



# A G E N D A

## Council

**Thursday  
17 April 2014  
commencing at 1.30 pm  
Council Chambers**

His Worship the Mayor, M.T. Havill (**Chairperson**)  
Deputy Mayor P.M. Cox  
Cr. J.H. Butzbach, Cr. M.S. Dawson, Cr. D.G. Hope, Cr. A.R. Keenan,  
Cr. L.J. Martin, Cr. M.D. Montagu, Cr. C.A. van Beek

## COUNCIL MEETING

NOTICE IS HEREBY GIVEN THAT AN ORDINARY MEETING OF THE WESTLAND DISTRICT COUNCIL WILL BE HELD IN THE COUNCIL CHAMBERS, 36 WELD STREET, HOKITIKA ON THURSDAY 17 APRIL 2014 COMMENCING AT 1.30 PM

*Tanya Winter*  
*Chief Executive*

*17 April 2014*

### **Council Vision**

*“Westland will, by 2030, be a world class tourist destination and have industries and businesses leading through innovation and service.*

*This will be achieved by:*

- *Involving the community and stakeholders*
- *Having inspirational leadership*
- *Having expanded development opportunities*
- *Having top class infrastructure for all communities*
- *Living the ‘100% Pure NZ’ brand*

*“Westland, the last best place”*

### **Purpose:**

The Council is required to give effect to the purpose of local government as prescribed by section 10 of the Local Government Act 2002. That purpose is:

- (a) To enable democratic local decision-making and action, by and on behalf of, communities; and
- (b) To meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses

## **1. MEMBERS PRESENT AND APOLOGIES:**

### **1.1 Apologies.**

### **1.2 Register of Conflicts of Interest.**

## **2. CONFIRMATION OF MINUTES:**

### **2.1 Confirmation of Minutes of Meetings of Council**

**2.1.1 Ordinary Meeting – 27 March 2014.** (Pages 5-15)

**2.1.2 Special Council Meeting – 10 April 2014.** (Pages 16-18)

### **2.2 Minutes and Reports to be received**

**2.2.1 Minutes of the Public Excluded portion of the Westland District Council Meeting, held on Thursday 27 March 2014.**

*(Refer Public Excluded Minutes).*

## **3. PUBLIC FORUM**

## **4. BUSINESS**

### **4.1 Presentation of Civic Award**

The recipient of the Civic Award will be in attendance at the start of the meeting.

## **5. REPORTS**

### **5.1 Mayor's Report.**

*A verbal update will be provided by Mayor Havill.*

### **5.2 Update from Councillors.**

### **5.3 Jim Little, Tourism West Coast**

*Jim Little, Chief Executive, Tourism West Coast will be in attendance at the meeting at 2.30 pm to provide an update for Council.*

### **5.4 Submission on Building (Earthquake Prone Buildings) Amendment Bill 2013** (Pages 19-36)

### **5.5 Report to Council from Executive Committee Chair** (Pages 37-38)

5.6 **Report to Council - Baches and other occupations on Unformed Legal Roads**  
(Pages 39-48)

5.7 **Report to Council - West Coast Civil Defense Heads of Agreement**  
(Pages 49-76)

5.8 **Report to Council - Psychoactive Substances Act and Local Approved Product Policy (LAPP)**  
(Pages 77-79)

6. **MATTERS TO BE CONSIDERED IN THE 'PUBLIC EXCLUDED SECTION'**

Resolutions to exclude the public: Section 48, Local Government Official Information and Meetings Act 1987.

Council is required to move that the public be excluded from the following parts of the proceedings of this meeting, namely:

6.1 **Confidential Minutes.**

6.2 **Report to Council from Executive Committee Chair**

6.3 **Fitzherbert Street Pumping Main Upgrade Contract 13/14/18**

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

GENERAL SUBJECT OF THE MATTER TO BE CONSIDERED		REASON FOR PASSING THIS RESOLUTION IN RELATION TO THE MATTER	GROUND(S) UNDER SECTION 48(1) FOR THE PASSING OF THIS RESOLUTION
1. &2 .	Confidential Minutes.	To protect the privacy of individuals/organisations under Section 7(2) (a) and (i)	48(1)(a)(i) & (d)
3.	Fitzherbert Street Pumping Main Upgrade Contract 13/14/18	To protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information	48(1)(a)(i) & (d)

**Next Meeting: 22 May 2014 (Council Chambers)**



## Ordinary Council Meeting

### MINUTES OF AN ORDINARY MEETING OF THE WESTLAND DISTRICT COUNCIL, HELD AT THE HEARTLAND WORLD HERITAGE HOTEL, HAAST ON THURSDAY 27 MARCH 2014 COMMENCING AT 9.08 AM

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*His Worship the Mayor opened the meeting and Council observed a moments silence for Connor Hayes and Joanna Lam.*

#### 1. MEMBERS PRESENT

His Worship the Mayor, M.T. Havill

Deputy Mayor P.M. Cox

Cr. J.H. Butzbach, Cr. M.S. Dawson, Cr. D.G. Hope, Cr. A.R. Keenan, Cr. L.J. Martin, Cr. C.A. van Beek.

##### 1.1 Apologies

Cr M.D. Montagu.

##### Staff In Attendance

T.L. Winter, Chief Executive; P.G. Anderson, Manager Operations; G. Borg, Group Manager: Corporate Services; D.M. Maitland, Executive Assistant,

##### 1.2 Register of Conflicts of Interest

The Conflicts of Interest Register was circulated and amendments were noted.

## 2. CONFIRMATION OF MINUTES:

### 2.1 Confirmation of Minutes of Meetings of Council

#### 2.1.1 Ordinary Meeting – 27 February 2014.

Moved Cr Martin, seconded His Worship the Mayor and **Resolved** that the Minutes of the Ordinary Meeting of Council, held on the 27 February 2014 be confirmed as a true and correct record of the meeting, subject to the following amendments:

- i) Page 8  
Item 4.3 – Proposed Relocation of Pioneer Statue  
“...in principle the proposed **relocation**...”
- ii) Pages 7 and 9  
Item 4.7 – Protection Works Eastern Abutment Kokatahi River Bridge  
“...the reimbursement to Mr. Martin Nolan of \$3,500 (**incl** GST)...”  
*Cr Martin and Cr Hope recorded their votes against the motion.*
- iii) Page 11  
Item 4.11 – Local Governance Statement  
“...adopt the amended Local **Governance** Statement...”.

#### 2.1.2 Special Council Meeting – 12 March 2014.

*Cr Keenan spoke to this item and declared that she did not second a motion on Page 21 of the Special Council Meeting Minutes held on the 12 March 2014.*

*His Worship the Mayor spoke to this item.*

Moved Cr Martin, seconded Cr Dawson and **Resolved** that the Minutes of the Special Council Meeting, held on the 12 March 2014 be confirmed as a true and correct record of the meeting.

*Cr Keenan recorded her vote against the motion.*

## **2.2 Minutes and Reports to be received**

### **2.2.1 Executive Committee – 10 March 2014**

*Cr Dawson, Chair of the Executive Committee provided a verbal update from the Executive Committee Meeting held on the 10 March 2014.*

Moved Cr Butzbach, seconded Cr van Beek and **Resolved** that the Minutes of the Executive Committee Meeting, held on the 10 March 2014 be received.

*It was noted that all Councillors had received a copy of the Audit Management Report for the year ended 30 June 2013.*

### **2.2.2 Minutes of the Public Excluded portion of the Westland District Council Meeting, held on Thursday 27 February 2014.**

*(Refer Public Excluded Minutes).*

### **2.2.3 Minutes of the Public Excluded portion of the Westland District Council Executive Committee, held on Monday 10 March 2014.**

*(Refer Public Excluded Minutes).*

## **3. PUBLIC FORUM**

Jeannette Farmer from Haast attended the meeting and spoke regarding how she wanted to attend a Westland District Council Meeting.

## **4. REPORTS**

### **4.1 Mayor's Report.**

*Mayor Havill provided a verbal update regarding the Hokitika town tour with the Executive Team guided by Mr David Verrall, the Executive Committee Meeting that was held on the 10 March 2014, and the visit from the Rt Hon Winston Peter MP, New Zealand First to the West Coast.*

Moved His Worship the Mayor, seconded Cr Dawson and **Resolved** that the verbal report from Mayor Havill be received.

#### **4.2 Update from the Councillors.**

- i) Cr Butzbach provided a verbal update regarding the Enterprise Hokitika Meeting.
- ii) Cr Martin provided a verbal update regarding Heritage Hokitika and the 150<sup>th</sup> Goldrush Committee.
- iii) Cr Keenan provided a verbal update regarding the 150<sup>th</sup> Goldrush Celebrations, the Ross Community Association and the Hokitika-Westland RSA Working Group.
- iv) Cr Hope provided a verbal update regarding the Franz Inc. Meeting.
- v) Deputy Mayor Cox provided a verbal update regarding the garden competition judging with Mayoress Bernadette Havill.
- vi) Cr van Beek provided a verbal update regarding the Old Christchurch Road speed limits.

Moved Cr van Beek, seconded Cr Butzbach and **Resolved** that the verbal reports be received.

#### **4.2 Submission on the New Zealand Transport Agency Financial Assistance Rate Review**

Moved Cr van Beek seconded Cr Dawson and **Resolved** that Council approve the submission on the New Zealand Transport Agency Financial Assistance Rate Review as appended to the Minutes and submits this to NZTA by 28 March 2014.

#### **4.3 Revocation of the Jackson Bay Wharf Bylaw 2001**

Moved Cr Hope, seconded Deputy Mayor Cox and **Resolved** that the Westland District Council Jackson Bay Wharf Bylaw 2001 be revoked, effectivel immediately.

### **5. ADMINISTRATIVE RESOLUTION**

Moved Mayor Havill, seconded Cr Dawson and **Resolved** that Council confirm its Seal being affixed to the following document:



**5.1.1 New Zealand Local Government Association Incorporated:** Pauline Cox,  
Deputy Mayor

**Purpose**

To vote on Council's behalf at the Special General Meeting of Local Government New Zealand, to be held on the 13<sup>th</sup> day of March 2014 and at any adjournment thereof.

*The meeting adjourned for morning tea at 10.00 am and reconvened at 10.25 am.*

**6. MATTERS TO BE CONSIDERED IN THE 'PUBLIC EXCLUDED SECTION'**

Moved Cr Martin, seconded Cr Butzbach and **Resolved** that Council exclude the public in accordance with Section 48, Local Government Official Information and Meetings Act 1987 at 10.44 am.

Council is required to move that the public be excluded from the following parts of the proceedings of this meeting, namely:

**6.1 Confidential Minutes.**

**6.2 Civic Award Nomination.**

**6.3 Creative Communities Assessment Committee Nomination.**

**6.4 Harihari Community Facility Tender.**

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

GENERAL SUBJECT OF THE MATTER TO BE CONSIDERED		REASON FOR PASSING THIS RESOLUTION IN RELATION TO THE MATTER	GROUND(S) UNDER SECTION 48(1) FOR THE PASSING OF THIS RESOLUTION
1.	Confidential Minutes.	To protect the privacy of individuals/organisations under Section 7(2) (a) and (i)	48(1)(a)(i) & (d)
2.	Civic Award Nomination.	To protect the privacy of individuals/organisations under Section 7(2) (a) and (i)	48(1)(a)(i) & (d)

3.	Creative Communities Assessment Committee Nomination	To protect the privacy of individuals/organisations under Section 7(2) (a) and (i)	48(1)(a)(i) & (d)
4.	Harihari Community Facility Tender	To protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information	48(1)(a)(i) & (d)

This resolution is made in reliance on Section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section 6 or 7 of that Act which would be prejudiced by the holding of the whole or relevant part of the proceedings of the meeting in public are as follows:

No.	Item	Section
1, 2 and 3	Protection of privacy of natural persons/organisations.	Section 7(2)(a)
4	Protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or is the subject of the information.	Section 7(2)(b)(ii)

Moved Cr Hope, seconded Cr Martin and **Resolved** that the business conducted in the "Public Excluded Section" be confirmed and the public be readmitted at 11.34 am.

**MEETING CLOSED AT 11.34 AM**

**Next Meetings: 10 April 2014 and 17 April 2014**

**Confirmed by:**

\_\_\_\_\_  
**Mike Havill**  
**Mayor**

\_\_\_\_\_  
**Date**

**WESTLAND DISTRICT COUNCIL  
NEW ZEALAND TRANSPORT AGENCY FINANCIAL  
ASSISTANCE RATE REVIEW SUBMISSION**

**Submission**

- 1. Westland District Council re-submits to opt for the status-quo.**
- 2. In the absence of the above, and with little analysis available, Westland District Council reluctantly supports Option 2 and Option 4.**

**1.0 Introduction**

It is disappointing that consideration is been given to cut funding which will lead to levels of infrastructure of a lesser quality than at present.

Westland District along with our neighbours, Grey and Buller District Councils, cover a large proportion of the South Island. As a region the West Coast outperforms most others in GDP and is one of New Zealand's top tourist destinations.

A core philosophy of WDC's transportation activity is to maximise roading outputs while minimising the burden on our ratepayers. As such it is expected that any proposed FAR moving forward will simplify road funding, alleviate funding inconsistencies and should rationalise roading administration within available NZTA financial resources.

It is important that NZTA acknowledge the difficulties that rural and remote districts such as Westland District have in raising the local share of funding for the transportation activity. In excess of 87% of the land belongs to the Crown within the conservation estate and is unable to be rated, thus the ability of the Westland District to meet funding shortfalls is severely restricted.

The amount of funding that actually needs to be spent on maintaining, renewing and improving New Zealand's roading network will impact directly on WDC's ability to raise the local share.

