

Report



DATE: 24 November 2016

TO: Mayor and Councillors

FROM: Group Manager: District Assets and Group Manager: Planning, Community and Environment

CARNEGIE BUILDING – DETAILED STRUCTURAL ASSESSMENT (DSA)

1 SUMMARY

- 1.1 The purpose of this report is to provide information to Council about the current structural assessment of the Carnegie Building and seek approval to undertake works on earthquake strengthening the museum buildings to 67% of the National Building Standards (NBS).
- 1.2 This issue arises as a result of a Detailed Seismic Assessment (DSA) and the resultant findings.
- 1.3 Council seeks to meet its obligations under the Local Government Act 2002 and the achievement of the District Vision adopted by Council as part of the Long Term Plan 2015-25. These are stated on Page 2 of this agenda.
- 1.4 This report concludes by recommending that Council accepts the DSA report and resolves to include an upgrade project in the Annual Plan 2017/18 for consultation and that until then, Museum staff operate from a temporary location. The report also recommends the development of a detailed upgrade program at a cost of \$10,000.

2 BACKGROUND

- 2.1 Carnegie building is located at 17 Hamilton Street Hokitika on the corner of Tancred and Hamilton Streets. The land includes the Carnegie Building, the 1973 Museum building (together known as the Museum Complex).
- 2.2 The Carnegie Building and the 1973 building are co-joined and house Hokitika Museum, a well visited cultural heritage attraction used by both locals and tourists in Westland.

- 2.3 Significant restoration work of the building was undertaken in the late 1990s by the Carnegie Building Restoration Committee. The exact cost of the repairs and restoration are not known. It is understood that a large amount of community volunteer labour and effort was expended to complete the project and external funding grants were received to assist with the cost of the project. The building was compliant up to 50% of the requirements of the 1991 Building Act at that time.
- 2.4 As part of its Asset Management Planning Council is undertaking structural assessments for buildings and structures it owns. The museum complex is one of these assets.
- 2.5 Under the current regulations any building which has a seismic strength less than 34% of NBS is considered to be an earthquake prone building.

3 CURRENT SITUATION

- 3.1 The current status of Carnegie Building is as below:
 - 3.1.1 Heritage listed as a category 2 building with Heritage NZ.
 - 3.1.2 Listed as an historic place under Appendix A in the Westland District Plan
 - 3.1.3 Defined as a strategic asset within the WDC Significance and Engagement Policy
 - 3.1.4 Currently classified as IL3¹ (Importance Level) for New Zealand structures
- 3.2 The first DSA report from OPUS International Consultants Ltd identifies the building as being Earthquake Prone and high risk at 12% NBS. The report also includes an estimate of costings for upgrades to 34% NBS. A copy of the report is provided in Appendix 1 of this report.
- 3.3 The adjacent building to Carnegie Building has been assessed at 38% of the NBS and thus not earthquake prone. The Council policy for Dangerous Earthquake prone and in-sanitary buildings recommends strengthening to 67% for such cases.
- 3.4 In the interest of staff and visitor safety Carnegie building was closed for further assessments. Council's Building Consent Authority (BCA) was informed and a notice was served under section (124) NZBA requiring the installation of a perimeter barrier keeping people out of the building. As a

¹ Refer table 1.0 in the report.

requirement under this notice, Heritage NZ was also informed of the building status.

- 3.5 Following the closure and a number of community requests for a peer review, opinion on the original DSA was sought from Mr. Lou Robinson of Hadley and Robinson Ltd. Mr Robinson worked along with OPUS consultants to agree on the seismic performance of the Carnegie Building and the conceptual strengthening scheme to 67% performance level of the NBS.
- 3.6 The review of the seismic assessment by Mr Robinson has indicated that the seismic performance of the building can be increased to >20%NBS, possibly as high as 28% NBS, but the building is still earthquake prone (<34%NBS). This applies if the building is assessed as an IL3.
- 3.7 However, if assessed as an IL2 the building *may not* be judged earthquake prone but an actual figure has not been given. This review memo is attached as Appendix 2 to this report.
- 3.8 The review has been further supported by a 3rd independent structural engineer, Kevin Simcock, who outlined his opinion at an informal Council meeting with the majority of elected members. Mr Simcock outlined the base of the OPUS report is sound, however he disagrees with the current Importance Level (IL) rating on Carnegie Building. Should the Carnegie building be given an IL2 rating the building *may not* be defined as Earthquake prone. The table below presents the definitions of IL ratings.

