. Each Council should allocate the respective roles and responsibilities according to its own size and needs. For example, in a small Council the Mayor might be the primary spokesperson on all issues, whereas in a larger Council the role might be shared between the Mayor and a communications manager.
- 3.4 The governance/management divide also affects the crucial elements of policy development, quality control, and editorial supervision. We think these elements are best regarded as management functions, for which the chief executive is responsible.
- 3.5 The respective roles and responsibilities need to be well understood by all concerned and put into practice effectively.⁴ This is especially important when the Council employs professional communications staff – who could, for example, feel undermined by Members intervening in editorial decisions.

⁴ See section 39(e) of the LGA. The local governance statement required by section 40 of the LGA could be the appropriate place to record particulars of the division of roles and responsibilities.

- 3.6 A useful approach is to regard the roles of Members and management as complementary, and to encourage everyone to work together in partnership for the good of the Council and the community.

4 Principles and Practice

- 4.1 In this section we set out 13 principles that we believe should underpin a Council's policy and practice on communications. We supplement each of the principles with commentary.
- 4.2 We stress that the principles are intended as general statements, which are to be applied in a flexible and common sense manner. Likewise, the commentary cannot expect to foresee all possible situations that might arise.

Legitimacy and justification

Principle 1 –

A Council can lawfully, and should, spend money on communications to meet a community's (or a section of a community's) justifiable need for information about the Council's role⁵ and activities.

- 4.3 Communications are a necessary and legitimate Council expense. Councils are also justified in employing, or otherwise engaging, professional advice and assistance for their communications activities.
- 4.4 However, no communication should be undertaken without justification or regard for the cost.
- 4.5 The main elements of justification are:
- establishment of an identifiable need for information on the part of a particular audience;
 - the chosen method of communication should be one that is effective in reaching those who have the need; and
 - once the method has been identified, the communication should be made in the most cost-efficient manner.
- 4.6 Consideration should also be given to evaluating the effectiveness of the communication. What is known to have been an effective communication supports the justification for that communication and can be a benchmark to support future communications.

⁵ *The role of a local authority is to—*
(a) *give effect, in relation to its district or region, to the purpose of local government ...;*
and
(b) *perform the duties, and exercise the rights, conferred on it by or under this Act and any other enactment.*
(LGA, section 11)

- 4.7 A communication will be lawful when it:
- is authorised by a Council resolution or under a delegation; and
 - complies with any specific legal requirements as to form, content⁶, timing, or method of publication⁷.
- 4.8 A Council can also exercise significant power over individuals and groups in the community. Consequently, a Council has an obligation to ensure those people know how they are being affected by the Council's actions, and what their rights and responsibilities are in relation to those actions.
- 4.9 Council communications are all the more important in the environment of the LGA. Consultation with the community is fundamental to the working of the Act, and effective communication is vital to effective consultation.

Principle 2 –

Communications should be consistent with the purpose of local government⁸ and in the collective interests of the communities the Council serves.

- 4.10 A Council is a corporate entity, with statutory role and purpose. The role and purpose include promoting the well-being of communities in its district or region. A Council may serve many communities, both in the geographical sense and in the sense of communities of interest. It should always act within the scope of its role and purpose, and in the collective interests of its communities.
- 4.11 Sometimes, a Council will need to communicate with only some of its communities about a particular issue, or with part of a community. But it should always be able to justify any communication as being in the collective interests of them all.

⁶ Including the avoidance of defamatory comment, or misleading or deceptive conduct under the Fair Trading Act 1986.

⁷ E.g. use of the special consultative procedure under the LGA.

⁸ *The purpose of local government is—*

(a) to enable democratic local decision-making and action by, and on behalf of, communities; and
(b) to promote the social, economic, environmental, and cultural well-being of communities, in the present and for the future.

(LGA, section 10)

Principle 3 –

Communications should comply with any applicable Council policies and guidelines as to process (including authorisation) and content.

- 4.12 We encourage all Councils to adopt a policy on communications: see paragraph 1.15 on page 9.

Collective position

Principle 4 –

Communications on Council policies and decisions should reflect the collective position of the Council.

- 4.13 Wherever possible, the Council should “speak with one voice”, and its communications should represent the corporate or collective position.
- 4.14 A communication by an authorised spokesperson appointed by the Council (whether that person is a Member or an employee) should identify that person in his or her official capacity (for example, as a Committee chairperson). The purpose of the communication should always be to meet the Council’s, not the spokesperson’s, communications objectives. The person responsible should be careful to ensure that what is being said is portrayed as the Council’s position, not the personal views of the spokesperson.
- 4.15 Some Councils allow the Mayor to produce a regular “column” in a Council-funded or other local publication, or to make regular broadcasts on local radio or television. The purpose of such communications should be to give voice to the Council’s corporate position on its activities, through the elected leader.
- 4.16 Communication of a Member’s personal perspective, views or opinions (including in a regular “column”, broadcast, etc) should be the exception rather than the rule, and should be subject to Principles 9 to 11 (see pages 19-21).

Principle 5 –

Communications on Council business should always be clearly attributed to the Council as the publisher.

- 4.17 A communication might, for example, identify the Council by reference to the name of the Council or by use of its corporate logo. A communication designed to meet the Council’s statutory obligations (such as a draft annual plan) should not only say who authorised its publication (usually the chief executive officer) but also identify the statutory provision under which it is being published.

- 4.18 For commentary about the identification of sponsors, see paragraphs 5.3-5.7 on pages 25-26.

Standards of communication

Principle 6 –

Factual and explanatory information should be presented in a way that is accurate, complete, fairly expressed, and politically neutral.

- 4.19 **Accurate** means what it says. That which is held out to be true should be founded on ascertainable facts, and be carefully and precisely expressed consistently with those facts. No claim or statement should be made that cannot be substantiated.
- 4.20 A communication will be **complete** when it consists of all the information necessary for the audience to make a full and proper assessment of the subject matter.
- 4.21 Information will be **fairly expressed** when it is presented in an objective, unbiased, and equitable way. In particular:
- the audience should always be able to distinguish facts from analysis, comment, or opinion; and
 - when making a comparison, information should state fully and accurately the nature of what is being compared, and inform the audience of the comparison in a way that does not mislead or exaggerate.
- 4.22 Information will be **politically neutral** when it presents the Council's collective position, or, where there is no collective position, sets out the issues in a manner that does not refer to the positions taken by any individual Member or political party or group of Members.

Consultation and public debate

Principle 7 –

Communications about matters that are under consideration by the Council, or are otherwise a matter of public debate, should present the issues in an even-handed and non-partisan way.

- 4.23 Communications about matters that will be the subject of a future decision by the Council should be distinctly different from those that follow a decision.

- 4.24 In the “before” phase, all relevant facts and other considerations should be taken into account, and all significant points of view should be aired. The aim is to enable the Council to make itself aware of, and then to have regard to, the views of all its communities in relation to a particular decision⁹, while also meeting all its statutory obligations in respect of consultation¹⁰.
- 4.25 In particular, a “before” phase communication should:
- avoid the appearance and reality of bias or pre-determination – especially when summarising facts or arguments;
 - present the issues in an objective manner, avoiding subjective opinion or comment; and
 - mention both the advantages and the disadvantages of particular options.
- 4.26 Mention of individual Members’ or political parties’ positions should always be avoided.
- 4.27 In the “after” phase, the emphasis should be on what has been decided and its implications for the Council and its communities.
- 4.28 This principle applies whether the purpose of the communication is to satisfy LGA requirements, or otherwise.

Principle 8 –

If engaging in public debate with an interest group or a section of the community, a Council should use the news media (rather than a Council funded publication) and designated spokespersons (rather than professional communications advisers) unless there is a particular justification for not doing so.

- 4.29 A Council may be justified in responding to publicity that is unfair, unbalanced, or inaccurate. The object should be to put the record straight, including a measure of rebuttal.
- 4.30 But it is important to keep a balance and perspective. Council resources should not be used merely to engage in a public argument.
- 4.31 The preferred approach in such cases should be to make use of the news media, through release and publication of a written statement or making an authorised spokesperson available for interview. Use of Council-funded publications or professional advisers to engage in debate with interest groups could create the perception that Council resources are being used for the benefit of one section of the community against another, or in a way that results in an unequal public relations contest.

⁹ LGA, sections 14(1)(b) and 78.

¹⁰ LGA, sections 82-90.

- 4.32 An example of where a Council-funded publication to engage with an interest group could be justified is when the group has issued public statements encouraging citizens to commit acts of civil disobedience or to actively break the law.

Communications by Members

Principle 9 –

If the Council's Communications Policy permits them, communications by Members of their personal perspective, views or opinions (as opposed to communication of Council matters in an official capacity) should:

- **be clearly identified as such; and**
- **be confined to matters that are relevant to the role of local authorities¹¹.**

- 4.33 Members are collectively responsible for Council decisions. Communication of Council business to the community often falls to a designated spokesperson. See Principle 4 and paragraphs 4.13-4.15 on page 16.
- 4.34 But Members are also individually responsible to the communities that elected them. It is for the Council to decide whether and, if so, on what terms to make resources available to Members to communicate with constituents or the wider community in their capacity as individual Members.
- 4.35 An example of a communication that could involve a Member expressing personal views is a "Members' column" in a Council-funded newspaper or on a Council web site.
- 4.36 It is important that the Communications Policy, and the relevant part of the communications budget, also sets out clearly the limits in relation to such communications. The policy should say:
- What types of communications are permitted and in what circumstances, and the range of permitted subject matter.
 - Whether the material can or should be subject to editing and, if so, by whom.
 - What procedures apply in respect of authorisation, attribution, and editorial and quality control. These are for the Council to determine. However, whether or not material is edited, the Member must formally subscribe to what is being published.

¹¹ Under sections 10 and 11 of the LGA – see footnotes 5 (page 14) and 8 (page 15).

- 4.37 Note, however, that a Member's freedom to talk about Council business is subject to confidentiality requirements (such as under Standing Orders) and the Council's Code of Conduct – especially as regards Members' conduct towards each other and their disclosure of Council information.¹²
- 4.38 Here are our views on some other examples of a Member communicating personally:
- It is not appropriate for a Member to use a Council newsletter or web site to express views on a matter of central government responsibility (such as defence and foreign relations) that has no direct bearing on the Council's activities.
 - It may be appropriate (but only when the Council is undertaking no formal consultation process) for a Member to use Council facilities to consult with the public on an issue under consideration by the Council, or to explain his or her position on a contentious decision, but not to seek political support on an issue that the Council has not considered. References to, or the use of a logo or slogan of, a political party or grouping are unacceptable.
 - Members should not be permitted to use Council communications facilities for political or re-election purposes. (See Principles 12 and 13 on pages 22-24 for more information on communications in the pre-election period.)
 - Staff protocols on the use of the Internet, e-mail, and other communications facilities for personal purposes should also apply to Members. The minimal cost of allowing use of such facilities can easily be outweighed by the perception that public resources are being misused.

Principle 10 –

Politically motivated criticism of another Member is unacceptable in any Council-funded communication by a Member.

- 4.39 Neither the inherently adversarial nature of much Council politics nor the right of free speech can justify Council communications resources being used to enable one Member to engage in political debate with, or to criticise, another Member. Preventing such misuse should be an objective of the Council's policy on where editorial control and the power to authorise communications should lie.
- 4.40 Members are, of course, free to use their own resources for such purposes.

¹² LGA, Schedule 7, clause 15.

Members' personal profile

Principle 11 –

Care should be exercised in the use of Council resources for communications that are presented in such a way that they raise, or could have the effect of raising, a Member's personal profile in the community (or a section of the community). In permitting the use of its resources for such communications, the Council should consider equitable treatment among all Members.

- 4.41 Two related objectives underlie this principle:
- It is important that the public know who their Councillors are. Councils are justified in using, or in some circumstances permitting Members to use, Council facilities for communications that have the objective of raising a Member's personal profile.
 - Giving a "human face" to a piece of information can be an effective communications strategy to attract attention and make the information relevant and understandable to its audience.
- 4.42 It is acceptable for Councils to use photographs of Members, personal quotes/attributions, and other standard journalistic techniques provided they are consistent with these objectives. However, Councils need to bear in mind the inherent risks of favouritism and unequal treatment of members.
- 4.43 For example, a "photo opportunity" shot, in a Council-funded publication, of a Mayor or Committee Chairperson announcing a Council decision helps to draw the reader's attention to the decision, and thereby improve the effectiveness of its communication, but could also have an unintended and beneficial spin-off effect for the Member's personal or political profile in the community.
- 4.44 Allowing Members representing a particular Ward to issue their own newsletter to constituents could have a similar effect. There is nothing wrong with such an idea in principle. However, the principle of equitable treatment makes it important that the same communications opportunity is available to Members representing other Wards. Matters such as editorial and quality control and attribution should also rest with the Council's communications staff in accordance with Council policy.

Communications in a pre-election period¹³

Principle 12 –

A local authority must not promote, nor be perceived to promote, the re-election prospects of a sitting member. Therefore, the use of Council resources for re-election purposes is unacceptable and possibly unlawful.