## **2.0 Overall National Land Transport Fund (NLTF) Co-investment Rate**

Council supports a co-investment rate of 53% being considered the normal FAR. This is the current level of NZTA funding and should continue when the FAR calculations are reviewed.

Any reduction in current FAR would result in less spending on roads, a reduction in levels of service and an adverse effect on the economy of the region and New Zealand. The safety of the roading network will be seriously compromised.

Council submits that an overall co-investment rate of 53% is appropriate given that no changes to the overall NLTF budget are proposed at this stage.

## **3.0 The FAR Options**

WDC supports the status quo being maintained for the 2015-2018 National Land Transport Programme (NLTP) rather than any of the five options identified in the review document.

That said, according to the review document, the status quo is not an option as NZTA have identified a number of issues that are not addressed in the funding model in its current form. Council considers that the five options outlined in the document for discussion also have short comings which are not adequately addressed.

The FAR review is focused on distributing the NLTF to assist road controlling authorities to maintain networks in a fair manner which takes into account the approved organisations ability to pay. The point, which has been stressed by NZTA throughout this review process, is that funding is not increasing so we must ensure we have a fair system to distribute the funding.

Reluctantly, of the options proposed by NZTA, Council prefers options 2 or 4. Westland District has in excess of 87% of its area in Crown conservation estate and it is essential that this factor is taken into consideration. Information provided in the review document indicates that this is the case with both these options as they benefit Councils with large proportions of non-rateable Crown conservation estate in their area.

## **4.0 One Network Road Classification**

The overall FAR funding framework links to the “One Network Road Classification” (ONRC) Project to set nationally agreed levels of service for all local authorities. This has the potential to compound existing financial difficulties where any proposed FAR is lower than that currently in place.

Implementation of the ONRC, in particular an adequate definition of “fit for purpose” and development of levels of service, needs to be assessed and understood further. This work, which is being developed by the Road Efficiency Group (REG), a collaboration between local government and NZTA, will have the effect of having roads of the same classification maintained to a similar standard throughout the country.

ONRC is viewed positively by WDC as this should provide the direction and standards to ensure state highway and local roads throughout Westland District and the West Coast are finally upgraded to a consistent and safe standard.

Of concern to Council though is the fact that any changes to FAR for WDC proposed in the review document contradicts the ONRC philosophy and will seriously undermine Council’s ability to recognise the ONRC and meet proposed levels of service.

Until such time that appropriate levels of service are fully understood and agreed through the implementation of the proposed ONRC, it is not possible to accurately define the appropriate levels of investment required by each approved organisation to meet and maintain optimum land transport outcomes. Increased investment requirements may mean that the local share cannot be raised at current or proposed FARs without a corresponding increase in the council roading rate. An inability of councils to implement such rating increases could result in under investment in land transport activities unless assistance is provided from an increase in FAR to compliment the ONRC.

For these reasons WDC supports the status quo be maintained for the 2015-2018 National Land Transport Programme (NLTP).

## **5.0 Banding**

Although banding is an attempt to remove distortion between neighbouring local authorities and has some merit, a proposal to band in a 5% range is not supported by Council.

A decrease in subsidy for a local authority such as Westland District of 1% would mean a significant rate increase if existing levels of service are maintained. A shift of 5%, even if appropriately transitioned, would result in significant funding issues and an unpalatable review of current levels of service.

Council supports an option that has funding at the level which the FAR finally adopted provides for.

## **6.0 Transitioning**

Council’s roading costs may be subject to transitioning not only as a result of the FAR review but also the ONRC Project. Potentially Council could experience a reduction in FAR as a result of this review process but an

increase in funding may be required to comply with the ONRC and subsequent levels of service requirements.

It is essential that any movement upwards or downwards is transitioned to allow Council to manage other sources of funding, usually from general rates.

Council supports existing FARs being maintained for the 2015-2018 NLTP with any change in funding then being transitioned over the following six years.

## **7.0 Special Purpose Road FAR**

The Haast Jackson Bay Road was a state highway and links State Highway 6 with the isolated community and port of Jackson Bay. This road is through swampy country along a steep mountainous route with sections running parallel to the coast which are at times subject to sea erosion.

This road was determined to be special purpose road in 1983 with a 100% subsidy rate. The purpose of this designation was understood to be to allow the then administering authority, Westland County Council, to seal the carriageway through to the isolated community of Jackson Bay and secure an important route to the wharf and significant fishing industry situated there. Many users of Jackson Bay facilities are not WDC ratepayers.

Haast Beach, Okuru, Hannahs Clearing, Neils Beach and Jackson Bay are all townships serviced by this road which are now becoming significant and growing tourist destinations. The majority of the land tenure along the Haast Jackson Bay Road as is for State Highway 6, is DOC Estate and hence not rateable.

Maintenance of this road continues to be a challenge. There was no alternative access into Jackson Bay and the other townships along the route when the road status was changed. This is still the case today.

If special purpose road status is revoked and Council funds the maintenance of the road at current levels of service and receives a FAR equivalent to what is currently provided by NZTA for local roads in Westland District then Council would need to increase rates across the entire district by approximately 2.3%.

Council proposes that special purpose road status continues to attract a FAR of 100% and that the Haast Jackson Bay Road status of special purpose road should remain in place.

Should this review conclude that special purpose road status no longer exists then Council submits that the Haast Jackson Bay Road should revert to its original status of state highway.

## **8.0 Emergency Works FAR**

Council supports continuing to fund initial response and reinstatement emergency works following relatively common events from the emergency works funding assistance rates pool but at a different funding assistance rate than initial response and reinstatement work resulting from 'out of the ordinary' events.

## **9.0 Summary**

In summary WDC supports aspects of the FAR review as follows:

1. A minimum FAR of 50% with higher FARs for Councils such as WDC who have difficulty in raising the local share of roading costs.
2. An overall co-investment rate of 53% given that any increase is beyond the scope of the review.
3. The status quo be maintained for the 2015-2018 NLTP with implementation being gradually phased in during the following six years. This will allow the effects of the ONRC Project to be quantified and taken into account.
4. Of the options identified in the FAR Review Document, Council would reluctantly prefer option 2 or 4.
5. FAR funding banding should be at the level which is set by the adopted FAR option.
6. That 100% FAR remain for special purpose roads and that the Haast Jackson Bay Road status of special purpose road remains
7. Should special purpose road status of the Haast Jackson Bay be removed, then the road should revert to its original status as part of the state highway network.
8. Funding for emergency works to remain as status quo.

The Westland District Council (WDC) would like to thank the New Zealand Transport Agency (NZTA) for the opportunity to comment further on the proposed review of the Financial Assistance Rate (FAR).

Dated at Hokitika this 28<sup>th</sup> day of March 2014.

**Tanya Winter**  
**Chief Executive**



## Special Council Meeting

### MINUTES OF THE SPECIAL COUNCIL MEETING OF THE WESTLAND DISTRICT COUNCIL HELD IN THE COUNCIL CHAMBERS, 36 WELD STREET, HOKITIKA ON THURSDAY 10 APRIL 2014 COMMENCING AT 1.00 PM.

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#### 2. MEMBERS PRESENT

His Worship the Mayor, M.T. Havill

Deputy Mayor P.M. Cox

Cr. J.H. Butzbach (until 1.46 pm), Cr. M.S. Dawson, Cr. D.G. Hope, Cr. A.R. Keenan, Cr. L.J. Martin, Cr M.D. Montagu, Cr. C.A. van Beek.

##### 1.1 Apologies

Cr J.H. Butzbach from 1.46 pm.

##### Staff In Attendance

T.L. Winter, Chief Executive; G. Borg, Group Manager: Corporate Services; V. Goel, Group Manager: District Assets, J. Ebenhoh, Group Manager: Planning, Community and Environment and D.M. Maitland, Executive Assistant.

##### 1.2 Register of Conflicts of Interest

The Conflicts of Interest Register was circulated and no amendments were noted.



## 2. **PUBLIC FORUM:**

No members of the public took the opportunity to speak in the public forum section of the meeting.

## 3. **BUSINESS:**

### 3.1 **Adoption of 2014/2015 Draft Annual Plan**

*The Chief Executive, and the Group Manager: Corporate Services introduced the report to Council and talked Councillors through the changes to the 2014-2015 Draft Annual Plan.*

*Cr Butzbach left the meeting at 1.46 pm.*

*Cr Montagu left the meeting at 1.47 pm and returned at 1.50 pm.*

*Moved Cr Dawson that:*

- i) The unbalanced budget proposed in the Draft Annual Plan is considered by Council to be prudent in the circumstances of Council's current financial situation.
- ii) The 2014-2015 Draft Annual Plan be adopted for consultation.
- iii) The Chief Executive be authorised to make necessary minor drafting or presentation amendments prior to publication of the Draft Annual Plan.
- iv) The Chief Executive be instructed to examine all options including capping, for redistributing the impact of the overall rates increase budgeted in the 2014-2015 Draft Annual Plan.

*The motion lapsed due to the lack of a seconder.*

Moved Cr Dawson, seconded Cr Montagu and **Resolved** that the unbalanced budget proposed in the Draft Annual Plan is considered by Council to be prudent in the circumstances of Council's current financial situation.

*Cr Keenan recorded her vote against the motion.*

Moved Cr Dawson, seconded Deputy Mayor Cox and **Resolved** that the 2014-2015 Draft Annual Plan be adopted for consultation.

*Crs van Beek, Keenan and Hope recorded their votes against the motion.*

Moved Cr Martin, seconded Cr Dawson and **Resolved** that the Chief Executive be authorised to make the necessary drafting and presentation amendments as agreed at the meeting, prior to publication of the Draft Annual Plan.

Moved Cr Dawson, seconded Cr Van Beek and **Resolved** that the Chief Executive be instructed to examine all options, including capping, for redistributing the impact of the overall rates increase budgeted in the 2014-2015 Draft Annual Plan.

**MEETING CLOSED AT 3.01 PM**

**Next Meeting: 17 April 2014 commencing at 1.30 pm**

**Confirmed by:**

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**Mike Havill**  
**Mayor**

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**Date**

# Report



**DATE:** 17 April 2013

**TO:** Mayor and Councillors

**FROM:** Group Manager: Planning, Community and Environment

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## **SUBMISSION ON BUILDING (EARTHQUAKE PRONE BUILDINGS) AMENDMENT BILL 2013**

### **1.0 SUMMARY**

- 1.1 The purpose of this report is to request Council endorsement of a joint submission by Southern Councils to the Local Government and Environment Select Committee on the Building (Earthquake Prone Building) Amendment Bill ("the Bill"), with an associated cost of \$1000 from operational budgets. Submissions to the Select Committee close on 17 April 2014. The submission has been prepared and is attached as **Appendix 1**.
- 1.2 This issue arises from local government concern about the resource demands and inflexibility of the provisions of the proposed Bill, including the requirement for Councils to complete a full seismic assessment of all pre-2005 non-residential buildings within the next five years. Council staff recently became aware that the Southern Councils were working on a joint submission on the Bill and identified an opportunity to pool resources to ensure a coordinated, professional submission could be made.
- 1.3 Council seeks to meet the obligations in the purpose of the Local Government Act 2002 and the achievement of the District Vision set out in the Long Term Plan 2012-22. The matters raised in this report relate to those elements of the vision identified in the following table.

<b>Vision's Objectives</b>	<b>Achieved By</b>
Having expanded development opportunities	Advocating through the joint submission for legislation that does not create excessive financial

	burdens for ratepayers and/or building owners, and which takes a more flexible approach to seismic risk to ensure that economic development is not unduly stifled.
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- A) This report concludes by recommending that Council join with the Southern Councils to make a joint submission on the Building (Earthquake Prone Buildings) Amendment Bill 2013, with a contribution of \$1000 to be funded from operational budgets, and that the Council resolve to add the Mayor's signature to the draft joint submission attached as **Appendix 1**, subject to any minor editorial changes arising from any of the Southern Councils.

## 2.0 BACKGROUND

- 2.1 There has been a high degree of interest in the issue of earthquake prone buildings and proposed changes to rules regarding earthquake prone buildings in the Building Act since the events in Canterbury in 2010 and 2011. The findings of the Canterbury Earthquake Royal Commission (CERC) informed consultation undertaken in March 2013 by the Ministry of Business, Innovation and Employment (MBIE). As part of this consultation process, a number of southern territorial authorities from Otago, Southland and South Canterbury made a joint submission to MBIE, emphasising a number of issues including the disproportionate number of older buildings in the southern region, potential costs associated with assessment and strengthening, and the socio-economic impact of the changes.
- 2.2 Over 500 submissions were received by the Government on this issue. Following submissions, Cabinet agreed in August 2013 to propose the following changes to the Building Act, incorporated in the proposed Building (Earthquake Prone Buildings) Amendment Bill 2013:
- Councils would be required to undertake a seismic assessment of all non-residential buildings and all multi-unit, multi-story residential buildings within five years of the legislation taking effect;
  - All earthquake prone buildings would have to be strengthened or demolished within twenty years of the legislation taking effect (five years for assessment and fifteen years for strengthening);

- Councils would need to store information on a publicly accessible register set up by MBIE;
- Certain buildings would be prioritised for assessment and strengthening i.e. those with falling hazards or those on transport routes or identified as critical in emergencies;
- Owners of some buildings would be able to apply for some exemptions or extensions for strengthening; and
- Owners of earthquake prone category 1 buildings and those listed on the proposed National Historic Landmarks list would be able to apply for extensions of up to ten years for strengthening.

2.3 The Building (Earthquake Prone Buildings) – Amendment Bill was referred to Select Committee last month, with submissions closing on 17 April 2014. Late last year the Otago Mayoral Forum decided a second joint submission to this Select Committee process should be prepared. Over the last few weeks Councils from Southland, South Canterbury and the West Coast (including Buller) have indicated their intention to sign up to the joint submission.