IMPORTANCE LEVELS FOR BUILDING TYPES—NEW ZEALAND STRUCTURES

Importance level	Comment	Examples
1	Structures presenting a low degree of hazard to life and other property	Structures with a total floor area of <30 m ² Farm buildings, isolated structures, towers in rural situations Fences, masts, walls, in-ground swimming pools
2	Normal structures and structures not in other importance levels	Buildings not included in Importance Levels 1, 3 or 4 Single family dwellings Car parking buildings
3	Structures that as a whole may contain people in crowds or contents of high value to the community or pose risks to people in crowds	Buildings and facilities as follows: (a) Where more than 300 people can congregate in one area (b) Day care facilities with a capacity greater than 150 (c) Primary school or secondary school facilities with a capacity greater than 250 (d) Colleges or adult education facilities with a capacity greater than 500 (e) Health care facilities with a capacity of 50 or more resident patients but not having surgery or emergency treatment facilities (f) Airport terminals, principal railway stations with a capacity greater than 250 (g) Correctional institutions (h) Multi-occupancy residential, commercial (including shops), industrial, office and retailing buildings designed to accommodate more than 5000 people and with a gross area greater than 10 000 m ² (i) Public assembly buildings, theatres and cinemas of greater than 1000 m ² Emergency medical and other emergency facilities not designated as post-disaster Power-generating facilities, water treatment and waste water treatment facilities and other public utilities not designated as post-disaster Buildings and facilities not designated as post-disaster containing hazardous materials capable of causing hazardous conditions that do not extend beyond the property boundaries
4	Structures with special post-disaster functions	Buildings and facilities designated as essential facilities Buildings and facilities with special post-disaster function Medical emergency or surgical facilities Emergency service facilities such as fire, police stations and emergency vehicle garages Utilities or emergency supplies or installations required as backup for buildings and facilities of Importance Level 4 Designated emergency shelters, designated emergency centres and ancillary facilities Buildings and facilities containing hazardous materials capable of causing hazardous conditions that extend beyond the property boundaries
5	Special structures (outside the scope of this Standard—acceptable probability of failure to be determined by special study)	Structures that have special functions or whose failure poses catastrophic risk to a large area (e.g. 100 km ²) or a large number of people (e.g., 100 000) Major dams, extreme hazard facilities

Table 1.0 – Definition of IL levels

- 3.9 For the purpose of this report, staff are not focused on review of the IL ratings. Council has the option to review the IL ratings, however the fact that the structural engineers consulted to date have provided a range of less than 40% of the NBS even if the IL ratings are lowered to an IL 2 level, suggests that consideration should be given to strengthening the building. As a note there are examples around New Zealand where similar buildings for similar purpose and use have been rated as IL 3 by territorial authorities. E.g. Akaroa Museum is rated IL3 by Christchurch City Council.
- 3.10 At the time of writing this report, the museum staff have been temporarily located to a safer location. This is a decision of the Chief Executive placing the well-being and safety of the staff as paramount.
- 3.11 The wider issue: The general feedback and advice received to date is an immediate requirement to deal with the earthquake strengthening component of the museum complex. Council staff have highlighted the opportunity for Council to consider the longer term future of the Museum complex. Key service items within the building require upgrading or complete renewal, for example the fire safety system which needs upgrading. Should Council decide to strengthen the Museum buildings, there is an opportunity to consider any other proposed improvements to the museum operations alongside the seismic upgrades. This will minimise the disruption to the Museum operations and will be cost-effective.

4 OPTIONS

- 4.1 OPTION 1 : Do Nothing
- 4.2 OPTION 2: Upgrade the Buildings to 67% of the NBS
- 4.3 OPTION 3: Upgrade the Buildings to 100% of the NBS

5 SIGNIFICANCE AND ENGAGEMENT

- 5.1 In accordance with Council's policy on Significance and Engagement, the matter related to Carnegie Building is assessed as being of high significance. There is high degree of public interest, the building is a strategic asset and there are financial implications that are not provided for in the Long Term Plan 2015-25 or the Annual Plan 2016-17.
- 5.2 Wider community consultation has not been undertaken. However, should Council decide to proceed with strengthening work and/or upgrades, it is recommended that Council consults on this through the Annual Plan 2017/18.

6 ASSESSMENT OF OPTIONS (INCLUDING FINANCIAL IMPLICATIONS)

6.1 OPTION 1: Do Nothing

This option is NOT RECOMMENDED

This option means that the current situation is accepted as is and no structural improvements are undertaken to Carnegie Building. It will also mean that the Museum operations are reinstated as they were prior to the DSA being undertaken.

The option while presenting no financial expenditure, is a risk heavy option. As explained in the earlier sections, it is highly likely that any further structural assessments will not present a scenario where the building will be more than 40% of the NBS. This is including if the buildings are classified as IL2. An IL3 rating suggest the buildings to be earthquake prone.

With the most recent 7.5 November quake which was also felt in Hokitika, staff have been left feeling very vulnerable and this situation cannot be ignored. It will be a fair assessment that the buildings' structural performance will only deteriorate in future and not improve.

This option leaves an important heritage building exposed to a certain degree of risk of losing it during a more than moderate earthquake event.

6.2 OPTION 2: Upgrade the Buildings to 67% or to a level between the minimum and 67% of the NBS

This option is RECOMMENDED

As stated earlier in the report the expert views are somewhat differing due to the interpretation of IL levels for the Carnegie Building. Considering the building is IL3, it is then an earthquake prone building and the capital estimates to bring the structural performance of the building at 34% is estimated at a minimum of \$260,000. These works are un-budgeted.

Similarly at IL3 level the estimates to upgrade the building to 67% of the NBS is estimated at \$500,000.

Yet again, at IL2 level the current ratings are less than 40% of the NBS. Any upgrades as highlighted will only improve the structural integrity of the building.