- 4.45 Promoting the re-election prospects of a sitting Member, directly or indirectly, wittingly or unwittingly, is not part of the proper role of a local authority.
- 4.46 A Council would be directly promoting a Member's re-election prospects if it allowed the member to use Council communications facilities (such as stationery, postage, internet, e-mail, or telephones) explicitly for campaign purposes.
- 4.47 Other uses of Council communications facilities during a pre-election period may also be unacceptable. For example, allowing Members access to Council resources to communicate with constituents, even in their official capacities as members, could create a perception that the Council is helping sitting Members to promote their re-election prospects over other candidates.
- 4.48 For this reason, we recommend that mass communications facilities such as –
- Council-funded newsletters to constituents; and
 - Mayoral or Members' columns in Council publications –
- be suspended during a pre-election period.
- 4.49 Promoting the re-election prospects of a sitting Member could also raise issues under the Local Electoral Act 2001. For example:
- Local elections must be conducted in accordance with the principles set out in section 4 of the Local Electoral Act – see Appendix 1 on page 27. The principles apply to any decision made by a Council under that Act or any other Act, subject only to the limits of practicality. A breach of the principles can give rise to an "irregularity" which could result in an election result being overturned.¹⁴

¹³ By "pre-election period" we mean the three months before the close of polling day for the purposes of calculating "electoral expenses": see Local Electoral Act 2001, section 104. However, a Council may decide to apply restrictions over a longer period.

¹⁴ See *Aukuso v Hutt City Council* (District Court, Lower Hutt, MA 88/03, 17 December 2003).

- The publication, issue, or distribution of information, and the use of electronic communications (including web site and e-mail communication), by a candidate are “electoral activities” to which the rules concerning disclosure of electoral expenses apply.

4.50 “Electoral expenses”¹⁵ include:

- the reasonable market value of any materials applied in respect of any electoral activity that are given to the candidate or that are provided to the candidate free of charge or below reasonable market value; and
- the cost of any printing or postage in respect of any electoral activity.

4.51 A Member’s use of Council resources for electoral purposes could therefore be an “electoral expense” which the Member would have to declare – unless it could be shown that the communication also related to Council business and was made in the candidate’s capacity as a Member.

Principle 13 –

A Council’s communications policy should also recognise the risk that communications by or about Members, in their capacities as spokespersons for Council, during a pre-election period could result in the Member achieving electoral advantage at ratepayers’ expense. The chief executive officer (or his or her delegate) should actively manage the risk in accordance with the relevant electoral law.

4.52 Curtailing all Council communications during a pre-election period is neither practicable nor (as far as mandatory communications, such as those required under the LGA, are concerned) possible. Routine Council business must continue. In particular:

- Some Councils publish their annual reports during the months leading up to an October election, which would include information (including photographs) about sitting Members.
- Council leaders and spokespersons need to continue to communicate matters of Council business to the public.

¹⁵ Also defined in section 104.

4.53 However, care must be taken to avoid the perception, and the consequent risk of electoral irregularity, referred to in the commentary to principle 12. Two examples are:

- journalistic use of photographic material or information (see paragraph 4.42 on page 21) that may raise the profile of a Member in the electorate should be discontinued during the pre-election period; and
- access to Council resources for Members to issue media releases, in their capacities as official spokespersons, should be limited to what is strictly necessary to communicate Council business.

4.54 Even if the Council's Communications Policy does not vest the power to authorise Council communications solely in management at normal times, it should do so exclusively during the pre-election period.

5 Other Commonly Arising Issues

Use of surveys and market research

- 5.1 Councils should target their communications resources to best effect. In appropriate cases, professional advice should be sought, and soundly obtained survey and market research information may be used.
- 5.2 Councils should meet acceptable standards in survey and market research information. To assist Councils to meet those standards:
- we reproduce in Appendix 2 on page 28 the ten principles identified by Statistics New Zealand underpinning its *Protocols for Official Statistics*; and
 - they can find useful guidance in the Statistics New Zealand publication *A Guide to good survey design*¹⁶.

Joint ventures and sponsorship

- 5.3 Many Councils seek to be involved with their communities, and may engage in collaborative ventures with other public agencies and business and community groups.¹⁷ Communication (for example, to promote public education or changes in people's behaviour) may be a feature of such ventures.
- 5.4 There is no reason in principle why a Council should not join with another agency or group to publish information for the benefit of the community – provided the activity is consistent with the Council's role and purpose. The use of private or community sponsorship for a Council communication may be a feature of such co-operation.
- 5.5 Examples of joint communication could include:
- a joint venture with the Police to issue information about individual and community safety in the Council's district; and
 - the use of business sponsorship for a Council advertisement of a community event.

¹⁶ ISBN 0-477-06492-2; revised July 1995. Copies can be ordered through the Statistics New Zealand web site at:
[www.stats.govt.nz/domino/external/web/prod_serv.nsf/htmldocs/A+Guide+to+Good+Survey+Design+\(2nd+edition\)](http://www.stats.govt.nz/domino/external/web/prod_serv.nsf/htmldocs/A+Guide+to+Good+Survey+Design+(2nd+edition))

¹⁷ Section 14(1)(e), LGA.

5.6 The Council's Communications Policy should, if the Council wishes to involve a partner, address:

- the types of communications for which joint ventures or sponsorship are appropriate; and
- the controls and procedures designed to manage the associated risks – such as perception of Council “capture” by a business or community group, actual or potential conflict of interest, and community attitude to the nature of the problem.

5.7 As a minimum, the Communications Policy should:

- require all mandatory communications to be funded solely by Council;
- require every communication joint venture or sponsorship proposal to be supported by a sound business case that is approved at an appropriate level within the Council organisation;
- set out the criteria for selecting a communication joint venture partner or sponsor, in order to avoid conflict of interest and prevent a partner or sponsor from gaining (or being perceived to gain) inappropriate commercial or political advantage;
- require both the Council and the joint venture partner or sponsor to adhere to the principles (including those in respect of editorial control) that it has adopted in the Communications Policy; and
- contain clear guidance as to the placement of logos, slogans, and other sponsorship references.

Appendix 1

Principles of the Local Electoral Act 2001

4 Principles

- (1) The principles that this Act is designed to implement are the following:
 - (a) fair and effective representation for individuals and communities:
 - (b) all qualified persons have a reasonable and equal opportunity to—
 - (i) cast an informed vote:
 - (ii) nominate 1 or more candidates:
 - (iii) accept nomination as a candidate:
 - (c) public confidence in, and public understanding of, local electoral processes through—
 - (i) the provision of a regular election cycle:
 - (ii) the provision of elections that are managed independently from the elected body:
 - (iii) protection of the freedom of choice of voters and the secrecy of the vote:
 - (iv) the provision of transparent electoral systems and voting methods and the adoption of procedures that produce certainty in electoral outcomes:
 - (v) the provision of impartial mechanisms for resolving disputed elections and polls.
- (2) Local authorities, electoral officers, and other electoral officials must, in making decisions under this Act or any other enactment, take into account those principles specified in subsection (1) that are applicable (if any), so far as is practicable in the circumstances.
- (3) This section does not override any other provision in this Act or any other enactment.

Appendix 2

Statistics New Zealand Principles Applicable to the Production of Official Statistics

- 1 The need for a survey must be justified and outweigh the costs and respondent load for collecting the data.
- 2 A clear set of survey objectives and associated quality standards should be developed, along with a plan for conducting the many stages of a survey to a timetable, budget and quality standards.
- 3 Legislative obligations governing the collection of data, confidentiality, privacy and its release must be followed.
- 4 Sound statistical methodology should underpin the design of a survey.
- 5 Standard frameworks, questions and classifications should be used to allow integration of the data with data from other sources and to minimise development costs.
- 6 Forms should be designed so that they are easy for respondents to complete accurately and are efficient to process.
- 7 The reporting load on respondents should be kept to the minimum practicable.
- 8 In analysing and reporting the results of a collection, objectivity and professionalism must be maintained and the data impartially presented in ways which are easy to understand.
- 9 The main results of a collection should be easily accessible and equal opportunity of access is enjoyed by all users.
- 10 Be open about methods used; documentation of methods and quality measures should be easily available to users to allow them to determine if the data is fit for their use.

A full copy of *Protocols for Official Statistics* can be obtained by contacting Statistics New Zealand through its web site www.stats.govt.nz.

From the Elected Members Code of Conduct (page 3, [1016476](#)):

3.8 Contact with the Media

The Nelson City Council's elected members have a responsibility to conduct Council business in an open and democratic manner mindful of the role that the media plays in the democratic process. There may be, from time to time, differences between the Council view on issues and individual views. Therefore the following rules apply for contacts with the media as they relate to Council business:

- (a) the Mayor or relevant Portfolio Holders is the first point of contact for the official view on issues; and*
- (b) no other member may comment on behalf of council without first obtaining the approval of the Mayor.*

Elected members, including the Mayor, are free to express a personal view in the media at any time, provided the following rules are observed:

- (a) media comments must not state or imply that they represent the views of Council;*
- (b) where an elected member is making a statement that is contrary to a Council decision or Council policy, the member must not state or imply that their view represents a majority view; and*
- (c) media comments must observe the other requirements of the code of conduct including that members must not disclose confidential information or compromise the impartiality or integrity of staff.*

Schedule of Documents Sealed: 1st November 2012 – 28th March 2013

DATE	LEGAL DESCRIPTION	DESCRIPTION	SITE ADDRESS
01/11/12	N/A	Warrants of Appointment: Building - Authorised Officers	N/A
05/11/12	N/A	Regional Pest Management Strategy 2012-17	N/A
07/11/12	Part Section 1225, City of Nelson Part Section 1008, City of Nelson Part Section 1010, City of Nelson	Section 75 of the Building Act 2004 - building over two allotments	60 Franklyn Street
09/11/12	N/A	Memorandum of Understanding between Nelson City Council and Uniquely Nelson	N/A
13/11/12	Lots 1 & 2 DP 1831	Deed of Renewal of Lease between Nelson City Council and Hunter Lounge Suites Ltd and Lionel Walter Hunter	101 Achilles Avenue
15/11/12	Part of the land described in certificate of title NL 5D/1145	Lease - Founders Heritage Park Nelson City Council and Tasman Forge Ltd	Founders Heritage Park – Baigent Workshop
15/11/12	Part of the land described in certificate of title NL 5D/1145	Lease - Founders Heritage Park Nelson City Council and Mantis Workshop	Founders Heritage Park – space within Baigent Workshop
15/11/12	Part of the land described in certificate of title NL 5D/1145	Lease - Founders Heritage Park Nelson City Council and Silver Fernz Ltd	Founders Heritage Park – Westpac Bank building
22/11/12	Section 1 and 2 SO Plan 458953 (draft)	Agreement for sale and purchase for land required for a sewerage pumping station	4 Saxton Road

DATE	LEGAL DESCRIPTION	DESCRIPTION	SITE ADDRESS
	Part Lot 1 DP6423 and 199m ² of road to be stopped	The Crown and Nelson City Council (on behalf of Nelson Regional Sewerage Business Unit)	
29/11/12	Allotment 1 DP 81 Lot 2 DRO 164 Lot 1 DP 6615 Part Section 56 City of Nelson	Section 75 of the Building Act 2004 - building over two allotments	173-177 Haven Road
06/12/12	Various	Renewal of Deed of Licence for Nelson Market Limited for Montgomery Square	Montgomery Square
06/12/12	Lot 1 DP 3395 Lot 2 DP 3395 Part Section 744 City of Nelson	Section 75 of the Building Act 2004 – building over two allotments	70 Vanguard Street
06/12/12	Part Section 57 Suburban South District Lot 1 DP 7976 Lot 2 DP 7976	Section 75 of the Building Act 2004 – building over two allotments	228 Songer Street
07/12/12	N/A	Deed of Variation SWAP for Nelson Agreement with Ministry for the Environment	N/A
11/12/12	N/A	Warrants of Appointment: Armourguard	N/A
17/12/12	Lot 2 DP 10999 Lot 1 DP 10999	Section 75 of the Building Act 2004 – building over two allotments	625 Main Road
19/12/12	N/A	Tasman Bays Heritage Trust Statement of Intent 2012-13	N/A

DATE	LEGAL DESCRIPTION	DESCRIPTION	SITE ADDRESS
10/01/13	Lot 1 DP 1828 Part Lot 2 DP 1828 Lot 1 DP 144 Lot 4 DP 144 Part Lot 1 DP 10084	Section 75 of the Building Act 2004 – building over two allotments	98 Halifax Street
18/01/13	N/A	Amendment 1 to the Parking and Vehicle Control Bylaw 2011 (No 207)	N/A
28/01/13	Lot 1 DP 4872 Lot 1 & Part Lot 3 DP 2562 Lot 1 and Lot 3 DP 2882	Section 75 of the Building Act 2004 – building over two allotments	83-85 Bridge Street
07/02/13	Lot 1 DP 3483 Lot 2 DP 3483	Section 75 of the Building Act 2004 – building over two allotments	75 Haven Road
13/02/13	N/A	Warrant of Appointment: Enforcement Officer	N/A
14/02/13	Lot 2 DP 7815 Lot 3 DP 7815	Section 75 of the Building Act 2004 – building over two allotments	3 Fifeshire Crescent
15/02/13	N/A	Warrant of Appointment: Enforcement Officer	N/A
20/02/13	Part Section 50 Sub. SD, NL 114/188	Lease of part of Greenmeadow Reserve, to Stoke Tennis Club Inc., subject to Reserves Act 1977	Songer Street, Greenmeadow Reserve
28/02/13	Lot 6 DP 2326, Part Lot 2 DP 8043 Lot 1 DP 2427, Part Section 171 City of Nelson	Section 75 of the Building Act 2004 – building over two allotments	Buxton Square
28/02/13	N/A	Warrant of Appointment: Enforcement Officer	N/A
04/03/13	CT 156982	Lease of Premises at Saxton Field for Table Tennis	142 Saxton Road

DATE	LEGAL DESCRIPTION	DESCRIPTION	SITE ADDRESS
07/03/13	N/A	Adoption of the Dog Control Bylaw 2013	N/A
14/03/13	N/A	Warrant of Appointment: Enforcement Officer	N/A
22/03/13	N/A	Warrant of Appointment: Enforcement Officer	N/A