### 3.0 CURRENT SITUATION

- 3.1 The draft joint submission has been prepared and agreed by most participating Councils already, as submissions close today (17 April).
- 3.2 The reasons for the submission are contained in the submission itself, but in summary the Bill will significantly change the way that property owners and Councils need to consider earthquake prone buildings, and these changes need to be considered and implemented carefully if the Government is to achieve its aim of balancing keeping people safe from harm in an earthquake and managing costs of strengthening.
- 3.3 While there are only a few buildings in Westland that have been officially assessed as earthquake-prone to date, there are several hundred pre-2005 non-residential buildings that would need to be assessed over the next five years under the requirements of the proposed Bill. There would be considerable financial and time demands on Council staff, ratepayers and/or building owners (if a “user-pays” system were allowed) to ensure these

assessments are undertaken within that timeframe. After the assessments are completed, the Bill's requirements for strengthening "earthquake-prone" buildings to one-third of the New Building Standards would create additional financial burdens. The Bill's further requirement for any non-strengthened buildings to be demolished within 20 years could lead to significant negative socio-economic impacts on the Westland community, including the vibrancy of its commercial areas. In addition, it is not yet clear whether rural buildings (e.g. farm buildings) will be exempt from any or all of the Bill's requirements.

3.4 While there is considerable detail in the Bill and the joint submission could be similarly detailed, the attached draft joint submission is relatively high-level and strategic, for the following reasons:

- To prepare a concise document which focuses on the outcome Government is seeking to address within the Bill;
- To ensure the joint submission reflects the key areas of commonality across the participating Councils;
- To avoid duplication of more detailed submissions currently being prepared by individual Councils and organisations such as Local Government New Zealand (LGNZ), which address many of the proposed changes one-by-one; and
- To acknowledge that a number of key issues for Councils and property owners (such as exemptions to strengthening) will be addressed in detailed regulations which are yet to be prepared, once the Act has been agreed.

## 4.0 OPTIONS

4.1 **Option One (recommended): Approve the attached draft joint submission.** Under this option, the joint submission will be signed by the Mayor, subject to any minor editorial changes arising from feedback from other Councils.

4.2 **Option Two (not recommended): Do not approve the attached draft joint submission.** Under this option, Council would not join the Southern Councils' joint submission.

## **5.0 SIGNIFICANCE AND CONSULTATION**

- 5.1 The decision requested is not considered to be of high significance under Council's Significance Policy, as the cost is only \$1000 and the Council is advocating to central government rather than committing the Council to any particular course of action.
- 5.2 No external consultation has been undertaken in relation to this matter. It is assumed that the business community, including owners of non-residential buildings, would be supportive of the request for increased flexibility contained in the joint submission.
- 5.3 A media statement on the joint submission was made by a representative of the Southern Councils, and an article based on this appeared in the 11 April 2014 edition of the Hokitika Guardian.

## **6.0 ASSESSMENT OF OPTIONS (INCLUDING FINANCIAL IMPLICATIONS)**

- 6.1 Option One (approving the draft joint submission) is recommended, as it would incorporate Westland District Council's concerns within a wider, strategic submission by a variety of Southern Councils who have previously submitted to the government on this issue. The contribution of \$1000 is considered reasonable and good value considering the quality of the draft joint submission. In addition, given the timeframe for submissions (closing today), there is no option for Council staff to draft a stand-alone submission unless it were to take the somewhat unethical approach of plagiarising the Southern Councils' submission without a financial contribution.
- 6.2 Option Two (not approving the draft joint submission) is not recommended for a number of reasons, including the importance and high degree of public interest in this issue, and the value in contributing to a submission by a collection of Southern Councils.

## **7.0 PREFERRED OPTION AND REASONS**

- 7.1 The preferred option, for reasons outlined in the section above, is for Council to approve the attached draft joint submission and contribute \$1000 towards the costs of its preparation.

## 8.0 RECOMMENDATIONS

- A) **THAT** the Council join with the Southern Councils to make a joint submission on the Building (Earthquake Prone Buildings) Amendment Bill 2013 with a contribution of \$1,000 to be funded from operational budgets.
- B) **THAT** the Council resolves to add the Mayor's signature to the draft joint submission attached as **Appendix 1**, subject to any minor editorial changes suggested by any of the Southern Councils.

**Jim Ebenhoh**

**Group Manager: Planning, Community and Environment**

**Appendix 1:** Southern Councils' draft joint submission on the Building (Earthquake Prone Buildings) Amendment Bill 2013



**Date:** 7 April 2014

**Version:** 4

**Updated:** 7 April Post Comments From Joint Southern Councils

## LOGOS

### JOINT SOUTHERN COUNCILS SUBMISSION ON THE BUILDING (EARTHQUAKE PRONE BUILDINGS) AMENDMENT BILL

To the Local Government and Environment Committee

#### Introduction

1. The following submission to the Local Government and Environment Select Committee has been prepared by the undersigned Joint Southern Councils: Buller District Council, Central Otago District Council, Clutha District Council, Dunedin City Council, Gore District Council, Invercargill City Council, Mackenzie District Council, Queenstown Lakes District Council, Southland District Council, Timaru District Council, Waimate District Council, Waitaki District Council and Westland District Councils.
2. Representatives of the undersigned Councils wish to appear before the Local Government and Environment Committee to speak to this submission. Our submission complements individual submissions prepared by southern Councils. Given our joint submission includes a number of Councils which do not intend to make an individual submission we request the Select Committee consider a request for 40 minutes for our verbal submission.
3. The Joint Southern Councils support the Local Government New Zealand (LGNZ), Federated Farmers and Auckland City Council submissions to the Select Committee. The Joint Southern Council submission particularly endorses the following messages:
  - a. LGNZ:
    - i. That the Bills emphasis on life safety in the absence of broader economic and social factors is too narrow.
    - ii. That rural and provincial New Zealand will carry a disproportionate burden of the economic and social impacts of the Bill.
    - iii. That any approach should prioritise risks (i.e. areas susceptible to seismic risk) and parts of buildings most likely to cause harm.

- iv. Regulations should be developed as soon as possible to allow the Select Committee time to consider their implications before reporting back on the Bill.
- b. Auckland City Council:
    - i. Continues to support a national approach to earthquake-prone building policy and MBIE leadership, as long as it reflects the varying risk across the country and the provision for local discretion to be applied to ensure operational policy reflects the local environment.
    - ii. Social, environmental, and economic factors in Auckland are different to other parts of the country, and what we can afford to bear in our jurisdiction, might be impractical for others.
    - iii. It is of absolute necessity to ensure that the final outcome of the legislative change is a system that will function well not only for the likes of Auckland and other metropolitan centres, but for our smaller rural centres as well.
4. Our Joint Submission is also supported by the following public and private sector organisations:
    - a. The Otago Chamber of Commerce.
    - b. The Otago Southland Employers Association.
    - c. Otago, North Otago and South Canterbury Federated Farmers.
  5. Questions regarding the submission should be referred to either Fraser Liggett, Policy and Communications Manager, Waitaki District Council, Phone: (03) 433 0300, Email: [fliggett@waitaki.govt.nz](mailto:fliggett@waitaki.govt.nz) or Dr Glen Hazelton, Policy Planner (Heritage), Dunedin City Council, Phone: (03) 474 3375, Email: [ghazelto@dcc.govt.nz](mailto:ghazelto@dcc.govt.nz)
  6. The undersigned Joint Southern Councils represent communities in Otago, Southland and South Canterbury which collectively submitted on the Government's consultation process in March last year. Our previous submission emphasised the challenges that southern rural and provincial New Zealand would face in meeting the changes proposed in the Ministry of Business Innovation and Employment (MBIE) consultation document.
  7. As a group of thirteen District and City Councils we represent approximately 380,000 residents or a population greater than Christchurch or Wellington. Our communities are characterised by a greater proportion of pre 1976 buildings (56% of building stock compared with 33% nationwide) and rural buildings when compared with the rest of New Zealand. In addition many of us face demographic challenges such as ageing and declining populations. For example the population aged 65 and over in Otago is expected to increase from 16% to 21% by 2021. The numbers are even more challenging for Districts

such as Waitaki where the population aged 65 and over is expected to increase to 40% by 2031. In summary, many communities across Otago, Southland, South Canterbury and Westland will have less ability to absorb the social and economic costs that will inevitably flow from the proposed Bill.

8. The Joint Southern Councils note the potential challenge for many smaller communities in managing the costs of the Bill across residential, business and rural rate payers. We echo comments made in the Federated Farmers submission that this could lead to increases in rates falling disproportionately on farming communities due to the inequities of land or capital value rating.

#### **GENERAL COMMENTS**

9. The Joint Southern Councils support the intent of improving the earthquake prone building system and in particular the requirement for active approaches or policies. While we support a more active approach we believe that timeframes for assessment and strengthening need to take account of local decision making, economic and social variations, priorities and risk.
10. The Joint Southern Councils support the retention of the one third new building standard (NBS) but equally, understand some property owners may wish to increase seismic strengthening beyond this requirement. Further clarity is required regarding the potential risk of criminal prosecution under Health and Safety in the Employment Act 1992. The requirement for an employer to take all practical steps to avoid injury or death appears open ended. Therefore the Southern Councils support the inclusion of provisions within the Bill that would indemnify directors and owners of property 34% NBS and above from actions by people subsequently harmed in some future event.
11. The Joint Southern Councils support the proposed extensions under section 133AT for owners of Category 1 Historic places to apply for extensions of up to ten years given the nature of the building stock and the intrinsic value to our communities.
12. Because many of the details critical to understanding the implications of the proposed changes have been deferred to the regulations, and these regulations have not been made available to authorities to consider, we remain cautious about the proposed "one size fits all" approach and nationally established timeframes within the Bill. We believe that without this detail it is difficult to determine with certainty, whether the Bill represents the best option for protecting people from harm in a cost effective manner or, indeed, the affordability of this new policy framework for our communities.

13. The issues raised within our joint submission have been echoed by other rural, provincial and metropolitan Councils such as Auckland City Council and groups such as Federated Farmers. We understand that Auckland City Council has advocated on many of the same issues raised in our submission such as the importance of local decision making and discretion, appropriate levels of strengthening based on seismic risk, targeted strengthening of specific parts of buildings such as veranda, parapets, facades and heavy ornaments. We would encourage the Select Committee to note this strong message from rural and provincial and metropolitan New Zealand. In short we are seeking legislation that is not one sized and which works equally well for Auckland and Hamilton as it does for Geraldine, Waimate, Kurow, Dunedin, Gore and Invercargill.
14. Our joint submission does not intend to go into the same level of detail as the individual submissions. Rather we wish to emphasise three specific issues which we think will prevent improvements to the system for managing earthquake prone buildings in a cost effective manner.

#### **SPECIFIC COMMENTS**

##### ***The Intent of the Legislation and Purpose of Local Government***

15. As Councils we are responsible under Section 10 of the Local Government Act 2002 for meeting the current and future need of our communities for good quality local infrastructure, local public services and performance of regulatory functions in a way that is most cost effective for households and businesses. Clearly any change to the Building Act 2004 and regulations will have implications for the way that we meet our obligations under the Local Government Act 2002.
16. The Building (Earthquake-prone buildings) Amendment Bill General Policy Statement sets out Government's intention of introducing a revised system for managing earthquake prone buildings that strikes a balance between protecting people from harm in an earthquake and managing the costs of strengthening or removal.

##### **Recommendation**

**The Joint Southern Councils support improvements to the current earthquake prone building system but we remained concerned the proposed changes to the Building Act may not represent the most optimal solution for central and local government – in particular rural and provincial New Zealand.**

17. We remain concerned that the Building (Earthquake-prone buildings) Amendment Bill and process reflects many of the barriers and issues raised by the Productivity Commission in their report "Towards Better Local Regulation (2013)" including:

- a. Limited analysis of local government's capability or capacity to implement regulations prior to allocation of additional regulatory functions (F4.2)
  - b. Central government agencies with oversight responsibility for regulations do not have knowledge of local government commensurate with the importance of the sector in implementing these regulations (F4.3)
  - c. The lack of effective interaction between central and local government is having a detrimental impact on New Zealand's regulatory system. The uneasy relationship between the two spheres of government is rooted in divergent...understanding of the nature of their respective roles, obligation and accountabilities (F4.14)
18. We acknowledge the engagement between local government and the Ministry of Business Innovation and Employment on the Bill. However many of the above issues identified by the Productivity Commission risk limiting the overall effectiveness of the proposed system for identifying and managing earthquake prone buildings. In particular the lack of detail on the proposed regulatory framework (especially in relation to assessment methodology, responsibilities, exemptions and extensions) in advance of the Select Committee process has created ambiguity and left Councils with considerable uncertainty over the costs and socio economic impacts.

#### **Risk Profile and Variability**

19. The proposed "one size fits all" approach risks creating a situation where Councils (rural, provincial and metropolitan) will not have flexibility to respond, prioritise and best manage earthquake prone buildings in the most cost effective manner for their communities.
20. We believe the variability of territorial authorities (building stock, current policy settings – passive or active, growth, metropolitan – rural) requires an approach which takes account of risk and choices by local communities. We support the retention of local decision making by individual Councils (or, group of Councils at a regional/sub-regional level (e.g. Otago, Coastal Otago) based on seismic risk/z factor zones (e.g. low, medium, high seismicity), to determine priorities and timeframes for the assessment and strengthening of earthquake prone buildings – in whole or in part.

#### **Recommendation:**

**The Joint Southern Councils support a more risk based response to the assessment and seismic strengthening of earthquake prone buildings in whole or in part.**

We would remind the Select Committee that such an approach has been applied in the management of other risks before. The Health (Drinking Water) Amendment Act 2007 aimed to protect public health by improving the quality of drinking water provided to communities. The Act introduced a flexible, risk management based and outcome focused legislation for drinking water standards which allowed phased commencement, compliance effort proportionate to risk along with an explicit reference to cost and affordability. Under this approach territorial authorities and communities, facing the risk and cost, retained some choice in the prioritisation and timing of upgrades.