It is recommended that Council considers this option to upgrade the buildings to a certain level which can be either to a 67% of the NBS at IL 3 level or a level between 34% and 67%. However, the upgrades should be

planned in addition to the proposed improvements to Museum Operations and other minor works like alarms, fire safety etc. Some of the minor improvements will be a requirement as part of any new building consent if applied for.

It is also suggested that the improvement plan for the buildings be further detailed and included in the upcoming Annual Plan 2017/18 for consultation. The Carnegie Building is a strategic asset and a consultation is warranted. In the meantime for the next six months or until the upgrades are completed it is recommended that Museum staff continue to work from a safe remote location. The financial impacts for the temporary relocation of staff and operating as a pop-up heritage centre is estimated to be \$13,000 per annum for the lease plus the impact of lost admission and retail margin, which is budgeted at a total of approximately \$52,000 per annum in the current Annual Plan. Some of this loss will be offset by retail sales once the pop-up heritage centre is open.

6.3 OPTION 3: Upgrade the Buildings to 100% of the NBS

This Option can also be considered by Council, however it is not recommended.

Council can consider the buildings to be upgraded to 100% of the NBS. Again this can be based on IL2 or IL3 levels. However, the detailed estimates have to be requested and arranged for. It is likely that this will be an expensive option, although it provides the maximum structural security for the building structure.

The project can be included in the Annual Plan 2017/18 as per Option 2.

Both Options 2 and Option 3 can be considered, however a detailed project plan must be developed. There will be some consultancy costs to produce a detailed tender version and schedule of works for the proposed upgrades.

Option 2 and Option 3 also brings the buildings into compliance with Council's Policy on Dangerous, Earthquake prone and in-sanitary buildings. For reference this policy² is included in Appendix 3 of this report.

² The policy review matter is outside the scope of this report and is being considered by the planning department as a separate project on updating existing policies. While Policy is due for review by November 2016, new legislation coming into force next year will remove requirements for Council EQ Building Policy. MBIE officials have advised Council staff to roll over current policy in meantime rather than reviewing.

7 PREFERRED OPTIONS AND REASONS

- 7.1 Option 2 is the recommended Option.
- 7.2 The option is a risk based approach and will improve the structural performance of the building to an acceptable level.
- 7.3 The option does align with Councils policy on Dangerous, Earthquake prone and in-sanitary buildings.
- 7.4 The option is more likely to have community support as well.

8 RECOMMENDATIONS

- A) **THAT** Council approves a seismic strengthening and upgrade project for the museum buildings to be included for consultation in the draft Annual Plan 2017/18, and
- B) **THAT** Council instructs the Chief Executive to investigate options for funding the strengthening and upgrade work, and that this includes any external funding that Council might be eligible for, and
- C) **THAT** Council supports the decision of the Chief Executive that until the strengthening and upgrade work is complete Museum staff will operate from a temporary location
- D) **THAT** Council approves an additional budget of \$10,000 to develop a detailed upgrade program for the museum buildings, in association with an approved structural engineer/consultant. This would be unbudgeted expenditure that will show as an adverse variance in the Land and Buildings operating budget.

Vivek Goel
Group Manager: District Assets

Jim Ebenhoh
Group Manager: Planning,
Community and
Environment

- Appendix 1:** OPUS DSA report
- Appendix 2:** Review report Lou Robinson and Opus
- Appendix 3:** Council's Dangerous, Earthquake Prone and in-sanitary Buildings policy



19 October 2016

Opus International Consultants Ltd

P +64 3 769 9330

Vivek Goel
Group Manager: District Assets
Westland District Council
36 Weld Street
Private Bag 704
Hokitika 7842

Greymouth Office
23 High Street
PO Box 365, Greymouth 7840
New Zealand

Ref: 6-WWES3.51 / 007GR

Hokitika Carnegie Building – Detailed Seismic Assessment

Dear Vivek

1. Introduction

As requested Opus International Consultants Ltd (Opus) have liaised with Lou Robinson of Hadley and Robinson Ltd to obtain agreement on the seismic performance of the Carnegie Building in Hokitika, and to agree on a conceptual strengthening scheme for the building to improve the seismic performance of the building to 67%NBS.

2. Process

In order to complete this process, a copy of the Detailed Seismic Assessment Report¹ completed by Opus in September 2016, and full copy of the Detailed Seismic Assessment calculations were sent to Lou Robinson. Although a peer review was not specifically requested, a review of the assessment process and calculations was required in order to reach an agreement on the assessment results, and on a conceptual strengthening scheme.

3. Detailed Seismic Assessment

3.1. Opus Detailed Seismic Assessment – September 2016

Table 1 below summarises the results of the original assessment by Opus and summarises the seismic performance of the building under various modes of failure under Importance Level (IL) 3 loading.