Council Attendance Register 1 July 2012 to 31 March 2013

Apols:	Did not attend, apology entered
Att:	In attendance, as a non-member of the committee
DNA:	Did not attend, no apology entered
Other LG:	Did not attend due to attendance at another Council commitment
Partly:	Attended as member for 50% or less of the meeting (by duration)
Yes:	Attended as member, for more than 50% of the meeting (by duration)

Meeting Name	Date	Mayor Aldo Miccio	Cr Ian Barker	Cr Ali Boswijk	Cr Gail Collingwood	Cr Ruth Copeland	Cr Eric Davy	Cr Kate Fulton	Cr Paul Matheson	Cr Jeff Rackley	Cr Pete Rainey	Cr Rachel Reese	Cr Derek Shaw	Cr Mike Ward
Infrastructure	19-Jul-12	Yes	Yes	Yes	Yes	Apols	Yes	Yes	Yes	Yes	Yes	Apols	Yes	Yes
Community Services	19-Jul-12	Yes	Yes	Yes	Yes	Apols	Yes	Yes	Yes	Partly	Yes	Apols	Yes	Yes
Governance	7-Aug-12	Yes	Yes	Apols	Yes	Yes	Yes	Yes	Yes	Apols	Yes	Yes	Yes	Yes
Policy and Planning	9-Aug-12	Yes	Yes	Yes	Yes	Yes	Partly	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Remuneration Review Committee	17-Aug-12	Yes	n/a	Yes	Yes	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Infrastructure	21-Aug-12	Apols	Apols	Yes	Yes	Yes	Yes	Yes	Apols	Yes	Yes	Yes	Yes	Yes
Community Services	28-Aug-12	Apols	Apols	Yes	Yes	Yes	Yes	Yes	Yes	Apols	Apols	Yes	Yes	Yes
Infrastructure	4-Sep-12	Yes	Yes	Yes	Apols	Yes	Yes	Yes	Apols	Apols	Yes	Apols	Yes	Yes
Governance	18-Sep-12	Yes	Yes	Yes	Apols	Yes	Yes	Yes	Yes	Apols	Yes	Yes	Yes	Yes

Meeting Name	Date	Mayor Aldo Miccio	Cr Ian Barker	Cr Ali Boswijk	Cr Gail Collingwood	Cr Ruth Copeland	Cr Eric Davy	Cr Kate Fulton	Cr Paul Matheson	Cr Jeff Rackley	Cr Pete Rainey	Cr Rachel Reese	Cr Derek Shaw	Cr Mike Ward
Policy and Planning	20-Sep-12	Other LG	Apols	Yes	Apols	Apols	Yes	Yes	Yes	Apols	Yes	Yes	Yes	Yes
Community Services and Infrastructure	11-Oct-12	Apols	Yes	Yes	Yes	Yes	Yes	Apols	Yes	Apols	Yes	Yes	Apols	Yes
Framing our Future Committee	26-Oct-12	Yes	Apols	Apols	Yes	Yes	DNA	Yes	Apols	Yes	Apols	Yes	Yes	Yes
Governance	30-Oct-12	Yes	Yes	Yes	Yes	Yes	Apols	Yes	Yes	Yes	Partly	Yes	Yes	Yes
Policy and Planning	1-Nov-12	Yes	Apols	Yes	Yes	Yes	Yes	Yes	Apols	Yes	Yes	Yes	Yes	Yes
Community Services	20-Nov-12	Apols	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Partly	Yes	Yes	Yes	Yes
Joint Shareholders Committee	23-Nov-12	Yes	n/a	Yes	n/a	n/a	n/a	n/a	n/a	n/a	n/a	att	Yes	n/a
Community Services/Infrastructure	24-Nov-12	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Apols	Apols	Yes	Yes	Yes	Yes
Regional Transport Committee	6-Dec-12	n/a	Yes	n/a	Yes	Yes	att	n/a	Yes	n/a	n/a	att	Yes	n/a
Governance	11-Dec-12	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Policy and Planning	13-Dec-12	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Apols	Yes	Yes	Yes	Yes
RMA Procedures Committee	13-Dec-12	Yes	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	Yes	Yes	n/a
NRSBU	14-Dec-12	n/a	n/a	n/a	n/a	n/a	n/a	n/a	DNA	n/a	n/a	n/a	Yes	n/a
Community Services	19-Feb-13	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Apols	Yes	Yes	Yes	Yes	Yes
Infrastructure	21-Feb-13	Yes	Yes	Partly	Yes	Yes	Yes	Yes	Partly	Yes	Apols	Yes	Yes	Yes
Remuneration Review Committee	22-Feb-13	Yes	n/a	Yes	Apols	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Audit, Risk and Finance Committee	26-Feb-13	Other LG	Yes	n/a	Yes	Yes	n/a	n/a	Yes	n/a	n/a	att	n/a	n/a
Governance	12-Mar-13	Yes	Yes	Yes	Yes	Yes	Apols	Yes	Apols	Yes	Yes	Yes	Yes	Yes
Policy and Planning	14-Mar-13	Yes	Yes	Apols	Yes	Yes	Apols	Yes	Apols	Apols	DNA	Yes	Yes	Yes
NRSBU	15-Mar-13	n/a	n/a	n/a	n/a	n/a	n/a	n/a	Apols	n/a	n/a	n/a	Apols	n/a
Audit, Risk and Finance	19-Mar-13	Apols	Yes	n/a	Yes	Apols	n/a	n/a	Yes	n/a	n/a	att	n/a	n/a
RMA Procedures Committee	20-Mar-13	Yes	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	Yes	Apols	n/a
Annual Plan: Approve for Consultation	21-Mar-13	Other LG	Yes	Yes	Yes	Apols	Apols	Yes	Apols	Apols	Yes	Yes	Apols	Yes

Minutes of a meeting of the Audit, Risk and Finance Committee
Held in the Council Chamber, Civic House, Trafalgar Street, Nelson
On Tuesday 19 March 2013, commencing at 9.02am

- Present: Councillors I Barker (Chairperson), G Collingwood and P Matheson
- In Attendance: Councillor R Reese, Chief Executive (C Hadley), Chief Financial Officer (N Harrison), Executive Manager Support Services (H Kettlewell), Management Accountant (A Bishop) and Administration Adviser (L Laird)
- Apologies: His Worship the Mayor Aldo Miccio, Councillor R Copeland and Mr Graeme Thomas

1. Apologies

Resolved

THAT apologies be received and accepted from His Worship the Mayor Aldo Miccio, Councillor Ruth Copeland and Mr Graeme Thomas.

Barker/Matheson

Carried

2. Interests

There were no updates to the Interests register and no conflicts of interest were noted.

3. Confirmation of Minutes – 26 February 2013

Document number 1463795, agenda pages 5-8 refer.

Resolved

THAT the minutes of the meeting of the Nelson City Council - Audit, Risk and Finance Committee, held on 26 February 2013, be confirmed as a true and correct record.

Matheson/Collingwood

Carried

4. **Status Report – Audit, Risk and Finance Committee**

Document number 1374515 v4, agenda page 9 refers.

Resolved

THAT the Status Report – Audit, Risk and Finance Committee (1374515 v4) be received.

Barker/Collingwood

Carried

5. **Finance Report for the Period Ending 31 January 2013**

Document number 1464090, agenda pages 10-26 refer.

Chief Financial Officer, Nikki Harrison, presented the report.

The Committee discussed the variance as noted in 4.1 of the report (1464090) and were advised this was largely due to the expenditure associated with the Cable Bay Road project, which had not yet commenced.

Attendance: Councillor Reese joined the meeting at 9.10am.

5.1 Transport (agenda pages 10-11 refer)

In response to a question, the Chief Executive advised that a report on public transport patronage would be presented to Council shortly.

5.2 Water (agenda pages 11-12 refer)

Councillor Reese questioned current water supply levels. The Committee then discussed this issue and agreed that the community was generally unaware of Nelson's current water supply levels.

5.3 Corporate (agenda pages 16-17 refer)

The Committee asked staff to report back on why access issues were causing the hold on the Maitai Forest harvest, and how much revenue was expected from this harvest.

5.4 Capital expenditure

The Committee discussed attachments 3 and 4 to the report. It was mentioned that most of the latest projections for the listed major projects were not within 5% of their budget.

The Committee expressed concern with these projections and agreed that there had been consistent under-performing with regards to completing projects within their specified budgets according to the Annual Plan.

The Chief Executive acknowledged the Committee's concern and recognised the issue. She said staff were reviewing capital expenditure projections in line with what could realistically be delivered and this will be further reported on.

Resolved

THAT the Finance Report for the Period Ending 31 January 2013 (1464090) be received and the variations noted.

Collingwood/Matheson

Carried

6. Review of Financial Reserves

Document number 1452691, agenda pages 27-32 refer.

Management Accountant, Andrew Bishop, joined the meeting and presented the report. He noted the historic nature of some of the reserves and the difficulties associated with obtaining background information.

The Committee discussed the importance of acknowledging bequests. In response to a question, Mr Bishop said bequests were now mostly managed through the Civic Trust.

Recommendation to Council

THAT the funds held in the following reserves or on behalf of the following trusts be transferred to the activity that they relate to as set out in document 1452534:

- ***New Book Reserve***
- ***City Library Donations Reserve***
- ***Children's Library Donations Reserve***
- ***Stoke Library Donations Reserve***
- ***Nightingale Donations Reserve***
- ***Marsden Valley Cemetery Maintenance Trust***
- ***Wakapuaka Cemetery Maintenance Trust***
- ***Cafe Asset/Civic House Reserve***
- ***Festival Reserve***
- ***Loan Repayment Reserve***
- ***Tahunanui Dunes Restoration***
- ***Aldinga Park Donation Fund***
- ***Maitai Valley Trust***
- ***Kain Bequest***

- ***RB Jackson Bequest***
- ***FM Knight Bequest***
- ***Millar Bequest***
- ***Good Driving Incentive Reserve***
- ***Marsden Recreation Trust;***

AND THAT the Plunket Land Sale Fund be used to fund the new toilet development on the 1903 site;

AND THAT the balance of the Hamilton and Jean Rudman bequests be transferred to the City of Nelson Civic Trust on trust and the income to be used for beautifying the city;

AND THAT the Walker bequest be used to fund outdoor seating at the Stoke Community housing complexes with the balance being transferred to the Play Facilities activity;

AND THAT the Bartell Bequest and the Tui Endowment Trust be combined as the Nelson Institute Fund Reserve with the income to be transferred to the Library activity.

Collingwood/Matheson

Carried

There being no further business the meeting ended at 9.48am.

Confirmed as a correct record of proceedings:

_____ Chairperson _____ Date

Minutes of a meeting of the Nelson City Council/Tasman District Council Joint Shareholders Committee

Held in the Tasman District Council Chamber, Queen Street, Richmond

On Friday 5 April 2013, commencing at 2.00pm

- Present:** His Worship the Mayor of Tasman R Kempthorne (Chairperson), His Worship the Mayor of Nelson A Miccio, Tasman District Councillors T King and G Glover, Nelson City Councillors A Boswijk and D Shaw
- In Attendance:** Tasman District Council: Chief Executive (L McKenzie), Corporate Services Manager (M Drummond)
- Nelson City Council: Chief Executive (C Hadley), Executive Manager Support Services (H Kettlewell), and Administration Adviser (E-J Ryan)
- Apology:** His Worship the Mayor of Nelson A Miccio (for early departure)

1. Confirmation of Order of Business

There were no alterations to the order of business.

2. Interests

Councillors Glover and Shaw declared that they were members of the Nelson Regional Sewerage Business Unit Joint Committee, but that this did not constitute a conflict of interest with any agenda item.

No other conflicts of interest with any agenda items were declared.

3. Confirmation of Minutes

23 November 2012

Document number 1415934, agenda pages 7-11 refer.

Resolved

THAT the minutes of a meeting of the Nelson City Council/Tasman District Council Joint Shareholders Committee, held on 23 November 2012, be confirmed as a true and correct record.

Boswijk/Shaw

Carried

4. Nelson Regional Sewerage Annual Report 2011/12 and Business Plan 2013/14

Document number 1471115, agenda pages 12-76 refer.

Donna Hiser, Chairperson of the Nelson Regional Sewerage Business Unit, John Thiart, Nelson City Council Engineering Adviser, and Andrew Bishop, Nelson City Council Management Accountant, joined the meeting.

Ms Hiser presented the Nelson Regional Sewerage Business Unit Annual Report 2011/12 and Business Plan 2013/14. She explained that the Annual Report 2011/12 was late, due to delays involved with the valuation and audit process, but that a process had been agreed with the auditors to prevent this happening again.

Ms Hiser discussed the main points in the Annual Report. She explained that the auditors had noted that the Memorandum of Understanding was outdated and did not reflect current practices. Ms Hiser explained that this issue had been raised with the Chief Executives of both Councils and that it would be addressed in the near future.

The Committee discussed the Memorandum of Understanding and the governance of the Nelson Regional Sewerage Business Unit. It was agreed that a review of the governance model was desirable, and that it would be beneficial to include a preliminary assessment of governance options, given that background work had taken place at both Councils on this issue.

Resolved

THAT the Joint Shareholders Committee request the Chief Executives of Nelson City and Tasman District Councils to prepare a brief for a review of the governance model of the Nelson Regional Sewerage Business Unit and its operational support needs in consultation with the Chair of the Nelson Regional Sewerage Business Unit Joint Committee, and report back to the next meeting of the Joint Shareholders Committee on the brief and on a preliminary assessment of the options.

His Worship Mayor Kempthorne/Boswijk

Carried

Ms Hiser presented the Business Plan 2013/14. She explained that the plant upgrades were largely complete, but that two components had been deferred in order to carry out further analysis. She said that analysis had indicated that these components were no longer required, and the budgets associated with these components would be realised as a saving in 2014.