**Recommendation:**

**The Joint Southern Councils support a national framework to improve the earthquake prone building system which takes account of varying seismic risk across the country, local decision making and choice.**

This position goes beyond the proposed intent of Section 133AE in the Bill and would allow Councils to prioritise particular building components such as parapets and utilised or occupied buildings (such as hotels, high-rise high-occupancy office buildings, halls and schools) targeted over the fifteen year period, whereas buildings with lower levels of risk could be addressed over a longer periods similar to that in existing active earthquake prone policies.

21. The Joint Southern Councils note the 31 March 2005 definition of an existing building differs from the analysis in the MBIE Building Seismic Performance consultation document which used pre 1976. We understand this change would equate to another 112,000 properties and assessments nation-wide. We believe this change (not considered in the initial MBIE analysis) will significantly increase the costs with minimal additional benefits to public safety.

**Recommendation:**

**The Joint Southern Councils do not support the threshold for seismic assessment set in Section 133AF of the Bill - the mandatory assessment of all buildings constructed before 31 March 2005 unless other specific information is obtained which changes its risk profile.**

22. On-going ambiguity and lack of details on the proposed exemptions and extensions for seismic work in Section 133AS and Section 401c (b) of the Bill mean the Joint Southern Councils cannot fully determine the implications of the proposed changes on our communities. Based on our earlier analysis last year (which included post 1976 and rural buildings) we estimate our Councils would need to carry out in excess of 22,000 seismic assessments (half of which are rural properties) within five years across the Joint Southern Council region. This will require a large amount of new resources and have a negative impact on ratepayers unless "user pays" mechanisms are developed.

23. We have received reassurance from officials that the regulations are likely to include exemptions for strengthening for rural or underutilised property, but the requirement for assessment of rural buildings will still require resources and is unwarranted on the basis of risk.

**Recommendation:**

**The Joint Southern Councils recommend sections 133AS and proposed regulations should exempt rural buildings from both assessment and strengthening.**

24. The Joint Southern Councils believe that local decision making needs to extend to the options at the end of the twenty year assessment and strengthening period.

**Recommendation:**

**The Joint Southern Councils:**

- a. Do not support the mandatory demolition of an earthquake prone building at the conclusion of the upgrading timeframe.**
- b. Support options to cordon, shut down or make the structure safe instead.**

25. The Joint Southern Councils remain concerned about the proposed accountabilities set out in Section 133AF and in particular the requirement for Councils to undertake seismic assessments of all buildings within their District within five years. Under this proposal, the accountability and obligation to understand seismic performance of a building is transferred from the property owner to Council. This differs significantly from current active policies such as DCC who have required building owners to commission their own seismic assessments within a specified timeframe. That owners enjoy the greatest benefit of improving the seismic performance of their buildings means they should shoulder the responsibility and cost of assessments. We are concerned that Council commissioned reports will be disputed under Section 133AR and further increase costs for rate payers. There is no clear justification for why residential ratepayers or owners of non-earthquake prone buildings should subsidise the costs of assessment of earthquake prone commercial buildings.

26. The Joint Southern Councils also consider an exception based approach should be adopted for the provision of information in the proposed national seismic capacity register i.e. the register should only capture information on earthquake prone buildings – not all buildings as currently proposed.

**Recommendations:**

**The Joint Southern Councils:**

- a. Support the inclusion of discretion under Section 133AF to allow territorial authorities the choice of either undertaking seismic assessments themselves or to require property owners to submit assessments within the five year period.
- b. Support the inclusion of additional provisions under Section 133AF(2) to enable cost recovery of seismic assessments from property owners.

***Affordability – Impact on Our Communities***

27. While the composition of the Joint Southern Councils is diverse, there are a number of common challenges which face many of our communities. Outside of areas such as Queenstown Lakes District Council, many of our communities are struggling with issues such as a challenging demographic profile – both in terms of a declining population and age profile, withdrawal and change to government services, the challenge of maintaining large and in many cases aging infrastructure and changes to Government funding. It is within this context that we, as southern rural and provincial councils, will need to work through the changes proposed in the Building (Earthquake - prone buildings) Amendment Bill. For many of our communities this will be challenging.
28. With the exception of the West Coast Councils and Queenstown Lakes District Council our communities are characterised by a lower level of seismic risk than other parts of New Zealand such as Wellington. GNS Science indicates that urban centres particularly along the east coast of the South Island such as Timaru, Oamaru, Dunedin, Clutha and Invercargill have some of the lowest seismic risk rankings of any areas in the country.
29. As indicated the Joint Southern Councils have a higher incidence of pre 1976 buildings when compared with the rest of New Zealand and on average a lower level of rents per square metre than the metropolitan areas of Wellington, Auckland and Christchurch. Many property owners (particularly of buildings which are underutilised and uneconomic) will be unable to recover the cost of strengthening from increased rentals. We believe our building owners have less ability to recoup seismic strengthening costs through increased rentals. Where there is insufficient rental return on re-building costs to justify redevelopment, tenants will simply move on, leaving a heightened risk of demolition and non-replacement of buildings. We consider that this will lead to the further decline of rural and provincial centres.
30. It is important to note that baseline costs for strengthening and new construction are relatively standard throughout the country (costs of labour, materials etc) while returns are substantially lower outside Auckland, Wellington, and Christchurch.



31. We believe that this will impact on retention of business and services within small urban communities, as businesses operating out of marginally uneconomic earthquake prone buildings close or relocate.
32. The Joint Southern Councils believe the Government has two roles to play in mitigating this risk. The first role is for Government to take a consistent approach to the seismic assessment and strengthening of its own building portfolio. We consider the requirement for earthquake strengthening beyond the proposed one third NBS for low priority, low utilised state sector buildings or for buildings without post disaster functions has created a higher threshold for risk. The Joint Southern Councils remain concerned that this situation has been used as a basis for reducing or cutting services in rural and provincial communities (especially those in areas of low seismic risk) and distorts the definition of earthquake prone building as being one third new building standard.
33. Secondly, the Joint Southern Councils support further assistance to property owners through tax incentives for depreciation and seismic upgrades. We consider that such an approach goes to the heart of the "public good" test and would incentivise property owners to meet the proposed national established timeframes. This would go some way to distribute the costs of the proposed policy between Councils, property owners and central Government.

**Recommendation:**

**The Joint Southern Councils support:**

- a. Delinking of the requirements for fire and accessibility requirements as a means of minimising costs for building owners and encouraging seismic upgrades.**
- b. Development of tax incentives or other financial to incentivise and support seismic strengthening of earthquake prone buildings.**
- c. Seismic assessment and strengthening of building parts as opposed to whole buildings in areas of low seismic risk.**

**Conclusion**

34. The Joint Southern Councils support the intention of improving the earthquake prone building system. However, in its current form the Building (earthquake prone buildings) Bill risks creating inflexible legislation which will have a detrimental impact on rural, provincial (and in cases metropolitan) communities in the South Island and New Zealand.
35. The lack of detail regarding the proposed regulations and, in particular, assessment methodology, exemptions and extensions remains a core issue for

our Councils. Clarifying the status of rural properties, underutilised buildings or other areas of exemptions would quickly clarify and resolve a number of areas of uncertainty, accountability and costs. We would stress that the Bill comes at a time when Councils (especially smaller Councils) are continuing to try to manage rates pressures and respond to other significant changes to the Local Government legislation and the Building Act, which have introduced substantial additional costs to building owners and councils.

36. The Joint Southern Councils strongly support a more targeted, risk based approach to the identification, prioritisation, seismic assessment and seismic strengthening of earthquake prone buildings. We support the retention of local decision making to prioritise and respond to earthquake prone buildings or parts of earthquake prone buildings which represent the highest risk in a timeframe which is affordable for communities. Such an approach could meet the proposed twenty year timeframe for the identification, assessment and strengthening for the buildings with highest risk.
37. Given the nature and age of our building stock, removing the low risk rural and remote, underutilised properties from both assessment and strengthening will free up resources in smaller communities which can be focused on the more high risk buildings. Similarly the Joint Southern Councils consider an exception based approach should be adopted for the provision of information in the proposed national seismic capacity register i.e. the register should only capture information on earthquake prone buildings – not all buildings as currently proposed.

As with other recent policy decisions communities should have the opportunity to determine an acceptable risk profile and timeframe for heritage, underutilised or uneconomic buildings to reach the one third new building standard (NBS). Conversely, Councils (or groups of Councils, based on seismic risk, geography or socio economic indicators) could determine shorter timeframes for the assessment and strengthening of buildings which have higher risk profiles, are on transport routes or have post disaster recovery functions. As with our previous submission, regional clustering of approaches would assist the Government in reducing inconsistency across New Zealand while avoiding the one size fits all approach which will likely have a greater socio economic impact on some regions more than others.

38. In summary we the undersigned Mayors and Chief Executives stress the same final message in our submission in March 2013. We remain committed to working collaboratively with the Crown to strengthen the earthquake prone building system. We consider that our submission and the specific recommendations below provide a solution that meets our community needs and which can also achieve consistent nation-wide goals.

Signature

Garry Howard

**Mayor, Buller District Council**

Signature

Tony Lepper

**Mayor, Central Otago District Council**

Signature

Bryan Cadogan

**Mayor, Clutha District Council**

Signature

Dave Cull

**Mayor, Dunedin City Council**

Signature

Tracy Hicks

**Mayor, Gore District Council**

Signature

Tim Shadbolt

**Mayor, Invercargill City Council**

Signature

Claire Barlow

**Mayor, Mackenzie District Council**

Signature

Vanessa van Uden

**Mayor, Queenstown Lakes District Council**

Signature

Gary Tong

**Mayor, Southland District Council**

Signature

Damon Odey

**Mayor, Timaru District Council**

Signature

Craig Rowley

**Mayor, Waimate District Council**

Signature

Gary Kircher

**Mayor, Waitaki District Council**

Signature

Michael Havill

**Mayor, Westland District Council**

Signature

John Christie

**Chief Executive, Otago  
Chamber of Commerce**

Signature

John Scandrett

**Chief Executive, Otago Southland  
Employers Association**

# Report



**DATE:** 17 April 2014

**TO:** Mayor and Councillors

**FROM:** Councillor Mark Dawson, Chair, Executive Committee

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## **EXECUTIVE COMMITTEE CHAIR REPORT**

### **Westland Holdings Half Year Report**

Holdings supplied a summary set of accounts at a group level for the 6 months to 31 December 2013 and as such, the accounts had little detail. The financial result was disappointing.

Management had already written to the Holdings Chair requesting further information and the Mayor and Exec Committee Chair, along with management, did meet with Mr King prior to the Council's Haast meeting. Unfortunately Mr King was not able to provide further information at that meeting (due to the timing of his return from holiday). The Exec Committee's view was the Holdings Statement of Intent needed to include requirements for all subsidiary results to be made available as part of the half year report.

### **Audit Management Report**

The Executive committee resolved to receive the report.

At a headline level the committee did not consider there was anything new in the report as Management had kept Council fully informed on the issues raised.

There were three 3 main areas of concern

#### **1. Rates**

The report commented on rates at some length. Management took advice of some of the matters raised and based on that advice the exec committee resolved to continue to use the terminology currently on use, until such time as the rates review is completed and any changes implemented. It was felt that changing the terminology for what is expected to be one further year under the current system would be counterproductive.

## **2. Statement of Performance**

This area concerned Audit NZ more than the committee. The auditors were concerned that the annual report struggled to give a clear view of the Council's performance. The committee believes the annual report clearly shows how the Council is performing, although perhaps not in the detailed and measured way the Council had anticipated in the LTP. This is an area the Council will have to discuss with Audit NZ early in the 2014 audit process.

## **3. Financial capability**

There were a number of areas where the auditors queried the financial capability of the Council. Audit NZ raised the financial stability of the Council, pointing out that income needed to match expenditure, and that not funding depreciation was unsustainable in the long term. There appear to be on-going issues with the accounting system, which is disappointing and the committee suggested there should be significant support being provided by the supplier.

Resourcing the finance area of the Council has been an ongoing issue, with the area not being fully staffed for a number of years.

The committee also noted that the control environment at the Council is "ineffective", which meant the auditors have to undertake more testing than in an effective environment. This would cost the Council additional audit fees and is an area that is being worked on by both Councillors and management.

**Mark Dawson**

**Chair, Executive Committee**

# Report



**DATE:** 17 April 2014

**TO:** Mayor and Councillors

**FROM:** Group Manager: District Assets

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## **BACHES AND OTHER OCCUPATIONS ON UNFORMED LEGAL ROADS**

### **9.0 SUMMARY**

- 1.1 The purpose of this report is to recommend that Council adopt an amended policy in relation to baches and other occupations on unformed legal road.
- 1.2 This issue has arisen due to Westland District Property Limited (WDPL), who administers baches and other occupations on un-formed legal roads, seeking clarification to ensure it remains within Council's policy direction in a way that is economically sustainable for bach holders, WDPL Council.
- 1.3 Council seeks to meet the obligations in the purpose of the Local Government Act 2002 and the achievement of the District Vision set out in the Long Term Plan 2012-22. The matters raised in this report relate to those elements of the vision identified in the following table.

<b>Vision's Objectives</b>	<b>Achieved By</b>
Involving the community and stakeholders Living the '100% Pure NZ' brand Having top class infrastructure for all communities	Having a clear policy to enable Council manage its infrastructure in sustainable way. Providing value for money for services in our community

- 1.4 This report concludes by recommending that Council adopts the amended 'Baches and Other Occupations on Unformed Legal Road Policy' as attached **Appendix 2**.