¹ Westland District Council; "Hokitika Carnegie Building, Hamilton Street, Hokitika – Detailed Seismic Assessment"; 26 September 2016

Table 1: Summary of Detailed Seismic Assessment Results

Structural Element / System	Direction of loading (Longitudinal / Transverse)	Failure mode or description of limiting criteria based on capacity of critical element	Ductility (μ)	% New Building Standard %NBS based on calculated capacity	Critical Structural Weakness
Ceiling diaphragm	Transverse	Shear (nails)	1.0	12%	No
Ceiling diaphragm	Longitudinal	Shear (nails)	1.0	15%	No
Pounding of link structure and Carnegie Building	Longitudinal	Pounding	1.0	18%	Yes
Unreinforced masonry walls under out-of-plane (face) loading	Longitudinal and transverse	flexure	1.0	25%	Yes
Ceiling diaphragm	Transverse	Shear (bolts to reinforced concrete ring beam)	1.0	30%	No
Unreinforced masonry walls under in-plane loading	Transverse	Shear (rocking of piers)	1.0	34%	No
Unreinforced masonry walls under in-plane loading	Longitudinal	Shear (rocking of piers)	1.0	35%	No
Ceiling diaphragm	Longitudinal	Shear (bolts to reinforced concrete ring beam)	1.0	39%	No

This assessment deemed the building to have a seismic performance of 12%NBS. As the seismic performance of the building was determined to be less than 34%NBS, the building was deemed to be Earthquake Prone.

3.2. Opus Detailed Seismic Assessment – Review by Lou Robinson (Hadley & Robinson Ltd)

3.2.1. Feedback from Lou Robinson following review:

Lou Robinson provided the following feedback following a review of the Detailed Seismic Assessment Report and calculations.

1. Lou disagreed with the assessment of the building as an Importance Level 3 structure and recommended that the building be assessed as an importance level 2 building. Lou's comments reflect the importance of the building considering hazard to life, which he understood to be the principal reason for the temporary

closure. His comments are not intended to question the right of the WDC to call for any additional strength to reflect its heritage value of the building and its contents.

2. Lou disagreed with the use of a ductility $\mu = 1$ and structural performance factor $S_p = 1$ for the assessment of the ceiling diaphragm and recommended that $\mu = 3.5$ and $S_p = 0.7$ be used for this assessment.
3. Lou did not agree that the pounding with the link structure and neighbouring Museum building was a concern.
4. Lou carried out some additional calculations on the out-of-plane wall capacity to calculate a higher capacity for the walls loaded out of plane.
5. Lou felt that the in-plane capacity should include the capacity of the veneer (or outer wythe), since it is connected to the foundation beam and the parapet beam in a similar fashion to the inner wythe. There is a potential to increase the resistance afforded by the wall in-plane by 10-15%.

3.2.2. Implications of the feedback from Lou Robinson on the assessed seismic performance of the building:

3.2.2.1. Building Importance Level

A reduction in importance level from IL3 to IL2 reduces the Return Period Factor used in calculating the seismic loading on the building from 1.3 to 1.0 representing a reduction in the seismic loading used in the assessment of approximately 23%.

As the importance level of the building has been instructed by the building owner (due to the importance of the building and its contents for the local community), this has not been pursued further. Therefore this does not have any implications on the results of the assessment or on the strengthening required.

3.2.2.2. Ductility Level of the Ceiling Diaphragm

Increasing the ductility level of the diaphragm from $\mu=1.0$ to $\mu=3.5$ and reducing the structural performance factor from $S_p=1$ to $S_p=0.7$ reduces the loading on the diaphragm. The effect of this on the outcome of the assessment is that the seismic performance of the diaphragm in the transverse (across) direction increases from 12%NBS to 28%NBS (deformation) and 32%NBS (strength).

It should be noted that these results likely represent the upper bound capacity of the diaphragm as the chords are not continuous on the tension and compression edge, however as the diaphragm is still classified as less than 34%NBS, further calculation to more accurately determine the capacity is deemed unjustified.

This change increases the assessed seismic performance of the building. As strengthening to the ceiling diaphragm will most likely involve an independent steel bracing system above the ceiling designed to take the full shear load (ignoring the effect of the existing Gib diaphragm), the proposed strengthening will not change.

The original assessment was based on guidance in the New Zealand Society for Earthquake Engineering (NZSEE) guidance² which notes that it is appropriate to use a ductility $\mu=1$ and structural performance factor $S_p=1$ for flexible diaphragms in unreinforced masonry buildings, refer Figure 1 below.

² The New Zealand Society for Earthquake Engineering; "Assessment and Improvement of the Structural Performance of Buildings in Earthquakes, Section 10 Revision Seismic Assessment of Unreinforced Masonry Buildings"; issued as part of Corrigendum No. 4; April 2015

C8.10.5 Flexible diaphragms

C8.10.5.1 General

Masonry walls loaded in-plane are typically relatively rigid structural elements. Consequently, the dominant mode of response for buildings containing flexible diaphragms is likely to be the response of the diaphragms themselves, due to inertial forces from diaphragm self-weight and the connected URM boundary walls responding out-of-plane.

Seismic demands on flexible diaphragms in URM buildings which are braced by URM walls should, therefore, be based on the period of the diaphragm and a horizontal seismic coefficient assuming that the diaphragm is supported at ground level (i.e. no amplification to reflect its height in the building). The seismic coefficient to be used is therefore $C(T)$ from NZS 1170.5:2004 (i.e. S_p and $\mu = 1$) where T is the first horizontal mode period of the diaphragm.