Ms Hiser added that the operations and maintenance contract tender process was currently underway, and that the contract would include a review of plant management.

Recommendation to the Nelson City and Tasman District Councils:

THAT the Nelson Regional Sewerage Business Unit Annual Report 2011/12 (1448078) be received;

AND THAT the Nelson Regional Sewerage Business Unit Business Plan 2013/14 (1464617) be adopted.

King/Boswijk

Carried

5. Tasman Bays Heritage Trust Draft Statement of Intent and Half Yearly Report 2013/14

Document number 1475666, agenda pages 77-104 refer.

Terry Horne, Chairperson of the Board, and Peter Millward, Chief Executive Officer, joined the meeting. Mr Horne presented the half yearly report, and in particular noted the impact of the renegotiation of banking facilities, and the requirement to earthquake-strengthen the Isel Park storage facility building.

Mr Horne explained that earthquake strengthening of the Isel Park storage facility would be carried out next year, but that this issue had led the Trust to consider a wider long-term strategic review of the Museum. He suggested that a strategic review could consider whether the Museum exhibition and storage facilities were in the optimum locations, and whether the Trust's assets would be best served by investigating other locations.

Attendance: His Worship Mayor Miccio departed the meeting at 2.53pm.

There was general agreement that a strategic review of the property and location needs of the Museum was desirable, but a variety of viewpoints were expressed regarding whether it was preferable for this to be expressed in the draft Statement of Intent or the Strategic Plan 2013/14.

Resolved

THAT the Tasman Bays Heritage Trust be requested to alter the performance objectives in the Strategic Plan 2013/14 to reflect the need to review the property and location needs for the future operation of the Nelson Museum.

Boswijk/King

Carried

Recommendation to the Nelson City and Tasman District Councils:

THAT the Tasman Bays Heritage Trust Half Yearly Report to 31 December 2012 be received;

AND THAT the Tasman Bays Heritage Trust Statement of Intent and Strategic Plan 2013/14 (noting the amendment) be approved for signing.

Boswijk/Glover

Carried

6. Exclusion of the Public

Resolved

THAT, in accordance with section 48(5) of the Local Government Official Information and Meetings Act 1987, the following people remain for the following items after the public has been excluded, as they have knowledge that will assist the Committee:

- **Mr Paul Steere and Ms Kaye McNabb, for the item "Nelson Airport Limited Statement of Intent and Half Yearly Report";**
- **Mr Phil Lough, Mr Parke Pittar and Mr Daryl Wehner, for the item "Port Nelson Limited half Year Report to 31 December 2012";**
- **Mr Phil Taylor, Ms Sharon McGuire, Mr Terry Horne and Ms Lynda Keene, for the item "Nelson Tasman Tourism Statement of Intent and Half Yearly Report 2013/2014";**

AND THAT, in accordance with section 48(6) of the Local Government Official Information and Meetings Act 1987, the knowledge that the above-named people possess relates to:

- **Mr Paul Steere and Ms Kaye McNabb – knowledge of the commercial activities and half yearly results for Nelson Airport Limited;**
- **Mr Phil Lough, Mr Parke Pittar and Mr Daryl Wehner – knowledge of the commercial activities and half yearly results for Port Nelson Limited;**
- **Mr Phil Taylor, Ms Sharon McGuire, Mr Terry Horne and Ms Lynda Keene – knowledge of the commercial activities and half yearly results for Tourism Nelson Tasman Limited.**

King/Shaw

Carried

Resolved

THAT the public be excluded from the following parts of the proceedings of this meeting.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

Item	General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Particular interests protected (where applicable)
1	Public Excluded Minutes – Joint Shareholders Committee – 23 November 2012 These minutes confirmed the public excluded minutes of the Joint Shareholders meeting of 14 September 2012 and also contain information regarding:	Section 48(1)(a) The public conduct of this matter would be likely to result in disclosure of information for which good reason exists under section 7	The withholding of the information is necessary:
	The operation of I-Sites in the Nelson Tasman Region and the marketing		<ul style="list-style-type: none"> • Section 7(2)(h) To carry out commercial

	strategy and Tourism Nelson Tasman Limited.		activities
	The possibility of a review of Tourism Nelson Tasman Limited		<ul style="list-style-type: none"> Section 7(2)(h) To carry out commercial activities
2	Nelson Airport Limited Statement of Intent and Half Yearly Report This report contains information relating to the commercial activities of Nelson Airport Limited, including its half yearly results.	Section 48(1)(a) The public conduct of this matter would be likely to result in disclosure of information for which good reason exists under section 7	The withholding of the information is necessary: <ul style="list-style-type: none"> Section 7(2)(b) To protect information that may disclose a trade secret or the commercial position of a person
3	Port Nelson Limited Half Year Report to 31 December 2012 This report contains information relating to the commercial activities of Port Nelson Limited, including its half yearly results.	Section 48(1)(a) The public conduct of this matter would be likely to result in disclosure of information for which good reason exists under section 7	The withholding of the information is necessary: <ul style="list-style-type: none"> Section 7(2)(h) To carry out commercial activities
4	Nelson Tasman Tourism Statement of Intent and Half Yearly Report 2013/2014 This report contains information relating to the commercial activities of Tourism Nelson Tasman Limited, including its half yearly results.	Section 48(1)(a) The public conduct of this matter would be likely to result in disclosure of information for which good reason exists under section 7	The withholding of the information is necessary: <ul style="list-style-type: none"> Section 7(2)(c) To protect information that is subject to an obligation of confidence Section 7(2)(h) To carry out commercial activities
5	Appointment of Director – Nelson Airport Limited 2013 This report contains information relating to the candidates for the Director position on the Nelson Airport Limited Board.	Section 48(1)(a) The public conduct of this matter would be likely to result in disclosure of information for which good reason exists under section 7	The withholding of the information is necessary: <ul style="list-style-type: none"> Section 7(2)(a) To protect the privacy of natural persons Section 7(2)(i) To carry out negotiations

King/Shaw

Carried

The meeting went into public excluded session at 3.04pm and resumed in public session at 4.24pm.

7. Re-admittance of the Public

Resolved

THAT the public be re-admitted to the meeting.

Boswijk/Glover

Carried

There being no further business the meeting ended at 4.24pm.

Confirmed as a correct record of proceedings:

_____ Chairperson _____ Date

**Minutes of a meeting of the Nelson Tasman Civil Defence
Emergency Management Group**

**Held in the Tasman District Council Chamber, Queen Street,
Richmond**

On Friday 5 April 2013, commencing at 4.26pm

Present: His Worship the Mayor of Tasman R Kempthorne
(Chairperson), Deputy Mayor of Tasman Councillor T King,
Deputy Mayor of Nelson Councillor A Boswijk

In Attendance: Chief Executive Tasman District Council (L McKenzie), Chief
Executive Nelson City Council (C Hadley), Nelson City Council
Acting Executive Manager Community Services (R Ball), Acting
Manager Nelson Tasman Emergency Management Office (J
Kennedy), Administration Adviser (E-J Ryan)

Apology: His Worship the Mayor of Nelson A Miccio

1. Apologies

Resolved

***THAT the apology from His Worship the Mayor of
Nelson Aldo Miccio be received and accepted.***

Boswijk/His Worship Mayor Kempthorne

Carried

2. Interests

No conflicts of interest with any agenda items were declared.

3. Confirmation of Minutes

23 November 2012

Document number 1420149, agenda pages 3-4 refer.

Resolved

***THAT the minutes of a meeting of the Nelson
Tasman Civil Defence Emergency Management
Group, held on 23 November 2012, be confirmed
as a true and correct record.***

Boswijk/His Worship Mayor Kempthorne

Carried

4. **Minutes of the Nelson Tasman Civil Defence Emergency Management Co-ordinating Executive Group (CEG) Meeting**

20 March 2013

Document number 1479510, agenda pages 5-9 refer.

Resolved

THAT the minutes of a meeting of the Nelson Tasman Civil Defence Emergency management Co-ordinating Executive Group (CEG) meeting, held on 20 March 2013, be received.

His Worship Mayor Kempthorne/Boswijk

Carried

5. **Report of the Emergency Management Officer**

Document number 1473043 v2, agenda pages 10-39 refer.

The Acting Manager Nelson Tasman Emergency Management Office, Mr Kennedy, presented the report. He explained progress to date on the new Emergency Operations Centre project, and noted that penalties would apply if the building was not completed by 31 December 2013.

Mr Kennedy noted that all community response plans were completed, and said that the Mapua and Marahau Community Response Plans had been successfully activated during the 6 February tsunami warning.

Mr Kennedy also spoke about the South Island exercise, taking place on 29 May 2013, and explained that it would provide an opportunity to test the new Emergency Management Information System.

Resolved

THAT the report of the Emergency Management Office (1473043 v2) be received.

Boswijk/His Worship Mayor Kempthorne

Carried

There being no further business the meeting ended at 4.34pm.

Confirmed as a correct record of proceedings:

_____ Chairperson _____ Date

Minutes of a meeting of the Nelson City Council – Policy and Planning

Held in the Council Chamber, Civic House, Trafalgar Street, Nelson

On Thursday 14 March 2013, commencing at 9.08am

Present: His Worship the Mayor (A Miccio), Councillors I Barker, G Collingwood, R Copeland, K Fulton (Co-Portfolio Holder), R Reese, D Shaw and M Ward (Co-Portfolio Holder)

In Attendance: Chief Executive (C Hadley), Executive Manager Strategy and Planning (M Schruer), Executive Manager Regulatory (R Johnson), Acting Executive Manager Community Services (R Ball), Executive Manager Network Services (A Louverdis), Chief Financial Officer (N Harrison), Manager Community Relations (A Ricker), Manager Administration (P Langley), Administration Adviser (E-J Ryan), and Youth Councillors (C Lindley and M Smithline)

Apologies: Councillors A Boswijk, E Davy, P Matheson and J Rackley, and Councillor K Fulton (for lateness)

Opening Prayer

His Worship the Mayor gave the opening prayer.

1. Apologies

Resolved

THAT the apologies from Councillors Boswijk, Davy, Matheson and Rackley, and Councillor Fulton for lateness, be received.

His Worship the Mayor/Collingwood

Carried

2. Conflicts of Interest

There were no updates to the Interests Register. His Worship the Mayor reminded Councillors to declare any interests relating to agenda items as they arose over the course of the meeting.

3. Confirmation of Order of Business

There were no changes to the order of business on the agenda.

Attendance: Councillor Fulton joined the meeting at 9.10am.

4. Public Forum

4.1 Dallas Woods

Ms Woods gave a PowerPoint presentation (1474649) regarding the protection of landscape overlays, and amateur radio aerials.

Ms Woods said that the Nelson Resource Management Plan controlled lighting structures and poles, but not amateur radio aerials. She showed photos illustrating the size of some amateur radio aerials, and spoke about the impact these had on the view from the Port Hills. She requested a Plan Change to require resource consent for large amateur radio aerials to be erected.

In response to questions, Ms Woods explained that her primary concern related to the adverse landscape values of large amateur radio aerials, but that she also had concerns relating to the potential health effects of such aerials. She said she would prefer neighbours' consent to be sought prior to an aerial being erected.

In response to a question, the Chief Executive said that a staff report on this matter would be brought to a future Council meeting.

4.2 Nigel Whinney

Document number 1460086, agenda pages 7-10 refer.

Mr Whinney spoke about the activities of the Port Nelson Mission to Seafarers. He noted the financial difficulties facing the Mission to Seafarers, and the requirement for on-going funding to ensure that the Mission continued.

In response to a question, Mr Whinney explained that the Mission was able to access interest on Port Nelson funds held within a Trust, but not the substantive Trust-funds. In response to further questions, Mr Whinney explained that he had had on-going discussions with Port Nelson representatives, and confirmed that the Mission was continuing to operate out of a building designated as Earthquake-Prone.

5. Confirmation of Minutes

13 December 2012

Document number 1430971, agenda pages 11-21 refer.

It was noted that Councillor Reese sat back from the table during the deliberations on the Dog Control Policy and Bylaw 2012, as she had not heard the submissions, and therefore had not attended the deliberations workshop.

Resolved

THAT the minutes of a meeting of the Nelson City Council – Policy and Planning, held on 13 December 2012, as amended, be confirmed as a true and correct record.

Reese/Barker

Carried

6. Mayor's Report

There was no Mayor's report.

7. Status Report – Policy and Planning

Document number 1034725 v8, agenda pages 22-24 refer.

In response to a question regarding the item "Pedestrian Malls", Executive Manager Strategy and Planning, Mr Schruer, explained that a report regarding Upper Trafalgar Street would come to a future Council meeting.

Resolved

THAT the Status Report – Policy and Planning (1034725 v8) be received.

His Worship the Mayor/Copeland

Carried

8. Portfolio Holder's Report

Councillor Ward tabled a copy of his Portfolio Holder's report (1475402), and spoke to it. He spoke about the Urban Development provisions within the Nelson Resource Management Plan, and noted the aspirations of diversity and good design were included within the Plan objectives. However, he suggested that the language relating to comprehensive housing developments could be altered to fit better with the Plan objectives.

Councillor Ward also paid tribute to the late Eelco Boswijk, and noted his influence on Nelson City.

9. Nelson Resource Management Plan: Draft Efficiency and Effectiveness Review

Document number 1370161, agenda pages 25-54 refer.

Principal Adviser Resource Management Planning, Mr Heale joined the meeting and presented the report. He explained that less weight had been placed on the Nelson Landscape Study within the Draft Efficiency and Effectiveness Review than previously, and he added that the review also noted the need to seek feedback from plan users and iwi. He added

that the words "key recommendations for further work" had been changed to "Council's future planning" to incorporate a broader range of strategic planning documents. .