## 10.0 BACKGROUND

- 2.1 Westland District has several kilometres of unformed legal road across the District. There are a number of baches and other occupations on legal road. These occupations include houses, parts of houses, sheds, farm baleage storage areas, recreational baches etc.
- 2.2 In 2010 Council established WDPL to assume responsibility for managing nominated land and buildings owned by the Council. Management of unformed legal roads was also transferred to WDPL.
- 2.3 Council still retains the responsibility for any policy decisions made relating to the management of unformed legal roads.
- 2.4 At its 11 December 2012 meeting, Council adopted a Policy for Whitebait Baches on Unformed Legal Road (**Appendix 1** attached).

## 11.0 CURRENT SITUATION

- 11.1 Some confusion has arisen in interpretation of the policy. Issues include:
- 11.2 Currently eight historic bach sites are no longer occupied, resulting in a reduction in annual Licence fees for WDPL and Council. There are currently 61 known baches sites occupied in Westland. The unoccupied sites are a result of failure to obtain a building consent for a relocation of a lost site due to missing information on the existing policy. The current policy is silent on whether a new site can be identified when a site is lost to the river. This in practical terms has been referred to as no existing footprint.
- 11.3 There is confusion relating to the footprint area of an existing or new bach site, and re-establishing or relocating of a bach site.
- 11.4 There are some baches on unformed legal road that are not whitebait baches.
- 11.5 There are sheds and other occupations on unformed legal road that are not baches.



- 11.6 Where baches have been washed away, in some cases there is no known footprint to transfer to a new site, despite approval to transfer a footprint.
- 11.7 The policy says there shall be no increase in bach footprint without Council consent; however, where there is no existing footprint, no consent is granted.
- 11.8 Council charges WDPL a different fee for each bach site, whilst setting a fixed fee for WDPL to charge all bach sites.
- 3.4 Council needs to establish clear guidelines so that both Council and WDPL staff can accurately interpret and administer the policy. Without a policy review, bach fees, an important contribution to WDPL revenue, will continue to decline.

#### **4.0 OPTIONS**

4.1 Option 1: Status Quo: Retain the Current Policy attached in Appendix 1

4.2 Option 2: Adopt the Amended Policy Attached as Appendix 2

#### **5.0 SIGNIFICANCE AND CONSULTATION**

5.1 In accordance with Council's Policy on Significance, this matter is deemed to be minor.

5.2 No public consultation is required on this review of the policy.

#### **6.0 ASSESSMENT OF OPTIONS ( INCLUDING FINANCIAL IMPLICATIONS)**

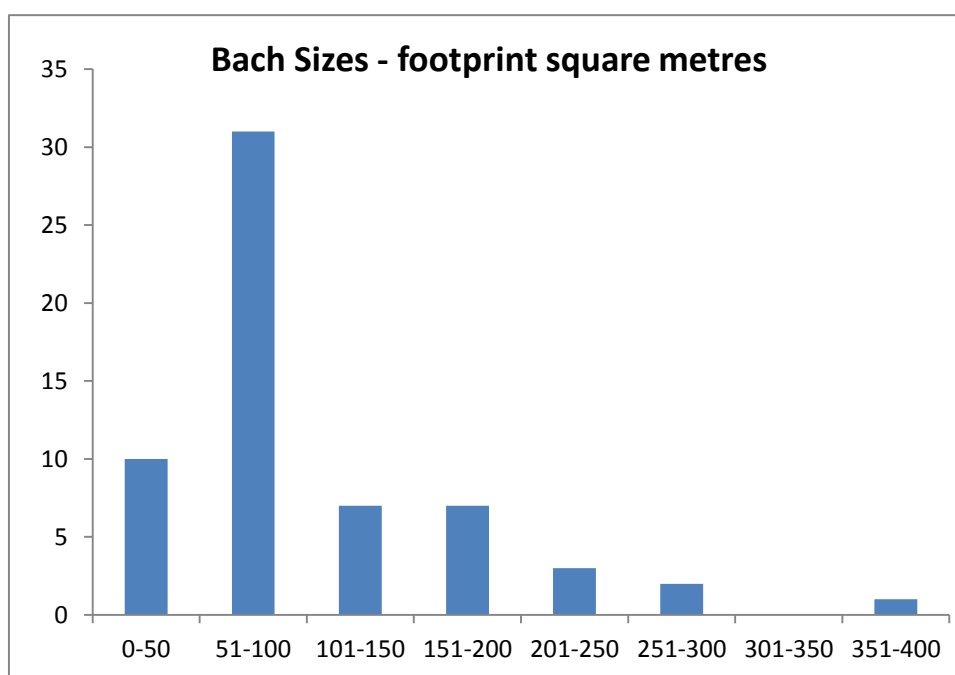
##### **6.1 Option 1 : Status Quo – Retain the existing policy**

This option will result in continued confusion in interpretation of policy, especially regarding consents for replacement or modification of baches, causing a further decline of baches and revenue for WDPL and Council.

##### **6.2 Option 2 : Adopt an amended Policy as attached in Appendix 2**

Under this policy the major amendments are:

- a) The limit of 72 bach sites across Westland is proposed to be removed. There will be no limit to the number of baches. The limit of 72 baches is historic number of known bach sites. However with WDPL assuming the responsibility of management of baches and occupations, the sites will be better monitored and hence the recommendation to remove the limitation.
- b) The total footprint for any bach or its associated structures on any one site will be limited to 100 square metres (sqm).
- c) The graph below shows the total footprint (hut, storage shed, water tank & toilet) of the bach sites in Westland, grouped into size ranges (0-50sqm, 51-100sqm etc.)



- i. Of the 70 recorded baches (historic record), 41 have a footprint less than 100sqm and 20 have a footprint greater than 100sqm; 9 have no recorded footprint. The total average bach footprint is 105sqm.
- ii. Should Council adopt an interpretation that baches with less than 100sqm footprint may increase their footprint up to 100sqm max, and baches with footprint already greater than 100sqm may not increase their footprint, this would enable site

holders to improve their facilities but stop large scale baches being built on unformed legal road.

- d) The footprint for other structures other than baches will be determined on a case by case basis at operational management level.
- e) For clarity, a bach will be identified by its intended use which predominantly will be recreational.
- f) It is proposed that the fee collected from the license holders on legal road be split as 25% WDC and 75% WDPL. This split is approximately same at the current fee WDC charges WDPL for an individual site.

**Other advantages:**

The proposed policy is clear and provides a better mechanism for management and revenue collection, as it:

- g) States that all site holders must have a Licence to Occupy.
- h) States clearly that all structures must ultimately be relocatable.
- i) Removes specific reference to Whitebait Baches in favour of a broader definition of Baches and Other Occupations, thereby incorporating under one policy all structures on unformed legal roads.
- j) Sets a clear allowable footprint. Consents will be required though for any proposed structure.
- k) Enables licence fees to be set variably for different types of occupations on unformed legal road.
- l) Removes any reference to fees on unformed legal road, in favour of a defined proportional distribution of revenue from licence fees.

## **7.0 PREFERRED OPTION AND REASONS**

- 7.1 The preferred option is that Council adopts an amended policy as in Appendix 2.

- 7.2 It provide clear guidelines and improved revenue and management of the bach sites and occupations on unformed legal roads.

**8.0 RECOMMENDATION(S)**

- B) **THAT** Council adopts the policy as outlined in Appendix 2.

**Vivek Goel**

**Group Manager: District Assets**

## Appendix 1:



### **Existing Westland District Council Policy Whitebait Baches on Unformed Legal Road**

The ubiquitous whitebait bach has traditionally been erected on public land and without approval. Council recognises that they have a unique place in the history of Westland.

As a matter of policy, the Westland District Council accepts the continued use of existing recreational whitebait baches for residential purposes and this policy reflects that subject to the following conditions:

- i) The total number of whitebait baches in the Westland District must not exceed 72.
- ii) Whitebait baches must not be transferred from one river to another, for whatever reason.
- iii) Whitebait baches must not interfere with the public right to pass and re-pass along the legal road.
- iv) Whitebait bach licence holders are responsible for obtaining all necessary resource consents and building consents.
- v) Any increase in gross floor area of whitebait baches can only be made with prior consent by Council.
- vi) Whitebait bach license holders will comply with the conditions of the License to Occupy.
- vii) Council will set the fees and charges for whitebait baches on unformed legal road as part of its Annual Plan.

viii) This policy will be reviewed in line with the Long Term Plan.

Dated at Hokitika this 11<sup>th</sup> day of December 2012.

### **Proposed Westland District Council Policy Baches and Other Occupations on Unformed Legal Road**

Council recognises that baches have a unique place in the history of Westland.

As a matter of policy, Westland District Council accepts the continued use of recreational baches for residential purposes. As well, other occupations exist on unformed legal road that require policy direction to acknowledge their existence, subject to the following conditions:

- i) On behalf of Council, WDPL manages unformed legal roads in Westland.
- ii) Council retains the responsibility for any decisions made relating to the management of unformed legal roads.
- iii) All holders of baches and other occupations must have a WDPL Licence to Occupy Unformed Legal Road and must comply with the conditions of that License to Occupy. A fee is payable.
- iv) Baches and other occupations must not interfere with the public right to pass and re-pass along the unformed legal road. Buildings must be ultimately relocatable.
- v) Holders of a Licence to Occupy are responsible for obtaining all necessary resource consents and building consents.
- vi) Baches on existing sites with footprint less than 100sqm may increase their footprint up to 100sqm; however baches on existing sites with footprint greater than 100sqm may not increase their footprint. Baches on new sites must not exceed 100sqm footprint.
- vii) For clarity, WDPL and Council management reserves the right to classify an occupation as a bach and associated structures (subject to 100sqm maximum footprint) or any other associated structure(maximum area to be set in case-by-case basis) on 1 site. This will be determined at the time of the application.

- viii) Council, upon recommendation from WDPL, will set the scale of licence fees for baches and other occupations on unformed legal road as part of its Annual Plan. Distribution of Licence fees will be 75% WDPL, 25% Council.
- ix) This policy will be reviewed in line with the Long Term Plan every 3 years, beginning with the 2018/19 Long Term Plan.



# Report



**DATE:** 17 April 2014

**TO:** Mayor and Councillors

**FROM:** Chief Executive

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## **WEST COAST CIVIL DEFENCE HEADS OF AGREEMENT**

### **1.0 SUMMARY**

- 1.1 The purpose of this report is to recommend that Council endorse the attached Heads of Agreement which details the new arrangements for Civil Defence for the region.
- 1.2 This issue arises from a shared service initiative that the Chief Executives from the four West Coast Councils have been working on.
- 1.3 The Council is required to give effect to the purpose of local government as prescribed by section 10 of the Local Government Act 2002. That purpose is:
- (b) To enable democratic local decision-making and action, by and on behalf of, communities; and
  - (c) To meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses.
- 1.4 Council seeks to meet this obligation and the achievement of the District Vision set out in the Long Term Plan 2012-22. The matters raised in this report relate to those elements of the vision identified in the following table.

<b>Vision's Objectives</b>	<b>Achieved By</b>
Involving the community and stakeholders	Working with other West Coast Councils to share services for the

Having inspirational leadership	benefit of the region.
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- 1.5 This report concludes by recommending that Council endorses the Heads of Agreement attached as **Appendix 1**.

## 2.0 BACKGROUND

- 2.1 Westland District Council is required under s.64 of the Civil Defence Emergency Management Act 2002 to play an active role in Civil Defence and Emergency Management. There are a number of requirements a local authority must fulfill under this Act and one of them is to ensure that Council plans and provides for Civil Defence emergency management within the district. There is also a requirement under s.11A of the Local Government Act for Council to have particular regard to the avoidance and mitigation of natural hazards on behalf of the community when performing its role.
- 2.2 Council currently allocates 0.3FTE to undertake the duties of Emergency Management Officer (EMO). This role is also combined with Rural Fire Officer and is part of a wider role in the District Assets Group. In the reorganization of that Group the EMO role will become a standalone role and increased to 0.5FTE. This is to place more emphasis on the role without the distraction of other duties.
- 2.3 Up until now each Council has been undertaking their Civil Defence functions separately, with informal co-ordination only. After a review of Civil Defence Emergency Management in the region, the Councils have agreed that their responsibilities under the Act shall be combined and delivered through one body to be known as Civil Defence West Coast (CDWC) with the intention that each Council is to be an active equal participant in the establishment, development and control of it.
- 2.4 A Constituting Agreement dated 2002 is currently in place for the West Coast Civil Defence Emergency Management Group. This is attached as **Appendix 1, Schedule D** and will be replaced once the Heads of Agreement is adopted by all four Councils.

- 2.5 The Heads of Agreement integrates the efforts of the four councils. Each of the District Councils will (or already does) employ a half time Civil Defence officer. While these three positions will still be employed by each District Council, they will be seconded to the new Regional Manager at West Coast Regional Council (WCRC) to ensure reporting and accountability functions properly.

### **3.0 CURRENT SITUATION**

- 3.1 The West Coast Mayors (and Chair of WCRC) have indicated unanimous support for this model of Civil Defence management across the West Coast.
- 3.2 Buller District Council and WCRC have already formally endorsed the attached Heads of Agreement. Grey District Council is considering a report at their meeting on 14 April.

### **4.0 OPTIONS**

- 4.1 The options are to endorse the Heads of Agreement attached as **Appendix 1**, not endorse it, or suggest amendments.

### **5.0 SIGNIFICANCE AND CONSULTATION**

- 5.1 This decision is deemed to be of low significance in accordance with Council's Policy on Significance. Council will still be providing the Emergency Management activity; it will just be using a regional model to do so.
- 5.2 No public consultation is required on this decision, however all West Coast Councils have been involved in this shared service initiative.