Figure 1: Extract from NZSEE guidance

There are however instances where higher ductility's can be used. This has also been confirmed in discussion with Jason Ingham (Auckland University), however there is currently very little guidance on this. Jason offered to send through some testing data (incomplete) covering improved Gib diaphragms in URM buildings, however this has still not been received.

3.2.2.3. Pounding with the Link Structure and Main Museum Building

The assessment of pounding risk is highly subjective and there is little prescriptive guidance available to assist with quantifying this risk. As both Lou and I have different opinions on the risk associated with this, we recommend that further intrusive investigation be carried out as part of any strengthening works to better review and assess load paths from the main museum building through the link structure and into the south wall of the Carnegie Building.

3.2.2.4. Out-of-Plane Wall Capacity

Lou carried out some additional independent calculations on the walls under out-of-plane loading using the revised method suggested in the NZSEE (draft) guidelines issued in July 2016 and recommended that the capacity of these walls be increased from 25%NBS to 31%NBS.

This change increases the assessed seismic performance of the walls loaded out-of-plane from 25%NBS to 31%NBS. As this change is relatively minor we have not carried out any additional checks to verify this. The implications of this on the necessary strengthening to achieve a seismic capacity of 67%NBS are negligible.

3.2.2.1. In-Plane Wall Capacity

Lou recommended including the capacity of the outer (veneer) wythe when calculating the in-plane capacity of the walls. These were excluded from the original calculations due to the lack of connection between wythes, and the mortar erosion in in the outer wythe in some locations.

Including the outer wythe enables the capacity of the unreinforced masonry walls to be increased by 10-15% above those values calculated. These walls were originally calculated to have a seismic capacity of >34%NBS and were not Earthquake Prone. Seismic strengthening to achieve 67%NBS will still be required.

(Note that the potential increase in seismic performance if the outer wythe is considered is proportional to the original calculated capacity, i.e. the URM walls in the transverse direction assessed at 34%NBS could potentially be increased to 37-39%NBS).

4. Strengthening to 67%NBS

The following strengthening will be required to improve the seismic performance of the building to $\geq 67\%$ NBS:

1. Strengthening of the existing ceiling diaphragm,
2. Increasing the separation of the buildings on the southern wall through the use of frangible materials at the intersection of the link building and both the museum and Carnegie buildings (following further investigation),
3. Strengthening the walls out-of-plane by tying the inner structural wall to the outer (veneer) wythe,
4. Strengthening the walls in-plane through the construction of reinforced concrete frames against the unreinforced masonry walls on the inside of the building.

Further details on the proposed strengthening is included below:

4.1. Strengthening the Ceiling Diaphragm

Strengthening of the ceiling diaphragm could be done by constructing a steel bracing system above the existing ceiling. There is sufficient room within the existing ceiling cavity to construct a bracing system of this nature and tie it in with the existing reinforced concrete perimeter beam around the outside of edge of the building.

Estimated cost: \$100,000 + GST (based on similar strengthening carried out elsewhere).

4.2. Increasing Separation between Buildings

Additional separation between the two buildings could be achieved by connecting the buildings using frangible materials. We recommend further investigation during detailed design of seismic strengthening works to quantify what may be required.

Estimated cost: \$10,000 + GST.

4.3. Strengthening Walls Out-of-Plane

Strengthening of the walls under out-of-plane loading could be done by tying the outer (veneer) wythe to the inner structural wall to achieve composite action between the two wythes. This could be done by installing mechanical anchors from the inside face as shown in Figure 2 below:



(a) Pre-drilling cavity tie holes



(b) Installing mechanical ties



(c) Mechanical tie spanning cavity

Figure 2: Installation of mechanical anchors between inner and outer wythe

The 230mm long x 12mm diameter mechanical anchors would need to be countersunk into the inner structural wall to achieve the necessary embedment in the outer wythe. Anchors would likely need to be installed at 600mm centres horizontally and 300mm centres vertically to achieve a seismic performance of 67%NBS.

Estimated cost: \$75,000 + GST (based on approximately 1500 anchors, excluding repair of any linings overtop of brickwork).

4.4. Strengthening Walls In-Plane

Strengthening of the walls in plane could be done by constructing a reinforced concrete frame on the inside face of the perimeter unreinforced masonry walls. These concrete frames would need to be pinned to the inside face of the URM and would require additional foundations. A preliminary location plan showing the possible layout of these additional frames is indicated in Figure 3 below. Note that these have been located to try and limit the impact on the operation of the building, however these locations could be revised to suit.