In response to questions, Mr Heale explained that the references to performance indicators and significant landscapes referred to in the Draft Efficiency and Effectiveness Review came from the Nelson resource Management Plan and explained that clarification of this point would be within the scope of minor changes delegated to the Chief Executive, as per the recommendation in the staff report.

Councillors discussed the staff recommendation that targeted feedback be sought from Plan users and iwi. It was clarified that feedback would be specifically sought from iwi and all groups holding copies of the Nelson Resource Management Plan.

The discussion also noted that feedback was being sought on the Draft Efficiency and Effectiveness Review, and that consideration regarding future development on the hills surrounding Nelson was a separate question for which future policy direction would be required.

Resolved

THAT the Draft Efficiency and Effectiveness Review of the Nelson Resource Management Plan be received;

AND THAT the Chief Executive be delegated authority to make minor amendments to the Draft Efficiency and Effectiveness Review, prior to release;

AND THAT targeted feedback be sought from plan users and iwi;

AND THAT the Nelson Landscape Study prepared by Boffa Miskell Ltd in November 2005 be received and be incorporated into the Draft Efficiency and Effectiveness Review of the Nelson Resource Management Plan as outlined in Attachment 3 to report 1370161.

His Worship the Mayor/Collingwood

Carried

10. Issues and Options: National Policy Statement on Electricity Transmission 2008

Document number 1352206, agenda pages 55-101 refer.

Attendance: Councillor Barker sat back from the table and did not take part in the discussion or decision-making relating to this item.

Councillors agreed that adopting a "status quo" position was the most cost-effective method of dealing with this matter.

Resolved

THAT Council adopt a "status quo" position accepting that operative Nelson Resource Management Plan provisions are sufficient to give effect to the National Policy Statement on Electricity Transmission 2008.

Ward/Reese

Carried

REPORTS FROM COMMITTEES

11. Resource Management Act Procedures Committee – 13 December 2012

Document number 1424583, agenda pages 102-104 refer.

Resolved

THAT the minutes of the meeting of the Resource Management Act Procedures Committee, held on 13 December 2012, be received.

Reese/His Worship the Mayor

Carried

Attendance: The meeting adjourned for morning tea from 10.07am to 10.41am.

12. Exclusion of the Public

Resolved

THAT the public be excluded from the following parts of the proceedings of this meeting.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

Item	General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Particular interests protected (where applicable)
1	Public Excluded Council - Policy and Planning minutes, 13 December 2012	Section 48(1)(a) The public conduct of this matter would be likely to result in	The withholding of the information is necessary:

	These minutes contain information regarding:	disclosure of information for which good reason exists under section 7	
	The classifications of certain heritage precincts, including references to specific addresses.		<ul style="list-style-type: none"> • Section 7(2)(a) To protect the privacy of natural persons
	Details of a proposal for a lease on Council land.		<ul style="list-style-type: none"> • Section 7(2)(b) To protect information that may disclose a trade secret or the commercial position of a person • Section 7(2)(i) To carry out negotiations • Section 7(2)(j) To prevent improper gain or advantage
2	Public Excluded Policy and Planning Status Report – 14 March 2013 This report contains information regarding:	Section 48(1)(a) The public conduct of this matter would be likely to result in disclosure of information for which good reason exists under section 7	The withholding of the information is necessary:
	A decision to withdraw and re-draft a Statement of Proposal, including an update that this decision has now been released to the public.		<ul style="list-style-type: none"> • Section 7(2)(g) To maintain legal professional privilege
	The classifications of certain heritage precincts, including references to specific addresses.		<ul style="list-style-type: none"> • Section 7(2)(a) To protect the privacy of natural persons
	A proposal for a lease on Council land		<ul style="list-style-type: none"> • Section 7(2)(b) To protect information that may disclose a trade secret or the commercial position of a person • Section 7(2)(i) To carry out negotiations • Section 7(2)(j) To prevent

			improper gain or advantage
3	Contract with Cawthron Institute: City Water Supply Resource Consents This report contains information regarding the negotiation of a contract.	Section 48(1)(a) The public conduct of this matter would be likely to result in disclosure of information for which good reason exists under section 7	<ul style="list-style-type: none"> Section 7(2)(i) To carry out negotiations
4	Public Excluded Resource Management Act Procedure Committee minutes, 13 December 2012 These minutes contain information regarding discussions with appellants with regards to a Plan Change 14 Appeal.	Section 48(1)(a) The public conduct of this matter would be likely to result in disclosure of information for which good reason exists under section 7	<ul style="list-style-type: none"> Section 7(2)(i) To carry out negotiations

His Worship the Mayor/Fulton

Carried

The meeting went into public excluded session at 10.41am and resumed in public session at 10.58am.

13. Re-admittance of the Public

Resolved

THAT the public be re-admitted to the meeting.

His Worship the Mayor/Copeland

Carried

There being no further business the meeting ended at 10.58am.

Confirmed as a correct record of proceedings:

_____ Chairperson _____ Date

POLICY AND PLANNING STATUS REPORT – 23 APRIL 2013

No	Meeting Date	Document Number	Report Title/Item Title	Officer	Resolution or Action	Status
1	22/9/2011	1144640	Pedestrian Malls	Debra Bradley	<p><u>THAT</u> a pedestrian mall declaration for Morrison Street be developed in 2011/12, to allow street closure every Wednesday of the year;</p> <p><u>AND THAT</u> the road closure provisions in schedule 10 of the Local Government Act 1974 continue to be applied for street closures in Upper Trafalgar Street in 2011/12;</p> <p><u>AND THAT</u> a community engagement plan including pedestrian mall options be prepared to enhance the Council relationship with Upper Trafalgar Street businesses over the 2011/12 year and to improve understanding of the impacts of different events on foot traffic and local businesses;</p> <p><u>AND THAT</u> staff work with the affected parties to make suitable alternative arrangements for the Christmas Carols and the New Year's Eve celebrations if required.</p>	<p>23/4/13 Eight submissions were received on the draft pedestrian mall declaration for Morrison Street. All submissions are in support (with some changes requested). No one wishes to speak at a hearing. The Hearing Panel will consider and make decisions on the submissions on 15 April. The draft declaration will be amended to reflect the Hearing Panel's decisions, and reported back to Council for adoption.</p> <p>Feedback has been sought from Upper Trafalgar Street businesses following each street closure in this area in late 2012 and early 2013. A summary of the feedback, and information about some physical changes planned to the area, will soon be provided to councillors via the CE Newsletter.</p>

No	Meeting Date	Document Number	Report Title/Item Title	Officer	Resolution or Action	Status
2	1/11/2012	1403703	Rocks Road Shared Path	Rhys Palmer	<p><u>THAT</u> Council approves the Terms of Reference (1375150) and Multi-party funding agreement (1375750) for the Rocks Road Shared Path investigation phase;</p> <p><u>AND THAT</u> New Zealand Transport Agency is advised that Nelson City Council will not consider clearways on, or three-laning of, Rocks Road as part of the options in its Terms of Reference for the Rocks Road Shared Path investigation phase, as decided in the Council resolution of 11 August 2011;</p> <p><u>AND THAT</u> the Council confirm the resolution dated 11 August 2011 declaring that this Council does not support clearways as referred to in 4.3 of the report (1374486) and inform the New Zealand Transport Agency.</p>	<p>23/4/13 A report will come to the Council – Infrastructure meeting on 14 May 2013</p>
3	13/12/2012	1430971	Nelson Stock Effluent Disposal Facility	Rhys Palmer	<p><u>THAT</u> Council reconfirms its support for the provision of a Stock Effluent Disposal Facility for the Nelson region and informs New Zealand Transport Agency of its support for a site in the Tasman District Council area;</p> <p><u>AND THAT</u> the Chief Executive be delegated authority to commence discussions with private landowners regarding the construction and operating cost options for establishing the facility and report back to Council.</p>	<p>23/4/13 Staff waiting for a proposal from NZTA to construct a disposal facility on private land.</p>
4	19/02/2013	1439024	Local Alcohol Policy	Jenny Hawes	<p><u>THAT</u> a draft Local Alcohol Policy be developed on the basis of the significant benefits, including:</p> <ul style="list-style-type: none"> communities having a greater say on local alcohol licensing policy 	<p>23/4/13 The three Top of the South Councils, the Medical Officer of Health and Police met on 5 April</p>

No	Meeting Date	Document Number	Report Title/Item Title	Officer	Resolution or Action	Status
					<ul style="list-style-type: none"> • guidance and greater certainty for all those involved in the liquor licensing process • a fit for purpose policy on the sale and supply of alcohol <p><u>AND THAT</u> the scope of the draft Local Alcohol Policy should cover all of the matters permitted under s77 of the Sale and Supply of Alcohol Act 2012;</p> <p><u>AND THAT</u> Nelson City Council indicates a desire to work with other Councils on the development of local alcohol policy(ies) and the Mayor be requested to seek agreement from the Mayors of Tasman District Council and Marlborough District Council to work collaboratively to develop local alcohol policy(ies) for the Top of the South Councils.</p>	<p>to agree on a collaborative process for drafting local alcohol policies across the three Councils. It was agreed that:</p> <ul style="list-style-type: none"> • there are a number of potential areas for consistent policies across the three Councils (to be worked on). • that we aim to run a very similar community survey across the three Councils to ascertain community views on the sale and supply of alcohol before we draft the policies (first step). • levels of preconsultation on a draft policy may vary across the three Councils. • Police and Medical Officer of Health will work closely with the three Councils to provide data, support, and feedback on draft policies.

No	Meeting Date	Document Number	Report Title/Item Title	Officer	Resolution or Action	Status
						Timeframes for approving draft policies and running special consultative procedures are likely to be slightly different across the three Councils, depending on whether Councils wish to consult before or after local body elections.
5	19/02/2013	1439006	Council Submission on 'Towards Better Regulation'	Richard Johnson	<u>THAT</u> the submission on Towards Better Regulation (1445682) is confirmed after review by Councillors Reese, Fulton, Ward, and Copeland, and subject to the amendments made by them;	23/4/13 Submission on Towards Better Regulation' lodged with Productivity Commission on 11 March 2013. Complete.
6	21/02/2013	1454773	Annual Plan 2013/14 Workshop Discussion Summary	Nicky McDonald	<u>THAT</u> funding for the Holiday Programme Grants, After School Programme, Youth Programme, Preschool Recreation Programme, Enviro education schools, Enviroschool facilitation, Enviroschools co-ordination, Youth Development Fund, Youth Nelson, and the Social Wellbeing Policy Action Plan be reviewed in order to align with the new purpose of local government; <u>AND THAT</u> the groups that will be affected by the review be advised of the process and the reasons for it. <u>THAT</u> the criteria for grants from the Community Assistance Programme be reviewed before the next application round.	23/4/13 Reports on both of these issues are being prepared for the 14 May Community Services meeting.

No	Meeting Date	Document Number	Report Title/Item Title	Officer	Resolution or Action	Status
8	14/03/2013	1370161	Nelson Resource Management Plan: Draft Efficiency and Effectiveness Review	Matt Heale	<u>AND THAT</u> targeted feedback be sought from plan users and iwi;	23/4/13 Minor edits finalised and feedback sought from plan users and iwi from early April

Scoping of Trading in Public Places Bylaw Review

1. Purpose of Report

- 1.1 To seek Council guidance regarding the scope of the Trading in Public Places Bylaw 2007 review. The review is a statutory requirement.

2. Recommendation

THAT Council confirms the Trading in Public Places Bylaw #213 be reviewed;

AND THAT all parts of the bylaw are part of the review;

AND THAT after preliminary consultation with the community and interested organisations a draft bylaw is prepared for consideration by Council and that draft is used for informal consultation;

AND THAT on the basis of feedback on the informal draft, a draft bylaw be prepared for Council approval for formal consultation via the Special Consultative Procedure of the Local Government Act 2002.

3. Background

- 3.1 The Trading in Public Places Bylaw (#213) came into force on 5 June 2007. A review of the bylaw must be completed by 5 June 2014 or it will no longer have effect (section 160A, Local Government Act 2002).
- 3.2 The current bylaw regulates the following activities in public places (streets, public car parks, and council parks, gardens and reserves):
- Hawkers and mobile shops (other than street stalls and outdoor dining areas subject to a council lease).
 - Commercial services (from door-to-door sales, to fortune telling, to soliciting of sexual services).
 - Begging, soliciting of donations and selling lottery tickets.

- Busking.
 - Sandwich boards on footpaths.
 - Retail displays on footpaths.
 - Advertising in the street or public places (including Council's poster towers).
- 3.3 Essentially the bylaw controls the use of public places for a private benefit – whether it is for money, donations, a token or for advertising. 'Private' in this sense includes not just individuals and businesses, but also charities or other groups.

4. The Bylaw Making Process

- 4.1 The Local Government Act 2002, section 160, sets out the process for reviewing bylaws.
- 4.2 A local authority must "determine whether a bylaw is the most appropriate way of addressing the perceived problem" (s155 (1)).

The 'Perceived Problem'

- 4.3 The first step is to define the "perceived problem". It can be framed as:
- 4.3.1 The public's enjoyment of public places being potentially diminished by other people's use of those places for private gain (trade).
- 4.3.2 The negative effects might include:
- noise, smell, dust or other nuisance.
 - obstructing footpaths or other public areas, including access to shops and other property.
 - damage to footpaths and public areas.
 - restriction on the public's ability to access certain areas.
 - the public being harassed by people soliciting or selling.
- 4.4 A second aspect of the perceived problem is addressing those effects without unduly affecting the general public's rights. The New Zealand Bill of Rights Act 1990 provides freedom of movement, expression, association and peaceful assembly, and "*no bylaw may be made which is inconsistent with the New Zealand Bill of Rights Act 1990*" (section 155(2)(b), Local Government Act 2002).
- 4.5 The fine line comes with areas of protest or civil disobedience. These might diminish the public enjoyment of public places, but peaceful assembly is a common law right within boundaries, and has certain

protections under the Bill of Rights Act. The Council will need to be careful when drafting the bylaw to strike the right balance.