### **6.0 ASSESSMENT OF OPTIONS (INCLUDING FINANCIAL IMPLICATIONS)**

- 6.1 Two of the four West Coast Councils have endorsed the Heads of Agreement already. Not endorsing it will potentially put the shared service initiative at risk. Any changes made would have to go back to all Councils for approval. This would be time-consuming and would delay the commencement of implementing the new model.

- 6.2 The advantages for Council is the increase from 0.3 to 0.5FTE in Emergency Management, and that WCRC will fund a full time Manager to oversee and co-ordinate this activity across the region.
- 6.3 For four small, geographically dispersed Councils with limited resource, this model will have significant benefit. There will be a substantial increase in the four council's efforts in enhancing community resilience, risk reduction, readiness, response and recovery.
- 6.4 The increase in FTE from 0.3 to 0.5 has been provided for within existing staff budgets.

## 7.0 PREFERRED OPTION AND REASONS

- 7.1 The preferred option is that Council endorse the Heads of Agreement. This will demonstrate this Council's willingness to support shared service initiatives across the region.
- 7.2 Increasing Council's staff resource, along with WCRC's employment of a full time manager and combining the resources of the four councils we can expect the depth, capacity and overall effectiveness of the civil defence service to increase significantly across the region.

## 8.0 RECOMMENDATIONS

- A) **THAT** Council endorse the '*Heads of Agreement on Joint Civil Defence Services*' attached as **Appendix 1** and authorise the Mayor and Chief Executive to sign and seal the document once approval of all West Coast Councils is confirmed.
- B) **THAT** any minor amendments to the document that may be requested by any one of the other Councils, be accepted at the discretion of the Mayor and Chief Executive.

**Tanya Winter**  
**Chief Executive**

**Appendix 1:** Heads of Agreement on Joint Civil Defence Service

AGREEMENT dated this            day of            2014

BETWEEN

**GREY DISTRICT COUNCIL** (“GDC”)

**BULLER DISTRICT COUNCIL** (“BDC”)

**WESTLAND DISTRICT COUNCIL** (“WDC”)

**WEST COAST REGIONAL COUNCIL** (“WCRC”)

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**HEADS OF AGREEMENT ON JOINT CIVIL DEFENCE SERVICES**

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THIS AGREEMENT made                      day of                      2014

BETWEEN

**GREY DISTRICT COUNCIL** (“GDC”)

**BULLER DISTRICT COUNCIL** (“BDC”)

**WESTLAND DISTRICT COUNCIL** (“WDC”)

**WEST COAST REGIONAL COUNCIL** (“WCRC”)

(collectively called “the Councils”)

## **BACKGROUND**

- A     The Councils have established the West Coast Civil Defence Emergency Management Group (the Group) as a joint standing committee of the Councils pursuant to Section 12 of the Civil Defence Emergency Management Act 2002 (the Act). The functions, powers and duties of the Group are set out in its constitution, attached as Schedule D. It is recommended that this constitution be discarded once this new Heads of Agreement is agreed among the four Councils.
- B     After a review of Civil Defence Emergency Management in the region, the Councils have agreed that their responsibilities under the Act shall be combined and delivered through one body to be known as Civil Defence West Coast (CDWC) with the intention that each Council is to be an active equal participant in the establishment, development and control of it.

IN ORDER TO give effect to this agreement between them the Councils have agreed as follows:

[1] **INTERPRETATION**

1.1 **Intent**

The provisions of this Intent are to be interpreted so as to give best effect to the intention of the Councils that each Council is to be an active equal participant in the establishment development and control of Civil Defence West Coast.

1.2 **Headings**

Clause and other headings are indications that may be considered in ascertaining the meaning of any provision of this agreement.

1.3 **Defined expressions**

Expressions defined in the recitals or the main body of the Agreement shall have the same meaning in the whole of the Agreement. Expressions not defined in this Agreement but defined in the Act shall have the meaning in the Act.

1.4 **Plural and Singular**

Words importing the singular number shall include the plural and vice versa.

1.5 **Negative Obligations**

An obligation to refrain from doing anything shall include an obligation not to permit that thing to be done.

[2] **FORMATION OF CIVIL DEFENCE WEST COAST**

2.1 For the purposes of combining and effectively carrying out the Councils' responsibilities for Civil Defence Emergency Management under the Act there shall be established immediately on the signing of this Agreement a subcommittee of the Group to be known as the Operations Subcommittee.

2.2 The regional council will employ a new Civil Defence Manager, as soon as is practicable, to lead Civil Defence West Coast. This manager will report to the Operations Subcommittee and the Co-ordinating Executive Group (CEG).

- 2.3 The existing part time Emergency Management Officers (EMO) at the three District Councils will be formally seconded to report to that new Manager under secondment agreements to be executed by the CEOs of the four Councils. The District Councils will employ these three 0.5 FTE staff including meeting their office, IT and training needs and will ensure they have access to a vehicle to enable them to deliver their role within their district, and attend meetings and training days.
- 2.4 The governance structure for the new Subcommittee, new Manager and Civil Defence West Coast shall be in accordance with Schedule A.

[3] **PURPOSE, FUNCTIONS AND PRINCIPLES OF OPERATIONS SUBCOMMITTEE AND THE COUNCILS**

- 3.1 The purpose of the Operations Subcommittee shall be to provide an exchange of operational information to and from the Councils and CDWC on HR, training, IT, equipment, planning, financial details, etc. The subcommittee will provide operational oversight and direction to the Manager of CDWC and will oversee the business plan in section 7, financial management in section 9, operational issues, mentoring and advice. The operations subcommittee does not replace the CEG and must work within the direction set by CEG.
- 3.2 The main function of the Operations Subcommittee will be to ensure the Manager and their seconded staff are resourced to deliver the functions, powers and duties of the Councils under the Act and to provide such other emergency management services as the Councils may agree upon from time to time.
- 3.3 In particular but without derogating from the generality of Clause 3.2 the Subcommittee shall:
- 3.3.1 With due regard to the governance structure in Schedule A, carry out the functions listed in section 17 of the Act, on behalf of the Councils. Each Council shall remain responsible for compliance with section 64 (2) of Act, which requires each Council to ensure that it is able to function to the fullest possible extent, even though this may be at a reduced level, during and after an emergency.
- 3.3.2 Prepare in addition to the five year Group Plan and its updates and reviews, an annual business plan in accordance with the provisions of Clause 7.1 for approval by CEG by the 30<sup>th</sup> of November each year.



3.3.3 Ensure each Council understands and funds the purchase and maintenance of any ancillary equipment needed for the delivery of civil defence readiness and response tasks within each district.

3.4 Each of the four Councils must ensure that they provide sufficient staff or volunteers to ensure that at all times it has adequate numbers of trained personnel to staff a minimum of two shifts of their district's Emergency Operations Centre (EOC), or in the case of the Regional Council the Emergency Co-ordination Centre.

3.5 Each Council's trained EOC staff should be generally available to help operate an EOC in another's district. If an emergency event occurs in one district only and that district requires assistance from another Council in terms of EOC staffing relief, such assistance shall be provided.

**[4] OPERATIONS SUBCOMMITTEE MEMBERSHIP AND VOTING**

4.1 Each Council shall nominate their CEO or a senior member of its management team with responsibility for emergency management to be a member of the Operations Subcommittee. The Chair of Coordinating Executive Group (CEG) shall ex officio be a member.

4.2 Each person appointed as a member of the Subcommittee shall appoint a suitably experienced alternate who shall have full powers to vote and act in the member's absence. The alternate's instrument of appointment shall expressly delegate to the alternate the same decision making authority as the appointing member has.

4.3 A quorum shall be three members. For the purposes of ascertaining a quorum, only one alternate attending the meeting may be counted as a member.

4.4 Decisions shall be made by consensus. If consensus is not able to be reached, the matter will be referred to the CEG for a decision.

[5] **TERM OF AGREEMENT**

- 5.1 The term of this Agreement shall be 10 years PROVIDED THAT the provisions of this Agreement shall continue to apply after that period if (subject to clause 5.3) the Councils agree from time to time that it shall continue for a specified period.
- 5.2 Six months prior to the first specified expiration of this Agreement set out in clause 5.1 representatives of the Councils shall meet in good faith to negotiate its renewal or extension with or without amendments.
- 5.3 Any of the Councils may terminate their participation in CDWC at the first specified expiration of this Agreement set out in clause 5.1; by giving notice to all other Councils, in writing, of their intent to terminate, at least three years prior to the expiry of the Term. As at the date of the coming into effect of that notice, that Councils' right to participate in the management and control of CDWC and the negotiations for the renewal or extension of this agreement shall cease, but without prejudice to any liabilities and responsibilities up to the date of the coming into effect of the notice.
- 5.4 Staff seconded and assets provided by a Council giving notice under clause 5.3 shall be returned to that Council as soon as practicable after the coming into force of that notice but only in a time and in a manner that does not compromise the operational efficiency of CDWC.
- 5.5 The notice referred to in clause 5.3 shall apply only to the participation in CDWC by the Council giving the notice and not to any other part of the governance structure set out in Schedule A.

[6] **MANAGEMENT AND STAFF**

- 6.1 The Subcommittee shall liaise with the chief executives of the 4 Councils to develop an employment policy covering matters relating to the employment of staff. The policy shall deal with but shall not be limited to the matters specified in Schedule C.

- 6.2 The cost of any redundancy caused by the coming into force of this Agreement shall be the sole responsibility of the Council employing the redundant staff member.
- 6.3 Notwithstanding any other provision of agreement the Councils agree to indemnify each other pro rata in accordance with the proportions set out in clause 8.3 for any costs, damages, liabilities or payments that are required to be made by any Council as a result of any action or omission on the part of any seconded staff arising out of that staff member's duties on secondment.

**[7] BUSINESS PLAN & PERFORMANCE MONITORING**

- 7.1 By 30 November each year the CDWC Manager shall, with input from the three EMOs, prepare a comprehensive business plan which shall describe the activities of CDWC in detail for the period of the plan, together with the expected outputs and outcomes. The business plan shall be reviewed by the Subcommittee and, once adopted, becomes the service level agreement between CDWC and the Councils.
- 7.2 The operational capability of CDWC shall be monitored and evaluated by the Ministry of Civil Defence and Emergency Management using aspects of its monitoring and evaluation programme.

**[8] FINANCE**

- 8.1 Each Council will continue to fund their own 0.5FTE EMO staff member in accordance with 2.3 and 2.4 of this agreement, and will meet their training and travel costs; plus the staff training costs for the EOC staff, and any EOC building, fit out, IT, communications or maintenance costs, as required. The expectation is that each council will provide a 'fit for purpose' fully staffed EOC; plus a half time EMO, who will report to the new Group Manager via a secondment agreement; together with funding any equipment needed for the readiness and response activities within their district.
- 8.2 The regional council will employ a new Civil Defence Manager, as soon as is practicable, to lead Civil Defence West Coast. This manager will report to the Operations Subcommittee. The Regional Council will pay the salary of the manager plus meet their office, IT and training needs and will fund their access to a suitable motor vehicle to enable them to deliver their role within the region.

8.1 If the Group decides that extra resources are required by Civil Defence West Coast, these will nominally be funded on the basis of 25% per Council. Such additional funds must be agreed first by the Group and then agreement to fund will be sought from each Council.

**[9] FINANCIAL POLICY**

9.1 The Manager of CDWC shall have authority to spend up to \$100,000 on the start-up and early stage costs of responding to an emergency. The Controller from time to time in charge of the emergency shall have authority for expenditure beyond \$100,000; with such expenditure to be covered by the affected District Council pending a government financial claim under section 26 of the Guide to the National Plan.

9.2 The Manager of CDWC shall have the authority to sign contracts up to the value of \$10,000. Every contract so signed shall be reported to the Operations Subcommittee and the CEG.

**[10] PROVISION OF TRAINED STAFF**

10.1 Each of the Councils accepts an obligation to provide an agreed number of suitable staff to enable their EOC to operate 24/7 for the duration of an emergency event with the exact numbers of staff and role designations to be decided by the Group on recommendation from CEG and the Operations Subcommittee, taking into account the number of available staff and volunteers available to each Council.

**[11] FURTHER ASSURANCES**

11.1 The Councils will use their best endeavors to sign and execute all deeds and other documents and do all things that may be reasonably necessary to carry out the provisions of this Agreement and the intentions of the Councils evidenced by it including the passing of any resolutions that may be necessary.

**[12] DISPUTES**

12.1 The primary object of this clause is to ensure that any dispute will be resolved as quickly and as informally as possible and particular regard is to be had to that object in the interpretation or implementation of its provisions.

- 12.2 If any dispute arises between the Councils out of or in connection with this Agreement, including any dispute as to its interpretation, and it is not resolved in 14 working days, any Council may by written notice served on the other parties require the Chief Executives to meet to attempt to resolve the issue. Such a meeting must take place within 14 days of the service of the notice. If the dispute cannot be resolved by that means any Council may by written notice to the other Councils require that the dispute be determined by arbitration by a sole arbitrator to be appointed by Local Government New Zealand.
- 12.3 The arbitration shall be conducted in accordance with the provisions of the Arbitration Act 1996 (except to the extent that it is modified by this clause or by written agreement of the Councils). The decision of the arbitrator shall be final and binding.

**[13] DISSOLUTION**

- 13.1 In the event that CDWC is dissolved for any purpose other than reorganization then:
- 13.1.1 All staff of CDWC shall be released from secondment. Each employer Council shall negotiate with its staff as to what position if any is available and the terms and conditions of re-engagement with that Council. The cost of any redundancies will lie where they fall.
- 13.1.2 Any property provided by any of the Councils for the benefit of CDWC shall be returned to that Council.
- 13.1.3 All assets not otherwise dealt with in accordance with this clause shall be distributed to the Councils equally, or by agreement.