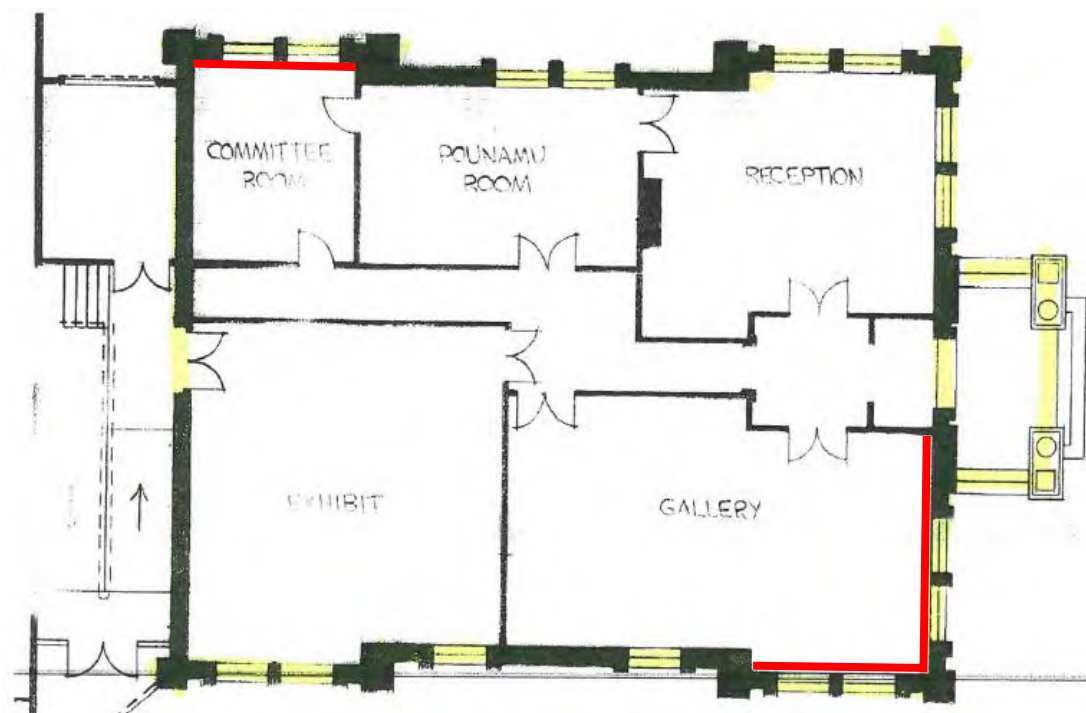


Figure 3: Preliminary reinforced concrete frame layout

Estimated cost: \$200,000 + GST (based on cost for similar project elsewhere).

4.5. Additional Works

In addition to the above recommended works, we recommend repointing all exterior brickwork due to the poor condition of the existing mortar.

We recommend allowing a sum of \$35,000 + GST for the repointing. This includes an allowance of \$15,000 for scaffolding to access the higher sections of wall and assumes that a mobile scaffold will be used to assess the lower areas.

We also recommend repairing the gable ends around the top of the roof where there is leaking. As an inspection of the roof was not carried out, the extent or type of repair is unknown.

4.6. Project Contingency

Due to the coarse nature of these rough order costings as detailed design is yet to be carried out, we recommend allowing a contingency of 20%.

4.7. Rough Order Costing - Summary

Table 2 below summarises the rough order costings prepared to improve the seismic performance of the building to $\geq 67\%$ NBS.

Table 2: Summary of rough order costings

ITEM	ROUGH ORDER COSTING (EXCL. GST)
Strengthening the ceiling diaphragm	\$100,000
Increasing separation between the buildings	\$10,000
Strengthening the walls out-of-plane	\$75,000
Strengthening the walls in-plane	\$200,000
Repointing the external veneer	\$35,000
Repairing the gable end walls (roof)	To be further assessed and quantified
Project contingency	\$84,000
TOTAL	\$504,000

4.7.1. Clarifications:

The above rough order of cost estimate is for the structural improvements only and does not allow for the following:

- Relocating existing displays to enable the works to be carried out.
- Building consent fees.
- Consultancy fees.
- Alterations and making good to architectural and building services components to incorporate the suggested seismic improvements.
- Other costs associated with upgrades that may be considered if a strengthening project was to proceed. These may include assessment and upgrade for fire and accessibility.
- Cost escalations.

A more accurate cost estimate will be developed after completing a detailed design for the suggested structural improvements and with the engagement of a qualified builder and/or quantity surveyor.

5. Summary

A review of the Detailed Seismic Assessment by Lou Robinson (Hadley Robinson) has indicated that the seismic performance of the building can be increased to >20%NBS, possibly as high as 28%NBS, but the building is still Earthquake Prone (<34%NBS). If assessed as an IL2 building the building may not be judged Earthquake Prone.

A rough order costing has been prepared for the conceptual seismic strengthening of the building to achieve a minimum seismic performance of 67%NBS. Noting the above clarifications it is estimated that the cost of achieving a seismic performance of 67%NBS will be in the order of \$500,000 + GST.

If you require any further information please do not hesitate to contact me.

Regards



Jason Davidson
Senior Structural Engineer
CPEng 229742



Westland District Council

**Hokitika Carnegie
Building,
Hamilton Street,
Hokitika**

Detailed Seismic Assessment

Westland District Council

Hokitika Carnegie Building, Hamilton Street, Hokitika

Detailed Seismic Assessment

Prepared By



Jason Davidson
Senior Structural Engineer
CPEng 229742

Opus International Consultants Ltd
Greymouth Office
23 High Street
PO Box 365, Greymouth 7840
New Zealand

Reviewed By

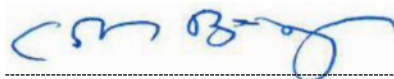


Dave Dekker
Technical Principal - Earthquake Engineering and
Building Structures, MIPENZ, CPEng

Telephone: +64 3 769 9330
Facsimile: +64 3 768 7498

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Status: FINAL

Approved for
Release By



Christopher Bergin
Projects Work Group Manager

Executive Summary

This building report provides the results of a Detailed Seismic Assessment completed by Opus International Consultants for the following building. The report provides a detailed assessment of the building's %NBS seismic performance, highlights the key seismic risks and presents recommendations for improvements to mitigate potential risks. The table below presents a summary of the assessment findings.