The 'Most Appropriate Way'

4.6 Under the process required in the Local Government Act 2002, the next step is to decide whether a bylaw is the "most appropriate way" of addressing the perceived problem.

4.7 Possible options are:

Option	Advantages	Disadvantages
Not to regulate	Simple Uncomplicated	Council powerless to act when problems arise.
Bylaw	Provides backup when problems arise. Allow proactive control to minimise potential problems. Simpler process to create than rules under Nelson Resource Management Plan.	Council officers can seize property, but for serious breaches need an injunction from the District Court.
Nelson Resource Management Plan	More directly enforceable by Council (infringement fees, abatement notice) without reference to the Court.	Not necessarily 'significant resource management issue' that is the focus of district plans. More costly and complicated process to make rules. Unlikely to be operative before the existing bylaw goes out of existence.

4.8 Doing nothing is not considered a practical option. While a low regulatory environment can be attractive, when something goes wrong, the Council may be without options to address the problem.

4.9 Writing rules under the Nelson Resource Management Plan could be certain and effective, but there are elements of 'using a sledgehammer to crack a nut'. Is it questionable whether the problems are 'significant resource management issues' of the type a district plan is required to address. The Resource Management Act process is also expensive, slow and complicated. Changing or updating rules is not easy, and there is the ability to appeal the substance of Council decisions. All of this is considered unsuited to the problem to be resolved.

- 4.10 A bylaw is considered a better fit to the issues involved, and a simpler and quicker process. The enforcement provisions of bylaws are not as strong as the Resource Management Act, but enforceability issues can be reduced with good drafting.
- 4.11 The Local Government Act 2002 (section 145) provides that local authorities may make bylaws to protect the public from nuisance; protecting, promoting and maintaining public health and safety; and minimising the potential for offensive behaviour in public places.
- 4.12 Section 146 (a) (vi) specifically authorises the making of bylaws to regulate 'trading in public places'.

5. Scope of Review

- 5.1 Preliminary consultation has occurred with Uniquely Nelson, Council staff who implement and enforce the bylaw, Council's senior legal adviser, and with other local authorities. Some issues identified include:
 - Issues with definitions and wording, and the ability/inability to enforce the existing bylaw.
 - Overlap with other controls, for instance in Reserve Management Plans.
 - Inner City businesses are concerned about begging, and busking if it is not controlled properly.
 - The procedures and paperwork required by the bylaw.
 - Use of footpaths. For example, the location of sandwich boards required under the current bylaw – next to the front of the building – is contrary to recommended practice by NZ Transport Agency and disability groups. The recommended location is in the 'street furniture zone' near the kerb, where lampposts, seats, rubbish bins and other obstacles are located and expected.
 - Consistency between the Nelson City and Tasman District Council in the location of sandwich boards. This would benefit blind and partially-sighted persons who move about in both districts. Tasman District Council is reviewing its sandwich boards bylaw and officers in both councils are keen to work collaboratively. Marlborough District Council reviewed its bylaw in 2010 and so won't be looking at it again for some time.
 - Issues not covered by the bylaw that may need to be.
- 5.2 Given this range of issues, officers consider the bylaw needs a comprehensive review.

6. Process

- 6.1 Given the range of issues and interested parties it is recommended that, rather than have a working party draft the bylaw, officers bring a draft to Council as a whole for discussion.
- 6.2 The process of developing the draft is proposed to be:
- Preliminary consultation with the community and interested organisations to further understand the issues involved.
 - Prepare a draft bylaw (or options) for consideration by Council and use this draft for informal consultation.
 - Using that feedback, prepare a draft bylaw for Council approval for the formal consultation that has to occur via the Special Consultative Procedure of the Local Government Act 2002.
- 6.3 The intention is to seek to resolve any major issues prior to the formal draft being publicly notified for submissions under the Special Consultative Procedure.

7. Conclusion

- 7.1 Officers propose that the entire bylaw be reviewed.
- 7.2 There should be a focus on early engagement with interested parties. The aim would be to resolve key issues prior to the formal draft being notified under the Special Consultative Procedure.

David Jackson
Principal Adviser City Development

Attachments

None.

Supporting information follows.

Supporting Information	
1. Fit with Purpose of Local Government	Review of the bylaw is required as part of the performance of Council's regulatory functions.
2. Fit with Community Outcomes and Council Priorities	Reviewing the Bylaw helps achieve the following Community Outcomes: People Friendly Places, and a Fun, Creative Culture by enabling use of public places for businesses and community organisations, but in such a way that the pleasantness of those places is retained.
3. Fit with Strategic Documents	The review of the Bylaw would aim to fit with the Heart of Nelson Strategy which aims to provide high quality public places for people to enjoy, relax and socialise in, so as to add to inner city vitality; to create a City Centre that caters for people of all ages, ethnicities, incomes and abilities; to create a City Centre that is easy to walk around; and to achieve an engaging, activity filled central city, with activities that encourage people into the central city and to spend more time once there.
4. Sustainability	The bylaw can support the Nelson 2060 Vision, specifically being an inclusive city, and being creative, socially balanced and economically prosperous.
5. Consistency with other Council policies	The review will aim to be consistent with the Social Wellbeing Policy, Reserve Management Plans and the Nelson Resource Management Plan.
6. Long Term Plan/Annual Plan reference and financial impact	N/A
7. Decision-making significance	This is not a significant decision in terms of the Council's Significance Policy.
8. Consultation	Will take place informally to better scope the issues and potential approaches, then through a special consultative procedure when the draft bylaw is formally consulted on.
9. Inclusion of Māori in the decision making process	Consultation with Māori would be provided for through the ensuing special consultative procedure.
10. Delegation register reference	A Council decision.

Council Submission on Funding Assistance Rates (FARs) Review

1. Purpose of Report

- 1.1 To confirm Council's submission to the New Zealand Transport Agency (NZTA) consultation document 'Funding Assistance Rates (FARs) Review'.

2. Recommendation

THAT the submission (1485379) on the Funding Assistance Rates (FARs) Review is confirmed, subject to any changes agreed by Council.

3. Background

- 3.1 NZTA is responsible for managing the investment of funding raised from fuel excise duty, road user charges and motor vehicle registration fees. A large share of this money is allocated to Approved Organisations (including this Council) for local improvements. FARs are used to calculate the proportion of approved costs of local works that will be funded from the central fund.
- 3.2 The current system of FARs will continue through the remainder of the 2012-2015 funding cycle. This consultation is in relation to how NZTA should allocate funding during the next funding cycle (2015-2018).
- 3.3 Staff have developed a draft submission based on input from Councillors.
- 3.4 The closing date for submissions is 2 May 2013. If significant change is required, then staff recommend that one of the Co- Portfolio Holders Infrastructure be delegated responsibility for finalising the submission.

4. Discussion

- 4.1 The draft Council submission considers the merits of each of NZTA's proposed approaches to setting FARs. It also expresses a strong desire on the part of Council to work in a closer partnership with NZTA in order to deliver the best transport outcomes for both road users and ratepayers in Nelson.

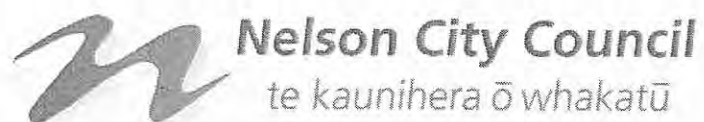
Chris Ward
Manager Strategic Response

Attachments

Attachment 1: Draft Submission on the Funding Assistance Rates (FARs)
Review [1485379](#)

Supporting information follows.

Supporting Information	
1. Fit with Purpose of Local Government	Responding to proposals on behalf of the Nelson Community is part of Council's democratic function.
2. Fit with Community Outcomes and Council Priorities	Submitting on proposals of relevance to Council and the community demonstrates Good Leadership.
3. Fit with Strategic Documents	The current FARs approach was used to inform Council's Transport Asset Management Plan 2012-15 and the Long Term Plan 2012-15. Council has to make provision in these documents for funding the local share of approved projects. Any changes to the funding mechanism would need to be taken into consideration as Council plans future transport projects.
4. Sustainability	Not applicable.
5. Consistency with other Council policies	Not applicable.
6. Long Term Plan/Annual Plan reference and financial impact	None from the submission. Potentially significant impacts when FARs change.
7. Decision-making significance	This is not a significant decision in terms of the Council's Significance Policy.
8. Consultation	No external consultation has been carried out.
9. Inclusion of Māori in the decision making process	No specific Māori consultation has been carried out.
10. Delegation register reference	Not applicable.



**New Zealand Transport Agency
Funding Assistance Rates (FAR) Review**

SUBMISSION FROM NELSON CITY COUNCIL

To: FAR Review Discussion Document Submissions
NZ Transport Agency
50 Victoria Street
Private Bag 6995
Wellington 6141
Attention: Clare Sinnott

3 May 2013

This submission is made by: Nelson City Council

Address for Service:

Postal: Nelson City Council
PO Box 645
Nelson 7040
Attn: Road Safety Adviser

Email: chris.ward@ncc.govt.nz

Fax: (03) 546 0431

Contact Person: Chris Ward, Manager Strategic Response

Direct Phone: (03) 545 8729

Signed

..... Date.... / /

Aldo Miccio

Mayor of Nelson

1 Introduction and general comments

- 1.1 Nelson City Council ('the Council') welcomes the opportunity to provide feedback to the New Zealand Transport Agency (NZTA) on the 'Funding Assistance Rates (FAR) Review' discussion document.
- 1.2 The Council seeks to work closely with NZTA on key transport projects in order to deliver benefits to the economy, local road users and local residents. Regardless of the approach that is taken to setting FARs, the relationship between NZTA and Council is fundamental to the successful delivery of transport projects within the Nelson area.
- 1.3 This relationship needs to be built on a common understanding of what we are trying to achieve by investing in transport infrastructure. In part, this is guided by the FAR principles and government policy. However, it should also be guided by sharing an understanding of how transport projects fit at the local level with achieving the Nelson community's preferences around how this city should develop economically and socially, and the environmental qualities and attributes within which that development should occur.
- 1.4 Currently Council receives the lowest base FAR available (43% for maintenance, 53% for capital projects). Council is concerned that some of the approaches under consideration would result in Council receiving an even lower rate than previously. The Council has built an asset management framework around an anticipated level of funding against which it can prioritise essential maintenance and transport upgrades and to meet ever higher environmental standards e.g. discharges of road run-off to freshwater. Any loss of Government funding will have significant impacts on transport infrastructure and may prove counter-productive to growing Nelson, contributing to New Zealand's growth and maintaining a city that is easy to get around, has roads that are safe to use and are fit for purpose.
- 1.5 The Council requests that the NZTA confirms that it will maintain a level of 43% as the minimum base FAR for all councils.

2 Principles

- 2.1 Council agrees that a principle-based approach needs to be taken to setting FARs.
- 2.2 Council generally supports the principles identified in the discussion document, but notes that the more principles there are, the harder it is to find an approach that meets all of the principles. There seems to be some overlap between some of the principles, for example the wording for 'Be consistent with seeking value from investment of the NLTF' could be amended to cover both 'Be financially responsible' and 'be efficient to apply'. Some rationalisation of the principles is desirable.
- 2.3 Whilst 'allow social and environmental responsibility to be exhibited' is stated as a principle, it is not referred to in the consideration of the advantages and disadvantages of each approach. Further analysis of each option against this principle is requested.

- 2.4 Council understands that NZTA needs to take a whole of network approach to land transport in New Zealand. However, Council also believes that this principle should be applied at a regional level where the land transport network integrated with other community infrastructure. There is a need to retain a focus on supporting viable, productive communities with transport infrastructure that supports economic development that may be location specific but not of national scale.
- 2.5 Council would like to see a principle that FARs should:
- 'recognise the need for regional integration of transport infrastructure with community infrastructure to support community and economic development opportunities'.

3 Preferred Approach or Combination of Approaches

- 3.1 Council is not in a position to be able to recommend one approach or a combination of approaches, because insufficient detail is available on what a preferred option might mean for funding of transport projects in our area.
- 3.2 Council is able to state its expectations of what the preferred approach should deliver. These are threefold:
- 3.2.1 Firstly, there needs to be transparency in the process by which the National Land Transport Fund is distributed across the country. Councils need clear, consistent rules that enable them to carry out their statutory (10 year) planning with some confidence that the basis on which funding is allocated will not change over the lifetime of the Long Term Plan (LTP).
- 3.2.2 Secondly, Nelson recognises the importance of our area within the Top of the South (TOTS). Nelson's port, airport and CBD are important economic hubs for the region, and there is a need to ensure that investment in transport links across the TOTS supports these hubs.
- 3.2.3 Thirdly, Council has to consider the interests of its own residents, road users and ratepayers. There needs to be flexibility in the allocation of transport funding to recognise the local community's needs and aspirations.
- 3.3 Council notes that some of the descriptions suggest that transport users are a separate group from ratepayers. The majority of people actually fall into both groups, with users of the land transport system generally being a subset of ratepayers. At the local level, more weight should be given to the interests and benefits of ratepayers over those of land transport users.

4 Comments on Individual Approaches

- 4.1 Council has found it difficult to fully assess each of the options because the desirability of some of them will vary according to the details of how the approaches will be implemented.