**IN WITNESS** this Agreement was signed on the date first stated.

**THE COMMON SEAL of THE  
GREY DISTRICT COUNCIL (“GDC”)**

was hereunto affixed in the presence of:

..... Mayor

..... Chief Executive Officer

**THE COMMON SEAL of THE  
BULLER DISTRICT COUNCIL (“BDC”)**

was hereunto affixed in the presence of:

..... Mayor

..... Chief Executive Officer

**THE COMMON SEAL of THE  
WESTLAND DISTRICT COUNCIL (“WDC”)**

was hereunto affixed in the presence of:

..... Mayor

..... Chief Executive Officer

**THE COMMON SEAL of THE  
WEST COAST REGIONAL COUNCIL (“WCRC”)**

was hereunto affixed in the presence of:

..... Chairman

..... Chief Executive Officer

## SCHEDULE A: GOVERNANCE STRUCTURE

### **CDEM Group – Political Leaders of the four Councils**

A formal **Joint Committee** under section 12 CDEM Act 2002.

### **Coordinating Executive Group – CEOs of the Councils, Health & Emergency Services**

Provides advice to and implements decisions of the Group.

Formed under section 20 CDEM Act 2002.

### **Operations Subcommittee - CEG Chair plus Council**

#### **CEOs or senior managers**

Guides the CDWC Manager on operational issues that CDWC requires guidance on including business plans.

Formed under this Heads of Agreement.

### **Civil Defence West Coast - The Group Emergency Management Office**

Led by the CDWC Manager who operates under the CDWC Business Plan and the Group Plan and Local Arrangements. Formed under this Heads of Agreement.

We also have Lifelines, Welfare and other groups that sit alongside this structure and operate at various levels.

## **SCHEDULE B**

S17 (1) The functions of a Civil Defence Emergency Management Group, and of each member, are to -

- (a) in relation to relevant hazards and risks,
  - (i) identify, assess, and manage those hazards and risks:
  - (ii) consult and communicate about risks:
  - (iii) identify and implement cost-effective risk reduction:
- (b) take all steps necessary on an ongoing basis to maintain and provide, or to arrange the provision of, or to otherwise make available suitably trained and competent personnel, including volunteers, and an appropriate organisational structure for those personnel, for effective civil defence emergency management in its area:
- (c) take all steps necessary on an ongoing basis to maintain and provide, or to arrange the provision of, or otherwise to make available material, services, information, and any other resources for effective civil defence emergency management in its area:
- (d) respond to and manage the adverse effects of emergencies in its area:
- (e) carry out recovery activities:
- (f) when requested, assist other Groups in the implementation of civil defence emergency management in their areas (having regard to the competing civil defence emergency management demands within the Group's own area and any other requests for assistance from other Groups):
- (g) within its area, promote and raise public awareness of, and compliance with, this Act and legislative provisions relevant to the purpose of this Act:
- (h) monitor and report on compliance within its area with this Act and legislative provisions relevant to the purpose of this Act:
- (i) develop, approve, implement, and monitor a civil defence emergency management group plan and regularly review the plan:
- (j) participate in the development of the national civil defence emergency management strategy and the national civil defence emergency management plan:
- (k) promote civil defence emergency management in its area that is consistent with the purpose of this Act.



## **SCHEDULE C: Employment Policy**

The three half time EMO staff will be seconded by their employing Council to CDWC.

- i) Secondment agreements will be signed by the CEO of the employing Council.
- ii) The CEO of the employing Council will delegate to the Operations Subcommittee, authority to:
  - a. Direct work
  - b. Recruit replacements in consultation with Human Resources
  - c. Accept resignations
  - d. Approve job descriptions in consultation with Human Resources
  - e. Resolve minor disciplinary issues
  - f. Undertake performance reviews
  - g. Undertake annual salary reviews in accordance with agreed processes.

Items (f) and (g) above, will be conducted by the Manager of CDWC and the CEO of the employing council, or their delegate.
- iii) The Operations Subcommittee will have delegated authority but will consult with the employing CEO prior to implementing any decision involving:
  - a. The implementation of remuneration system changes and performance based rewards which have a contingent liability on the employing Council.
  - b. Changes to the employment agreement.
- iv) The Operations Subcommittee will have recommendatory authority for aspects of staff management including:
  - a. Significant disciplinary issues
  - b. Dismissals
  - c. Disputes
  - d. Redundancy.
- v) No CEO or manager of any of the Councils, will become involved in any discussions regarding employment or priority of work issues with staff seconded to CDWC without the knowledge and/or consent of the Operations subcommittee and the Manager of CDWC.
- vi) The Manager of CDWC will ensure that all relevant information about each individual staff member is provided to the employing authority HR department.

- vii) The Operations Subcommittee and the Manager of CDWC shall be entitled to seek general personnel information and advice from the employing authority HR department.
- viii) The Manager of CDWC shall ensure compliance with Health and Safety Plan and processes of each relevant host Council.

### **Roles and Services**

<b>Organisation / Role</b>	<b>Service</b>
Employing Council	<ul style="list-style-type: none"> <li>• Sign off secondment agreement in consultation with Operations Subcommittee</li> <li>• Maintenance of Personnel file and records</li> <li>• Provide HR advice to Operations Subcommittee in respect to statutory responsibilities.</li> <li>• Provide advice and assistance on employment issues, e.g. potential PG's, disciplinary matters.</li> <li>• Preparation of fortnightly payroll and all associated tasks including salary adjustments, PAYE, ACC, Kiwisaver and any other deductions.</li> <li>• Maintenance of Payroll service &amp; records including leave records.</li> <li>• Provide salary, leave, remuneration information and personnel file bring-ups within 72 hours of request</li> </ul>
Operations Subcommittee	<ul style="list-style-type: none"> <li>• Develop standard CDWC employment contract conditions</li> <li>• Timetable and manage performance review process</li> <li>• Manage salary review process ensuring consistency wherever possible</li> <li>• Manage staff training processes</li> <li>• Ensure participation in Health and Safety programmes and processes</li> </ul>

## **SCHEDULE D: The current agreement signed in 2002:**

**To be discarded once this new Heads of Agreement is executed**

### **CONSTITUTING AGREEMENT**

#### **WEST COAST CIVIL DEFENCE EMERGENCY MANAGEMENT GROUP**

##### **PART I - FORMATION**

###### **1. Parties**

**1.1** Each of the following local authorities is a party to this agreement and a member of the West Coast Civil Defence Emergency Management Group:

- West Coast Regional Council
- Buller District Council
- Grey District Council and
- Westland District Council

###### **2. Definitions**

In this agreement:

**2.1** "Act" means the Civil Defence Emergency Management Act 2002.

**2.2** "The West Coast Region" means the western part of the South Island of New Zealand comprising of the three constituent territorial authorities of Buller District, Grey district and the Westland District.

**2.3** "Co-ordinating Executive Group" means the Co-ordinating Executive Group to be established under clause 17 of this agreement.

**2.4** "Regional Council" means the West Coast Regional Council.

**2.5** "Group" means the West Coast Civil Defence Emergency Management Group.

**2.6** "Group Controller" means a person appointed under clause 12.1(a) of this agreement as a group controller.

**2.7** "Member" means a Local Authority that is a member of the Group or any civil defence emergency management group, as the context may require.

**2.8** "Party" means a party to this agreement.

### **3. Term of Agreement**

- 3.1** This agreement shall commence once all the parties to this agreement have executed this agreement under common seal.
- 3.2** This agreement shall expire on the date on which the Act is repealed or on any other date specified in an enactment.
- 3.3** This agreement shall be reviewed immediately after reviewing the Group Plan.

### **4. Purpose of Agreement**

- 4.1** The purposes of this agreement are to:
- (a) provide for the establishment of the Group in fulfilment of the parties' obligations under section 12 of the Act; and
  - (b) set out the functions, powers, and duties of the Group and members; and
  - (c) provide for the administrative arrangements of the Group.

### **5. Formation and Membership of the Group**

- 5.1** Pursuant to section 12 of the Act, the parties, must unite in appointing the Group as a joint standing committee under the provisions of section 114S of the Local Government Act 1974 (and Schedule 7 Section 30(1) of the Local Government Act 2002 which comes into force on 1 July 2003), and by each member authority passing a resolution to that effect prior to 1 June 2003.
- 5.2** The Joint Standing Committee will be known as the West Coast Civil Defence Emergency Management Group.
- 5.3** Under section 13(1) of the Act every party to this agreement must be a member of the Group.
- 5.4** The members of the Group will be the West Coast Regional Council and all those territorial authorities that lie wholly within the boundaries of the West Coast Region. Each member is to be represented on the Group by one person only, being the mayor/chairperson of that local authority or an alternate representative who has been given the delegated authority to act for the mayor/chairperson.
- 5.5** An alternate representative must be an elected person from that territorial authority under section 13(4) of the Act.
- 5.6** Under section 114S(4) of the Local Government Act 1974 (and schedule 7 Section 30 (9) of the Local Government Act 2002) the powers to discharge any representative on the Group and appoint his or her replacement shall be exercisable only by the member that appointed the representative.

## **6. Representatives to have Full Delegated Authority**

- 6.1** Each member agrees to confer full-delegated authority on its representative (and alternate representative) to the Group to exercise the functions, powers, and duties of members under sections 16 and 17 of the Act.
- 6.2** At meetings of the Group each member's representative is to have full authority to vote and make decisions on behalf of that member without further recourse to that member.

## **7. Requirement to Maintain the Group**

- 7.1** In accordance with section 12(2) of the Act, section 114P(5) of the Local Government Act 1974 (and Schedule 7 Section 30(5)(b) of the Local Government Act 2002) must not be read as permitting any member to discharge or reconstitute the Group.
- 7.2** Upon members' representatives on the Group being discharged under section 114R(3) of the Local Government Act 1974 (and Schedule 7 Section 30(9) of the Local Government Act 2002), members shall as soon as practicable appoint representatives to the Group with the same delegated functions, duties and powers as their predecessors.

## **PART II - POWERS, FUNCTIONS AND DUTIES**

### **8. Powers of the Group**

- 8.1** Pursuant to section 18 of the Act, the Group has all the powers that are reasonably necessary or expedient to enable it to perform its functions, including the power to delegate any of its functions to members, the Group Controller, or any other person.
- 8.2** Without limiting the generality of clause 8.1 of this agreement, the Group may
- (a) recruit and train volunteers for civil defence emergency management tasks; and
  - (b) conduct civil defence emergency management training exercises, practices, and rehearsals; and
  - (c) issue and control the use of signs, badges, insignia, and identification passes authorised under the Act, regulations made under the Act, or its civil defence emergency management plan; and
  - (d) provide, maintain, control, and operate warning systems; and
  - (e) provide communications, equipment, accommodation, and facilities for the exercise of its functions and powers during an emergency; and
  - (f) exercise any other powers that are necessary to give effect to its civil defence emergency management plan.

### **9. Functions of the Group**

- 9.1** In accordance with section 17 of the Act, the functions of the Group, and of each party as a member of the Group, are to -
- (a) in relation to relevant hazards and risks, -
    - (i) identify, assess, and manage those hazards and risks; and
    - (ii) consult and communicate about risks; and

(iii) identify and implement cost-effective risk reduction.

- (b) take all steps necessary on an ongoing basis to maintain and provide, or to arrange the provision of, or to otherwise make available suitably trained and competent personnel, including volunteers, and an appropriate organisational structure for those personnel, for effective civil defence emergency management in the West Coast region; and
- (c) take all steps necessary on an ongoing basis to maintain and provide, or to arrange the provision of, or otherwise to make available material, services, information, and any other resources for effective civil defence emergency management in the West Coast region; and
- (d) respond to and manage the adverse effects of emergencies within the West Coast; and
- (e) carry out recovery activities; and
- (f) when requested, assist other civil defence emergency management groups in the implementation of civil defence emergency management in their areas (having regard to the competing civil defence emergency management demands within the West Coast and any other requests for assistance from other civil defence emergency management groups); and
- (g) work proactively and cooperatively with Local Authority neighbours to the West Coast CDEM Group area, and CDEM groups formed by those authorities, in CDEM planning and management; and
- (h) within the West Coast region, promote and raise public awareness of, and compliance with, the Act and legislative provisions relevant to the purpose of the Act; and
- (i) monitor and report on compliance within the West Coast region with the Act and legislative provisions relevant to the purpose of the Act; and
- (j) develop, approve, implement, and monitor the West Coast Emergency Management Group plan and regularly review the plan; and
- (k) participate in the development of the national civil defence emergency management strategy and the national civil defence emergency management plan; and
- (l) promote civil defence emergency management within the West Coast that is consistent with the purpose of the Act.

**9.2** The Group also has any other functions that are conferred or imposed by or under the Act or any other enactment.

**9.3** For the purposes of clauses 9.1(i) to (k) of this agreement, legislative provisions relevant to the purpose of the Act include, but are not limited to, the provisions in the following Act that may be relevant to civil defence emergency management:

- (a) Biosecurity Act 1993; and
- (b) Building Act 1991; and
- (c) Fire Service Act 1975; and
- (d) Forest and Rural Fires Act 1977; and

- (e) Hazardous Substances and New Organisms Act 1996; and
- (f) Health Act 1956; and
- (g) Health and Safety in Employment Act 1992; and
- (h) Local Government Act 1974 & Local Govt Act 2002; and
- (i) Maritime Transport Act 1994; and
- (j) Resource Management Act 1991; and
- (k) any enactment passed in substitution for any of the Acts in paragraphs (a) to (j) above.