Building	Hokitika Carnegie Building (Hokitika Museum)
Address	17 Hamilton Street, Hokitika
Legal Description	RS 1865, WESTLAND
Known design standard	Unknown
Storeys:	1
Year of Design (approx.)	1906
Gross Floor Area (m2)	Approximately 292m ²
Construction Type	Unreinforced masonry walls on shallow foundations supporting a timber framed roof structure.
Assessment Type	Detailed
Date Building Inspected	Thursday 28 July 2016
Importance Level	3
Structural Assessment Summary	<p>Original drawings were unavailable for use with this assessment.</p> <p>A visual inspection and building measure-up along with some intrusive investigation was carried out on 28/07/2016.</p> <p>A conservation report done on the building in July 1995 along with photographs of the refurbishment were also used in the assessment of this building.</p> <p>A Detailed Seismic Assessment was then performed using guidance from the New Zealand Society for Earthquake Engineering (NZSEE).</p>

Current %NBS estimate	The seismic performance of this building has been assessed as 12%NBS. This is based on the ultimate limit state capacity of the ceiling diaphragm.
List specific CSWs and life safety hazards	Nil.
Conclusions & Recommendations	<p>The building has an estimated seismic performance of 12%NBS.</p> <p>As the seismic performance of the building is less than 34%NBS it is classified as Earthquake Prone. This building is also classified as a High Risk Building.</p> <p>As the seismic performance of this building is less than 34%NBS, strengthening is required under both the Building Act 2004 and the Westland District Council policy on Earthquake Prone, Dangerous and Insanitary Buildings.</p> <p>It is recommended that this building be strengthened to at least 67%NBS in accordance with current NZSEE recommendations. Further detailed design will need to be undertaken to develop the optimum strengthening solution if strengthening is to be considered.</p>
Rough order of cost estimate for seismic improvements to achieve 34%NBS (where required)	\$260,000 - \$300,000 + GST

Appendix B

DRAWINGS..... 32

Appendix C

RESTORATION PHOTOGRAPHS 52

1 Introduction

This report provides the results of a Detailed Seismic Assessment (DSA) completed by Opus International Consultants Ltd (Opus) for the Hokitika Carnegie Building located at Hamilton Street, Hokitika, and referred to herein as “the building”.

This report provides an assessment of the building’s seismic performance, highlights the key risks and presents recommendations.

Specifically, this report:

- Provides an assessment of the building’s seismic performance in terms of percentage of New Building Standard (%NBS) as defined in New Zealand loading standard NZS 1170.5:2004.
- Identifies any specific Critical Structural Weaknesses (CSWs) or life safety hazards associated with the building and presents recommendations for seismic improvements (if required).

This assessment has involved the following work:

- A review of the 1996 conservation plan prepared by Chris Cochran¹.
- A review of a number of refurbishment photos provided by Julia Bradshaw of the Hokitika Museum. These were undated, though we understand that the refurbishment works were carried out in the late 1990’s.
- A review of various pieces of information (drawings and calculations) for the refurbishment / strengthening of the building (c1994-c1997).
- An inspection of the building to confirm its condition and structural form. This included a visual inspection and measure-up of the building along with some intrusive investigations to confirm the wall construction of the unreinforced masonry walls and quality of the mortar and bricks.
- Completion of detailed structural analysis to determine the seismic strength of the building in accordance with current New Zealand design and material standards to determine the buildings compliance with current building code requirements
- Where primary elements of the building have been identified as not meeting acceptable levels of seismic strength recommendations for seismic improvements are made. Rough order of cost estimates for the structural improvements are included where they are recommended.

¹ Chris Cochran, Conservation Architect; *Carnegie Library Building, Hokitika, Conservation Plan*; 12 July 1995.

2 Compliance

This section contains a brief summary of the requirements of the various statutes and authorities that control activities in relation to buildings in New Zealand at present.

2.1 Building Act

Several sections of the Building Act are relevant when considering structural requirements:

Section 112 - Alterations

This section requires that an existing building complies with the relevant sections of the Building Code to at least the extent that it did prior to the alteration.

This effectively means that a building cannot be weakened as a result of an alteration (including partial demolition).

Section 115 – Change of Use

This section requires that the territorial authority (in this case Westland District Council (WDC)) is satisfied that the building with a new use complies with the relevant sections of the Building Code ‘as near as is reasonably practicable’.

This is typically interpreted by WDC as being between 67% and 100% of the strength of an equivalent new building.

Section 122 – Earthquake Prone Buildings

This section defines a building as earthquake prone if its ultimate capacity would be exceeded in a ‘moderate earthquake’ and it would be likely to collapse causing injury or death, or damage to other property.