Status Quo

- 4.2 Council notes that there is an option of maintaining the status quo in relation to the combination of approaches that might apply when setting the 2015-18 FARs. Council believes that there is considerable merit in maintaining the status quo, as the possible benefits from changing the system are likely to be countered by significant costs in moving to a new system.
- 4.3 Council is not convinced that the arguments in favour of change are particularly strong. However, if a change is to be proposed then, given the investment in forward planning tied in to the asset management plans, a lead-in time to effect the transition would be highly desirable.
- 4.4 Nonetheless, Council makes the following comments on each of the individual approaches as follows.

Flat Approach

- 4.5 Council believes that this approach is suitable for some land transport activities, such as Public Transport operations, but, by itself does not give enough flexibility for maintenance and capital expenditure. For example, significant arterial projects that contribute to wider transport network and economic benefits should receive higher FARs based on each project's merits.
- 4.6 The Council supports the Flat Approach being used as part of a package of approaches (as under the current arrangements).

Differences Approach

- 4.7 This is the current approach that is used in setting base FARs. Whilst not ideal, it does give some certainty and is reasonably transparent. Council would not support the differences approach being used if the current minimum base FAR of 43% was dropped.
- 4.8 The Council supports the Differences Approach being used as part of a package of approaches (as under the current arrangements).

Classification Approach

- 4.9 The Council finds it difficult to support this approach without further information on how classification might work, and the specific FARs being considered. It is not clear if the examples given in the discussion paper are indicative levels or not.
- 4.10 Council understands the rationale behind this approach but believes that in practice this system will be costly to set up and to administer.
- 4.11 Council does not support this approach.

Revenue Approach

- 4.12 The validity of this approach relies on the assumption that investment is required where road usage is greatest. Council believes that this is not a valid assumption to make.
- 4.13 There is a need to invest in transport infrastructure for future demands rather than for meeting present demands. Investment in roading should not be based on lag effects (resolving previous under investment) but on forward needs and effects that are required to be managed.
- 4.14 Council sees little positives in this approach and many drawbacks. It is also not clear how this would apply to an area such as Nelson, where the road network is short (and so overall vehicle kilometres are less) but where there are key regional economic hubs that require transport infrastructure (port, airport, CBD).
- 4.15 Council does not support this approach.

Population approach

- 4.16 Council sees some merit in taking account of the population in determining FARs, but that it should not be used exclusively. One model would be to set a base FAR based on a flat rate or differences approach and then to allocate a top up FAR rate based on population size.
- 4.17 Population size would seem to be a fairer measure for allocating FARs than metrics based on road usage. This is because all ratepayers contribute to overall funding of transport projects (FAR plus local share).
- 4.18 Council supports this approach as part of a package of approaches.

Incentives Approach

- 4.19 Council believes that there is merit in considering this approach on top of a flat rate or difference approach to setting FARs. This combination would give greater certainty on revenue for councils, whilst offering additional encouragement to councils for projects aligning with policy changes.
- 4.20 Council has worked with NZTA on its total mobility scheme to align its practices with the targets set by NZTA using the incentives approach.
- 4.21 By itself the incentives approach would not give any level of certainty to councils and would make long term planning extremely difficult.

Contribution Approach

- 4.22 Council can understand the rationale for this approach but believes, that it does not take into account future economic growth and the contribution that will make. There is a strong argument for developing transport infrastructure to support that future growth rather than to reflect where current economic activity exists. The proposed approach seems to equate productivity with heavy vehicles

– this would seem to exclude growing industries such as tourism, which also require investment in transport.

- 4.23 Council believes that this will be costly to set up and to administer and therefore does not support this approach.

Relative Benefit Approach

- 4.24 Council does not support this approach. This seems to place higher value on the needs of road users at the expense of local residents and ratepayers. The disadvantages, as identified in the consultation document, are many whilst the benefits are minimal.

- 4.25 Council does not support this approach.

5 Conclusion

- 5.1 Council thanks the NZTA for the breadth of approaches that it has drawn together as it seeks to identify an approach to setting FARs from 2015 onwards. Without seeing the detail of how a preferred approach might be implemented, it is difficult for Council to fully endorse any one of the options.
- 5.2 Council has not been convinced of the imperative to change the existing approach and suggests that NZTA specifically includes the current system when considering which approach or combination of approaches to further consult on.

	Value for money	Whole of network	Benefits to users and ratepayers recognised	Financially responsible	Social and environmentally responsible	Efficient to apply	Based on clear principles	Balance between certainty and agility	Council support
Flat	✓	✗	✗	✓	?	✓	✓	✓	✓
Differences	✓	✓	✗	✓	?	✓	✓	✓	✓
Classification	✓	✓	✗	✗	?	✗	✓	✗	✗
Revenue	✗	✗	✓	✗	?	✓	✓	✗	✗
Population	✓	✗	✓	✓	?	✓	✓	✓	✓
Incentives	✓	✓	✗	✗	?	✓	✓	✓	✓
Contribution	✗	✗	✗	✗	?	✗	✓	✗	✗
Relative Benefit	?	✗	✓	?	?	✗	✓	✗	✗

Council Submission on Resource Management Act Reforms April 2013

1. Purpose of Report

- 1.1 To confirm Council's submission to the Ministry for the Environment 2013 discussion document 'Improving our Resource Management System'.

2. Recommendation

THAT the submission (1475724) on the Ministry for the Environment 2013 discussion document 'Improving our Resource Management System' is confirmed.

3. Background

- 3.1 'The Minister for the Environment has identified that *'...there are opportunities to manage our resources more effectively and efficiently to deliver both economic and environmental benefits for future generations'*.
- 3.2 The Ministry for the Environment recently circulated a discussion document seeking views on a variety of proposals that have been identified within the current resource management system.
- 3.3 A Council workshop was held on 14 March 2013 to provide staff with guidance on the Council response to the proposals put forward. The discussions at that workshop formed the basis of the submission attached (Attachment 1). A submission in draft form was circulated to Commissioner Accredited Councillors and Policy and Planning Committee co-portfolio holders for comment on 22 March 2013.
- 3.4 Due to consultation timing it was not possible to have the submission formally accepted by Council prior to lodging. The closing date for submissions was 2 April 2013 and it was lodged within that deadline.

4. Discussion

- 4.1 The Council submission states a general agreement with the Minister that an efficient resource management system would provide benefits and could assist in responding to the identified underlying problems with the current system. The point is made however that this should not be at the expense of appropriate local representation in Resource Management Act 1991 decision making.

- 4.2 The submission then comments on each of the proposals in turn. In many cases general support is acknowledged but suggestions are made around the detail of the changes. Key items of the submission relate to; the need for more Central Government guidance to support proposals, the need to ensure unitary authorities are included in the proposed changes around Plan preparation, and the costs and benefits of any proposal to remove community input should be carefully considered.

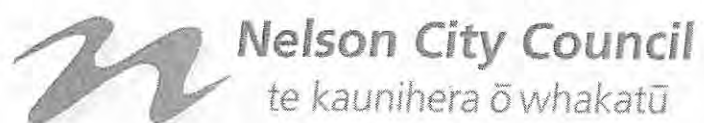
Reuben Peterson
Planning Adviser

Attachments

Attachment 1: Submission to the Ministry for the Environment 2013 discussion document 'Improving our Resource Management System' [1475724](#)

Supporting information follows.

Supporting Information	
1. Fit with Purpose of Local Government	Responding to proposals on behalf of the Nelson Community is part of Council's democratic function.
2. Fit with Community Outcomes and Council Priorities	Submitting on proposals of relevance to Council and the community demonstrates Good Leadership.
3. Fit with Strategic Documents	The Central Government proposals which the submission relates to could potentially have significant impacts on Council Strategic Documents such as the Regional Policy Statement, Nelson Air Quality Plan, and the Nelson Resource Management Plan. The submission raises some of these points but it will not be until the drafted legislation is introduced to the house that impacts will more accurately be known.
4. Sustainability	Not applicable.
5. Consistency with other Council policies	The submission itself does not create any inconsistency with Council policies however it is likely that the legislation produced by Central Government will ultimately require Council to consider its policy position, particularly in the Resource Management area.
6. Long Term Plan/Annual Plan reference and financial impact	None from the submission. Potential impacts when/if legislation changes.
7. Decision-making significance	This is not a significant decision in terms of the Council's Significance Policy.
8. Consultation	No external consultation has been carried out.
9. Inclusion of Māori in the decision making process	No specific Māori consultation has been carried out.
10. Delegation register reference	Not applicable.



**Ministry for the Environment 2013
Improving our Resource Management System: A Discussion Document.**

SUBMISSION FROM NELSON CITY COUNCIL

To:	RMA Reform PO Box 10362 Wellington 6143
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2 April 2013

This submission is made by: Nelson City Council

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Signed



.....
Aldo Miccio

Date...2/4/2013

Mayor of Nelson City Council

1. Introduction

- 1.1 Nelson City Council (the Council) thanks the Minister for the Environment for the opportunity to make a submission on the March 2013 'Improving our Resource Management System' discussion document.
- 1.2 The Council is in general agreement with the Minister that an efficient resource management system would provide benefits and could assist in responding to the identified underlying problems with the current system. However, this efficiency should not be at the expense of appropriate local representation in RMA decision making.
- 1.3 The Council also notes that many of the proposals lack sufficient detail for a fully informed comment to be made. Where relevant this is noted within the specific comments below.

2. General comments

- 2.1 Central Government Guidance and Assistance
- 2.2 Many proposals put forward in the discussion document rely on increased Central Government guidance and direction. This might be through National Policy Statements (NPS), National Environmental Standards (NES), Plan templates or general clarity of expectations through legislation. This approach is supported but Nelson City Council notes that in the past many of these initiatives have been proposed but have not eventuated. Increased resourcing and focus at the Central Government level is required to ensure successful delivery of the content of the discussion document.
- 2.3 The discussion document implies that many of the legislative changes will be in place prior to the guidance noted above. Where possible Nelson City Council is of the view that the guidance material should be produced prior legal requirements being introduced.
- 2.4 In line with the comments above Nelson City Council suggests that funding or resourcing from Central Government be made available, particularly for the required planning process of developing new documents in the proposed template. This process will require significant resources from all Council's within a relatively compressed timeframe.
- 2.5 A number of the proposals put forward relate to Central Government initiatives, such as development of NPS/NESs and directing Plan changes which impact on the work program of Council's. Nelson City Council considers it essential that as much prior notice as possible is given of these items so that Council's can plan their work programs and consult on the inclusion of this work in the relevant Long Term Plans.
- 2.6 Unitary Authorities
- 2.7 Nelson City Council is a unitary authority with close links to the adjacent unitary authorities of Tasman and Marlborough District Councils. We seek to

ensure that the unitary authority model of Council is clearly recognised in any revisions to legislation where this is relevant. The clearest example in the discussion document of this not occurring is in section 3.2.3. A streamlined plan making process is available to District and Regional Council's who collaborate but not explicitly stated for adjacent unitary authorities who may wish to collaborate, or to the individual unitary authorities to assist in efficiently moving towards the single plan model.

2.8 Community Input

- 2.9 Nelson City Council supports efficiency of process and generally supports the proposals set out in the discussion document; however we do have some concern at the reduction in involvement of the community and local Councils in Plan development. The emphasis is on involvement at the pre-notification stages but is limited from then on. Also the use of a nationally directed Plan template, including some content and guidance, can reduce the ability to include local decisions on what is appropriate in particular communities. Re-drafting of the RMA proposed in this discussion document should carefully consider the costs and benefits of any removal of opportunities for community input.

2.10 Timeframes for Implementation

- 2.11 The discussion document proposes that legislative change is likely to occur in 2013 with the required guidance to be provided at a later date. This is particularly relevant to the proposed 5 year timeframe to have new Plans 'in place'. We consider that a longer timeframe would be more realistic to allow time for the guidance / templates to be developed and new practices and case law to be developed. A 10 year timeframe for new Plans to be operative would allow this additional time and recognise the timeframe the Act sets for plan reviews.

2.12 Affordable Housing/Living

- 2.13 The discussion document indicates that a driver for some of the proposed changes relates to housing affordability. Nelson City Council's responses to these changes are outlined below; but in addition we would like to raise the issue of private covenants. These frequently place controls on land which are in the interests of the developer but not in the interests of housing affordability, housing choice or future opportunities for intensifying use of the land. For example covenants commonly require a minimum house size, prevent two story dwellings, limit development to a single residential unit per site and restrict future subdivision. The ability for Government or Council to control these private covenants would be a significant tool to use to move towards increased land supply and creating more affordable housing/living environments.