## **10. Responsibilities of Members**

### **10.1** Each member of the Group will:

- (a) appoint one elected representative each to the Group in accordance with clauses 5.4 and 7 of this agreement (section 13(4)); and
- (b) appoint its chief executive officer or senior manager to the Co-ordinating Executive Group (CEG) (section 20); and
- (c) participate in the preparation of and agree the civil defence emergency management group plan for the West Coast region (Section 17(1)(i)); and
- (d) contribute technical expertise and resources to maintain an effective group and local level response capability (17(1)(b) and (c)); and
- (e) provide to the Group the information or reports that may be required by the Group for emergency management purposes (17(1)(c)).

### **10.2** Each territorial authority member of the Group will:

- (a) be responsible for the reduction, readiness, response and recovery arrangements required of it under the Act and the civil defence emergency management group plan, to the standards agreed by the Group; and
- (b) pursuant to section 223D of the Local Government Act 1974 (and Section 95 of the Local Government Act 2002), provide adequate information to their communities each year, by way of their annual plan, informing them of the planned activities of the CDEM Group and any significant implications for the community.

## **11. Powers of Members**

### **11.1** Pursuant to sections 16 and 18 of the Act, each member of the Group may:

- (a) acquire, hold, and dispose of real or personal property for the use of the Group; and
- (b) remunerate its representative or alternate representative on the Group for the cost of that person's participation in the Group; and
- (c) exercise any powers or functions conferred on a member under the Act.

## **12. Duty to Appoint Group Controller**

**12.1** In accordance with section 26 of the Act, the Group must appoint:

- (a) a suitably qualified and experienced person to be the Group Controller for the West Coast region; and
- (b) a suitably qualified and experienced person to exercise the functions, powers and duties of the Group Controller in the event of a vacancy in or absence in the office of Group Controller.

**12.2** A person appointed under clause 12.1 of this agreement shall have the functions set out in section 28 of the Act.

## **13. Appointment of Local Controllers**

**13.1** In accordance with section 27(1) of the Act, the Group may appoint one or more persons to be a Local Controller.

**13.2** It is the intention of the Group that, unless a territorial authority indicates otherwise, Local Controllers will be appointed for each territorial authority in the Group.

## **14. Duty to Appoint Person who may Declare State of Local Emergency**

**14.1** In accordance with section 25 of the Act, the Group must appoint at least one representative of a member of the Group as a person authorised to declare a state of local emergency for the West Coast Region.

**14.2** In accordance with section 25(5) of the Act, the Mayor of a territorial authority or an elected member of the territorial authority designated to act on behalf of the Mayor or if the Mayor is absent, may declare a state of local emergency that covers the district of that territorial authority.

## **PART III – ADMINISTRATION**

### **15. Duty to Prepare, Approve and Review West Coast Civil Defence Emergency Management Group Plan**

**15.1** The Group must prepare and approve a civil defence emergency group plan within two years of constituting the Group, under section 54 of the Act, and commence a review of that plan at least every 5 years thereafter, under section 56 of the Act.

### **16. Emergency Management Office**

**16.1** West Coast Civil Defence Emergency Management Group will determine the need for and establish if necessary an Emergency Management Office on the West Coast.

**16.2** The Emergency Management Office may carry out such functions as are assigned to it by the Group, but must not carry out any functions of the administering authority under the Act.



- 16.3** West Coast Civil Defence Emergency Management Group will employ staff for the Emergency Management Office in accordance with the principles of the Local Government Act.

## **17. Co-ordinating Executive Group**

- 17.1** In accordance with section 20 of the Act the Group will establish and maintain a Co-ordinating Executive Group consisting of:

The chief executive officer of each member or a senior person acting on the person's behalf; and

- a) a senior representative of the police assigned for the purpose by the Commissioner of Police; and
- b) a senior representative of the fire service assigned for the purpose by the National Commander; and
- c) the chief executives of the district health boards on the West Coast representing the district health boards within the West Coast, or a person(s) acting on their behalf:
- d) any other persons that may be co-opted by the Group.

- 17.2** The functions of the Co-ordinating Executive Group shall include:

- (a) Providing advice to the Group and any committees or subcommittees of the Group; and
- (b) Implementing as appropriate decisions of the Group; and
- (c) Overseeing the implementation, development, maintenance, monitoring, and evaluation of the Group Plan.

## **18. Meetings**

- 18.1** The New Zealand Standard for model standing order (NZS 9202 : 2001), or any New Zealand Standard substituted for that standard, will be used to conduct Group meetings as if the Group was a local authority and the principal administrative officer of the administering authority was its principal administrative officer. Representatives of members of the Group may agree to use other standing orders only in accordance with section 19(1) of the Act.
- 18.2** The Group shall hold all meetings at such times and place(s) as agreed for the performance of the functions, duties and powers delegated under this agreement.
- 18.3** The West Coast Civil Defence Emergency Management Group meetings will only be held when the four (4) constituent members are present.
- 18.4** Pursuant to section 2.22.3 of the NZS9202, each member shall have one vote.

## **19. Chairperson and Deputy Chairperson**

- 19.1** On the constitution of the Group, following a local election, and in the event the Chairperson or Deputy Chairperson leaving their Group office, the members of the Group shall elect a Group Chairperson and Deputy Chairperson, under the provisions of section 114K of the Local Government Act 1974 (and Section 24 of schedule 7 of the Local Government Act 2002);
- 19.2** The Group's Chairperson and Deputy Chairperson will hold office for a term of three years or such a lesser period as may be determined by the Group. The term of office of an appointed chairperson or deputy chairperson ends if that person ceases to be a representative of a member of the Group.

## **20. Casting Vote**

- 20.1** As general statements of principle, the following shall apply:
- (a) The casting vote is to be used in the best interests of the West Coast Region represented by members considered together; and
  - (b) The casting vote is to be used in the best interests of all members considered together.
- 20.2** Members shall use their best endeavours to avoid use of a casting vote by obtaining consensus.
- 20.3** In the event of clauses 20.1 to 20.2 being unable to be applied, section 24(1)(b)(i) of schedule 7 of the Local Government Act 2002 will apply, whereby the Chair will be able to exercise a casting vote mindful of the interests of all members of the Group.

## **21. Administering Authority**

- 21.1** Under section 23 of the Act the administering authority for the Group is the West Coast Regional Council.
- 21.2** Under section 24(2) of the Act the administrative and related services referred to in clause 21.1 of this agreement include services required for the purposes of the Local Government Act 1974, the Act, or any other Act, regulation, or bylaw that applies to the conduct of the joint standing committee under section 114S of the Local Government Act 1974 (and Section 30 Schedule 7 of the Local Government Act 2002).
- 21.3** The costs for the provision of administrative and related services that may be required of the administering authority under section 24 of the Act are to be included in the Group's annual budget.

## **22. Funding**

- 22.1** Each territorial authority member of the Group will be responsible for funding the reduction, readiness, response and recovery arrangements required in its district.
- 22.2** The Group shall agree a budget every year. The budget shall be prepared by the Administering Authority and approved by the Group at a meeting conducted in accordance with clause 18 of this agreement.
- 22.3** The funding of the West Coast CDEMG budget will be agreed between the four local authorities. The budget will include:
- (a) Administering authority costs;
  - (b) Emergency Management Office costs if necessary;

- (c) Costs associated with the preparation and approval of the Group Plan;
- (d) The costs of Group reduction, readiness, response and recovery activities as determined by the Group; and
- (e) Such other Group expenses as the Group may decide.

**22.4** CEG and Group meetings will be held on a rotational basis amongst the four local authorities based on the principle of costs lie where they fall basis.

## **23. Entering Contracts**

**23.1** The parties agree that the West Coast Regional Council may exercise the functions, powers and duties of the Group in relation to contracts for the provision of (any) goods or services provided for in the Group budget.

**23.2** The West Coast Regional Council will enter into contracts under clause 23.1 in its own name rather than the name of all members of the Group, notwithstanding that the contract is for the purposes of performing the functions, powers and duties of the Group.

**23.3** Any financial liability that the West Coast Regional Council assumes under a contract entered into under clause 23.1 is to be met from the Group budget.

**23.4** Pursuant to section 3 of the Public Bodies Contracts Act 1959, two officers of the West Coast Regional Council, one of whom is the chief executive or acting chief executive, may sign a contract entered into under clause 23.1.

**23.5** Ownership of copyright in any reports commissioned by the West Coast Regional Council under clause 23.1 shall vest in the members jointly.

**23.6** During a state of emergency contracts may be entered into on behalf of the Group by the persons set out in section 94(1) of the Act.

## **24. Arbitration**

**24.1** Any dispute arising out of the interpretation of this agreement, including any question regarding its existence, validity or termination, shall be referred to arbitration.

**24.2** If the parties are unable to agree upon the appointment of a single arbitrator within five (5) working days of the receipt of written notification of the desire of a party to have a dispute arbitrated, or if any arbitrator agreed upon refuses or fails to act within fourteen days of his or her appointment then any party may request the President for the time of the Westland District Law Society to appoint an arbitrator and the arbitration shall be carried out in accordance with the Arbitration Act 1996.

**24.3** In this clause time shall be of the essence and the parties agree to be bound by any decision, determination or award given pursuant to the provisions hereof.

## **25. Variations**

**25.1** In the event of any circumstances arising that were unforeseen by the parties at the time of entering into of this agreement the parties hereby record their intention that they will negotiate in good faith to add to or vary this agreement so to resolve the impact of those circumstances in the best interests of:

(a) The members of the Group collectively; and

(b) The West Coast community represented by the members of the Group collectively.

**25.2** Any member may propose a variation, deletion or addition to this agreement by putting the wording of the proposed variation, deletion or addition to a meeting of the Group.

**25.3** Once a proposed variation, deletion or addition to this agreement has been put to the Group, this agreement is not amended until each member executes under common seal a written amendment to the agreement giving affect to the proposed variation, deletion or addition.

DRAFT

# Report



**DATE:** 17 April 2014

**TO:** Mayor and Councillors

**FROM:** Community Development Advisor

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## **PSYCHOACTIVE SUBSTANCES ACT AND LOCAL APPROVED PRODUCT POLICY (LAPP)**

### **1.0 SUMMARY**

- 1.1 The purpose of this report is to ask Council to develop a local approved product policy (LAPP) about party pills or synthetic cannabis that is effective and compliant with the Psychoactive Substances Act which came into force on 18 July 2013.
- 1.2 This issue arises from the passing of the Act which allows Councils to work with their communities through the development of a LAPP.
- 1.3 Council seeks to meet the obligations in the purpose of the Local Government Act 2002 and the achievement of the District Vision set out in the Long Term Plan 2012-22. The matters raised in this report relate to those elements of the vision identified in the following table.

<b>Vision's Objectives</b>	<b>Achieved By</b>
Involving the community and stakeholders Living the '100% Pure NZ' brand	Consulting with the community and developing policy on a topical issue affecting the community

- 1.4 This report concludes by recommending that Council consult with the community and develop a LAPP.

### **2.0 BACKGROUND**

- 2.1 Since the Psychoactive Substances Act came into force on 18 July 2013, the number of retail outlets selling psychoactive products nationwide has reduced from an estimated three to four thousand unregulated sellers to less

than one hundred and seventy licensed premises nationwide, a reduction of about 95%.

- 2.2 From an estimated two hundred products on the market prior to legislation the number of products available has reduced by over 75% to less than fifty products.
- 2.3 The remaining products on the market and all license holders are now subject to active and on-going scrutiny by Police and District Health Boards.

### **3.0 CURRENT SITUATION**

- 3.1 The sale of psychoactive products is prohibited from dairies, grocery shops, supermarkets, service stations and liquor outlets.
- 3.2 The sale of psychoactive products to people under the age of 18 years of age is prohibited and no one under 18 years of age is permitted to purchase or possess psychoactive products.
- 3.3 Advertising of psychoactive products is strictly controlled and only permitted at the point of sale.
- 3.4 All interim approved products must be labelled with health warnings, a list of the active ingredients, contact details for the manufacturer and the telephone number of the National Poisons Centre.
- 3.5 It is illegal to sell unapproved psychoactive products on the internet.
- 3.6 While there are as yet no known retail outlets in the Westland District, both the Hokitika Police and the Hokitika Public Health Nurse would support a policy that deters any potential retailer from selling party pills or synthetic cannabis in the Westland District.
- 3.7 The community plays a vital role and Police are encouraging the community to remain vigilant around party pills or synthetic cannabis being sold from prohibited premises or from any premises to anyone under the age of 18 years.
- 3.8 The Act does not allow a complete ban on the sale of psychoactive substances within a District; rather, it allows Councils to control things like the location of sale.

#### **4.0 OPTIONS**

- 4.1 Westland District Council develops a LAPP that is effective and compliant with the Act.
- 4.2 Maintain the status quo and develop no policy.

#### **5.0 SIGNIFICANCE AND CONSULTATION**

- 5.1 There is a low level of significance for Council because as yet there are no known retail outlets in the Westland District but this situation could change if a retailer opened a local business to sell party pills or synthetic cannabis.
- 5.2 No consultation has been undertaken with the community but this needs to happen before any policy is developed.

#### **6.0 ASSESSMENT OF OPTIONS (INCLUDING FINANCIAL IMPLICATIONS)**

- 6.1 The advantage of developing such a policy is that it could deter anyone in the Westland District considering selling psychoactive substances. It also means that Council would be prepared should someone decide to set up a business selling psychoactive substances.
- 6.2 Council may determine that advancing this work is a low priority at this time and decide to defer developing a policy. This would mean that if someone did decide to set up such a business, Council would have no guiding policy in place.
- 6.3 There are no financial implications for Council.

#### **7.0 PREFERRED OPTION AND REASONS**

- 7.1 Westland District Council develops a local approved product policy (LAPP) in order to deter anyone selling psychoactive substances.

#### **8.0 RECOMMENDATION**

- C) **THAT** a Local Approved Product Policy under the Psychoactive Substances Act 2013 be developed through consultation with the community.

**Derek Blight**  
**Community Development Advisor**