3. Specific Comments

3.1 Nelson City Council's submission is appears in the following table where each item is addressed independently.

Proposal	Comments
3.1 Proposal 1: Greater National Consistency and Guidance	
<p>3.1.1 Changes to the principles contained in section 6 and 7 of the RMA</p>	<p>Nelson City Council generally supports 'collapsing' and updating of s6 & 7 as this removes any real or perceived hierarchy between the two. We are also supportive of the concept of 'overall broad judgement' being added to s6 however we do make the point that this 'overall broad judgement' actually occurs in s5.</p> <p>We suggest an amendment to s6 (1) by using the term 'sustainably managing' instead of 'managing the use, development and protection of...'. Sustainable management is defined by s5 while the wording of s6 only brings through a portion of this definition. This suggested change should be carefully considered for consequential impacts on interpretation and application.</p> <p>While acknowledging our general support Nelson City Council does however have concerns about weakening the thrust of some aspects of section 6 and 7, in particular the removal of 7 (c) the maintenance and enhancement of amenity values, and to a lesser degree 7 (f) maintenance and enhancement of the quality of the environment. In terms of 7 (c) we suggest a revised version be retained in the new section 6. A revised version could add in a reference to 'the maintenance and enhancement of <u>significant</u> amenity values', or more usefully for the urban sense be included in proposed 6 (k) 'the amenity matters and effective functioning of the built environment including the availability of land for urban expansion, use and development'. The discussion document makes a number of references to urban design but it is difficult to see where this links to in section 5 or 6. We also note that many Plan provisions of Council's relate to 'amenity' or 'quality of the environment' such as those in the built environment dealing with bulk and location (eg; daylight, building height and site coverage), activities that generate amenity effects (eg; noise) and a range of policies and objectives that seek different outcomes for different areas (eg; Industrial, commercial, rural and residential</p>

Proposal	Comments
	<p>policies). Section 31 is another area where reference to amenity values could also be placed.</p> <p>While the definition of environment includes amenity NCC believes that amenity needs to be more explicitly referenced in the Act particularly given the need for Plans to address amenity issues and consents to consider effects on amenity. The recognition of amenity means that plans can more clearly identify the outcomes anticipated in different areas which in turn increases certainty to plan users</p> <p>Proposed section 6 b) and c) have introduced the word 'specified' as a qualification about what is protected. In general this is supported but many Council's do not have these items 'specified' in their Plan's currently so we have concern over their protection in the time between legislation being enacted and 'specification' occurring. We suggest a nationalised process or guidance is developed to make it easier for Council's to undertake what is often a very controversial and lengthy process. An additional point of particular relevance to s6 c) as that these items are often very hard to 'specify', either through mapping or creating a list for many reasons, for example lack of access permission to land, size of the area, or lack of the highly detailed analysis required.</p> <p>Section 6 j) should also recognise any costs as well as the benefits to renewable energy (or more correctly 'electricity') generation.</p> <p>The proposed Section 7), clause 5 about 'Achieving an appropriate balance between public and private interests in the use of land' is likely to introduce much uncertainty as 'appropriate balance' is undefined. This, and much, if not all, of the content of proposed Section 7, is seen as unnecessary and duplicates other aspects of the Act and the role of Resource Management Plans.</p> <p>We also note that significant changes such as these proposed may not be cost effective partly due to the costs of developing new case law.</p>
3.1.2 Improving the way central government responds to issues of national importance and promotes greater national direction	<p>Nelson City Council generally supports this proposal. Direction and intervention powers from Central Government would be beneficial in some instances. The important aspect from the local authority's point of view is that we are involved in this process and aware of any</p>

Proposal	Comments
and consistency.	future work programme to allow accurate projections in Long Term Plans.
3.1.3 Clarifying and extending central government powers to direct plan changes.	Nelson City Council is generally supportive, and considers that clarification of powers is sensible. We also support the use of criteria for directing Plan Changes but would like to see this explicitly stated as being an escalation from inviting Council to respond to an issue through to Central Government directly amending an operative plan.
3.1.4 Making National Policy Statements and National Environmental Standards more efficient and effective.	Nelson City Council encourages Central Government to use the NPS and NES tools. We point out the benefits to Council's of there being a clear and certain programme for the rollout of these. This allows for Council's to make accurate projections in Long Term Plans which increases certainty for both the Council and the residents / ratepayers. In terms of NPS / NES being able to be regionally based we suggest it is best to stay with an issue based approach. This allows for the application of a NPS / NES wherever an issue is relevant to a region rather than nationally mandatory, and is flexible as issues change and evolve over time.
3.2 Proposal 2: Fewer resource management plans	
3.2.1 A single resource management plan using a national template that would include standard terms and conditions	<p>In general the concept of fewer resource management plans is supported but their development, content and process to achieve this outcome will be very important. Nelson City Council seeks to ensure that there is local government representation and input in developing the standard plan template.</p> <p>Standardised templates and the process for a Council to move towards utilising the template needs to recognise the Unitary Authority model. A more integrated plan template than currently appears to be proposed is also suggested. The role of the Regional Policy Statement should be considered here with the potential to reduce the levels of objectives and policy's required in the single plan format. There is also a need to be clear which policies are regional and which are district particularly given the inability to propose private plan changes to regional policy statements.</p>

Proposal	Comments
	<p>There may be potential to allow a staged evolutionary process to moving into the standardised template. This would assist in reducing the body of work required in a short time period. We note that the five years allowed to have the single plan 'in place' is very short, especially when it would take 1 or 2 years from Central Government to provide this template.</p> <p>The amount of work required to produce a single Plan, even for a unitary authority, will be significant and the benefits will go beyond the borders of each local authority. Nelson City Council requests that financial assistance is given from Central Government to assist in this undertaking along with consideration to how changes can be made with the option of avoiding the first schedule process. Any assistance should apply to unitary authorities either when developing a single plan individually, or in combination with an adjacent unitary authority.</p>
3.2.2 An obligation to plan positively for future needs eg land supply	<p>Nelson City Council generally supports the intent of this change but questions what the problem is. The aspect of this proposal which is of concern relates to the requirement to provide a 10 year 'land supply' for projected residential growth. If this is to be included it should focus on housing availability rather than just land supply as this would also incorporate brown fields and intensification opportunities. In addition Council's should look to adjacent authorities housing availability (or land supply) to ensure supply in the wider regional context is considered.</p>
3.2.3 Enable preparation of single resource management plans via a joint process with narrowed appeals to the Environment Court	<p>If there is to be a move to standardised and joint Plan's Nelson City Council is supportive of the proposal to introduce a streamlined process to assist in their development.</p> <p>The details of the proposed approach are fairly general and we make the following points to consider about how this process might work.</p> <p>The proposal seems to focus on Regional and District Council's jointly preparing the planning document, however adjacent unitary authorities acting alone or those who decide to work together shouldn't be excluded from the streamlined combined plan process.</p>

Proposal	Comments
	<p>The point at when the independent hearing panel oversees the process needs to be clarified. We suggest this would be best to occur once notification has occurred. The current proposal would include everything from the First Schedule, Clause 3 onwards. This clarification would ensure the local Council's have control of the pre-notification plan making.</p> <p>We suggest there should be local representation required on hearings panel. Potentially it could be independently chaired with local elected representatives as sitting members. The iwi representative is highly likely to be a local representative to ensure an understanding of local iwi perspectives.</p> <p>The proposed process has the independent hearing panel making a recommendation, while the Council makes the decision, but appeals can only be on items where Council deviates from the panel recommendation. This raises a natural justice/process issue as a Council could not possibly deviate from the recommendation as they have not been involved in the submission and hearings process. Effectively the panel makes the 'decision' as Council has little ability to influence this, and therefore other parties have little ability to appeal. Council's only option would be to load up the front end extensively to try and resolve issues before notification and a hearing. This sounds positive in theory but without the formality and timeframes around a hearing process could easily result in a very inefficient process and inferior outcomes.</p>
3.2.4 Empowering faster resolution of Environment Court proceedings	These proposed changes are supported.
3.3 Proposal 3: More efficient and effect consenting – Key items	
3.3.1 A new 10-working day time limit for straight-forward, non-notified consents.	<p>Nelson City Council supports the concept of a 10-working day limit for straight forward non-notified consents and notes that this is usually achieved in any case. To improve the ability to achieve this proposal, and from the applicant's point of view shorten the time, resources and costs required to prepare, apply for, and gain a 'simple' resource consent, we suggest that the whole process needs to be considered for these 'simple' consents. This would include defining 'simple' consents and then for these consents reconsidering the 'must</p>

Proposal	Comments
	<p>include' statement of the Fourth Schedule proposed through the 2012 RMA Amendment Bill and clarifying the reporting requirements of section 113 (this could be in the form of a best practice example, or template decision letter for resource consents processed under the 'simple' resource consent process). Any reduction in application requirements still needs to recognise that good quality and complete resource consent applications significantly increase the ability to achieve quicker processing times.</p> <p>The compliance of the application to the stated quality criteria would assist in achieving the goal of 10 working day processing times, but bear in mind that these quality criteria should reflect the suggested reduction in requirements throughout the process.</p> <p>To ensure this new system is successful clear guidance on what is considered to be 'small scale', or 'straight forward'.</p>
<p>3.3.2 A new process to allow for an 'approved exemption' for technical or minor rule breaches.</p>	<p>Nelson City Council supports this proposal and compares it to alternative solutions under the Building Act however acknowledges that more guidance will be needed about what approved exemptions could be and that ultimately Councils will determine what technical or minor breaches might be. We also point out the comments for item 3.3.1 above about reducing the application and reporting requirements through-out the whole process. The proposal still has some level of 'processing' by Council staff – clarification should be given on the extent of reporting expected from Council staff.</p>
<p>3.3.3 Specifying that some applications should be processed on a non-notified basis.</p>	<p>Nelson City Council has general concerns over lack of detail and guidance as to how this might work. Most applications are currently non-notified and many provisions within Council Plans specify that this is to be the case. There appears to be little merit in this proposal and we note that a NES can already achieve this outcome if required for specific issues.</p>
<p>3.3.4 Limiting the scope of conditions that can be put on consents.</p>	<p>Nelson City Council considers this item is unnecessary. The Newbery test already covers the scope of consent conditions and Central Government has ability to monitor the scope of conditions placed on consents. To attempt to introduce legislation to achieve this goal adds a level of complexity that does not appear warranted.</p> <p>Additionally the conditions placed on consents increase</p>

Proposal	Comments
	<p>the level of 'comfort' of submitters and the consent authority and thereby allow the consent to be granted. Limiting the scope of conditions could, in some cases, result in a less flexible approach in which the consent authority may be more inclined to decline a consent. This does not assist in the desired outcomes of progressing development.</p>
<p>3.3.5 Limiting the scope of participation in consent submissions and appeals</p>	<p>Nelson City Council is very concerned about the impact of this proposal. In particular it limits the ability to consider cumulative, mitigating effects, and the ability of effected parties and the public to be involved in the full extent of a proposal. Based on the example of the over height building given it would not allow submitters to comment on colour and landscaping, both of which can have significant mitigating effects on the over height nature of the building.</p> <p>If the concern is related to vexatious submitters then trained commissioners already have the ability to restrain these. Overall we feel there would be many unforeseen consequences of trying to limit submissions only to the reasons the application was notified.</p>
<p>3.3.6 Changing appeals from de novo to merit by way of rehearing</p>	<p>The proposed changes from consent appeals being heard 'de novo' to appeals by way of re-hearing is generally supported, but we highlight the importance on clearly thinking through all the possible impacts and outcomes of this process.</p> <p>The proposal would make more efficient use of the Environment Court process and focus on the core issues. Care is required to retain applicant and submitter rights so we are pleased to see the recognition in the discussion of this proposal that '...the Government would need to be satisfied the rights of applicants and submitters would not be unreasonably affected.'</p> <p>Evidence given at the Council hearing, including Council's own, will form the basis of the evidence on appeal. The quality of that evidence will therefore have to of such to stand in an Environment Court situation. For many applications this will mean more work and costs for both applicant and Council. In some cases this will also apply to the Council decision.</p> <p>More reliance on the Council hearing and decision process raises the question of the impact on the ability of the applicant to amend their proposal (and provide</p>

Proposal	Comments
	<p>relevant evidence to the amendment) between hearings.</p> <p>Tribunal resolution of minor matters is something that should be explored and we note that this is identified as a future body of work. As a suggestion at this point consideration should be given to whether this can be carried out on paper rather than calling a hearing.</p>
3.3.7 Improving the transparency of consent processing fees	<p>Nelson City Council does not support proposal, particularly the fixed fee, and mandatory provision of estimates. Fixed fees result in a well prepared, or simpler application, which is quick to process, subsidising poorly prepared, or more complex ones which take longer to process. Also providing estimates adds in more process time, thereby raising the costs involved. Any costs not covered by the fixed fee would need to be paid by the general ratepayer.</p> <p>The resource consents system should be predominately user pays with the existing safeguard of section 357 allowing for dispute of fees charged.</p>
3.3.8 Memorandum accounts for resource consent activities	<p>Nelson City Council considers that in practice this is already carried out and there is no need for an additional layer of administration with its own associated costs.</p>
3.3.9 Allowing a specified Crown-established body to process some types of consent	<p>Nelson City Council has concerns over the application of this proposal and would need to see identification of circumstances where this would be used. The existing call-in powers should be sufficient for nationally significant proposals.</p>
3.3.10 Providing consenting authorities tools to prevent land banking.	<p>Nelson City Council considers there is limited ability under the RMA to manage land banking. A developer who does not come in for subdivision consent, or only applies for a small portion of their land at a time could short circuit this provision. Applications for small portions of a larger block of land would result in less efficient processing overall and less ability to achieve integrated outcomes for infrastructure and urban design over the wider area.</p>
3.3.11 Reducing the costs of the EPA nationally significant proposals process.	<p>No comment.</p>
3.4 Proposal 4: Better natural hazard management	

Proposal	Comments
3.4.1 Learning the lessons from Canterbury	Nelson City Council supports the increased recognition of natural hazards. We note that it is important to refer to the 'effects' of natural hazards, rather than 'impacts' of the natural hazards. Effects is a word extensively used and understood in the RMA, it seems unnecessary to change this to 'impacts' as interpretation may alter. We specifically support the broadening of the definition under section 106 to include all natural hazards.
3.5 Proposal 5: Effective and meaningful iwi/Maori participation	
3.5.1 Enabling more effective iwi/Maori participation in resource management planning	Nelson City Council supports the strengthening of the identified provisions. Maori should be meaningfully included in the development of Council policy.
3.6 Working with Councils to improve practice	
3.6.1 Improving accountability measures	Nelson City Council generally supports proposal. A partnership approach including greater clarity and assistance/guidance from Central Government is required to ensure improvements in this area.