A moderate earthquake is defined by the building regulations as one that would generate loads 33% of those used to design an equivalent new building on the same site.

Section 124 – Powers of Territorial Authorities

This section gives the territorial authority the power to require strengthening work within specified timeframes or to close and prevent occupancy to any building defined as dangerous or earthquake prone.

Section 131 – Earthquake Prone Building Policy

This section requires the territorial authority to adopt a specific policy for earthquake prone, dangerous and insanitary buildings.

2.2 Westland District Council Policy

Westland District Council adopted their Earthquake Prone, Dangerous and Insanitary Building Policy [1] on 24 November 2011.

This policy includes the following:

- Methods for identifying potentially Earthquake Prone buildings.
- Strengthening requirements for those buildings which are Earthquake Prone.

2.3 Building Code

The New Zealand Building Code outlines performance standards for buildings and the Building Act requires that all new buildings comply with this code. Compliance Documents published by the Department of Building and Housing can be used to demonstrate compliance with the Building Code.

2.4 Institution of Professional Engineers New Zealand (IPENZ) Code of Ethics

One of the core ethical values of professional engineers in New Zealand is the protection of life and safeguarding of people. The IPENZ Code of Ethics requires that:

Members shall recognise the need to protect life and to safeguard people, and in their engineering activities shall act to address this need.

- Giving Priority to the safety and well-being of the community and having regard to this principle in assessing obligations to clients, employers and colleagues.*
- Ensuring that responsible steps are taken to minimise the risk of loss of life, injury or suffering which may result from your engineering activities, either directly or indirectly.*

All recommendations on building occupancy and access must be made with these fundamental obligations in mind.

3 Earthquake Resistance Standards

For this assessment, the building's earthquake resistance is compared with the current New Zealand Building Code requirements for a new building constructed on the site. This is expressed as a percentage of new building standard (%NBS). The loadings are in accordance with the current earthquake loading standard NZS1170.5 [2].

A generally accepted classification of earthquake risk for existing buildings in terms of %NBS that has been proposed by the NZSEE 2006 [3] is presented in Figure 1 below.

Description	Grade	Risk	%NBS	Existing Building Structural Performance	Improvement of Structural Performance	
					Legal Requirement	NZSEE Recommendation
Low Risk Building	A or B	Low	Above 67	Acceptable (improvement may be desirable)	The Building Act sets no required level of structural improvement (unless change in use) This is for each TA to decide. Improvement is not limited to 34%NBS.	100%NBS desirable. Improvement should achieve at least 67%NBS
Moderate Risk Building	C	Moderate	34 to 66	Acceptable legally. Improvement recommended		Not recommended. Acceptable only in exceptional circumstances
High Risk Building	D or E	High	33 or lower	Unacceptable (Improvement required under Act)	Unacceptable	Unacceptable

Figure 1: NZSEE Risk Classifications - Extracted from table 2.2 of the NZSEE 2006 AISPB Guidelines [3]

Table 1 below compares the percentage NBS to the relative risk of the building failing in a seismic event with a 10% risk of exceedance in 50 years (i.e. 0.2% in the next year)

Table 1: %NBS compared to relative risk of failure - Extracted from table 2.1 of the NZSEE 2006 AISPB Guidelines [3]

Percentage of New Building Standard (%NBS)	Relative Risk (Approximate)
>100	<1 time
80-100	1-2 times
67-80	2-5 times
33-67	5-10 times
20-33	10-25 times
<20	>25 times

3.1 Minimum and Recommended Standards

Based on governing policy and recent observations, Opus makes the following general recommendations and notes:

3.1.1 Cordoning

Where there is an overhead falling hazard or potential collapse hazard of the building, the areas of concern should be cordoned off to prevent access (for guidance with this issue refer to WDC guidelines on Dangerous Buildings [1]).

3.1.2 Strengthening

Industry guidelines (NZSEE 2006 [3]) strongly recommend that every effort be made to achieve improvement to at least 67%NBS.

The WDC policy [1] requires an assessment of the seismic strength of a building to be carried out when:

- A building consent application is lodged, or
- A change of use application is lodged, or
- When the WDC receives a complaint about a building, or
- When information is received by the Council that confirms a building subject to this policy is earthquake-prone.

WDC policy [1] requires Earthquake Prone buildings of Importance Level 3 (IL3) that contain people in crowds or contents of a high value to the community to be strengthened to a minimum of 34%NBS with strengthening to 67%NBS strongly recommended. The policy does not specify a timeframe for this strengthening and timeframes for strengthening will need to be agreed with WDC.

It should be noted that full compliance with the current building code requires building strength of at least 100%NBS.

3.1.3 Our Ethical Obligation

In accordance with the IPENZ code of ethics, we have a duty of care to the public. This obligation requires us to identify and inform Westland District Council of potentially dangerous buildings; this would include Earthquake Prone buildings.

4 Building and Site Description

Table 2 below provides a summary of the building description.

Table 2: Summary of Building Description

Number of Storeys	1
Gross Floor Area (m2)	292m ²
Year of Design (approximate)	The building was designed in c1904-c1906 with construction commencing c1906.
Current use	Public Museum
Importance Level (IL)	3
Structural Alterations	<p>Building was refurbished in the mid to late 1990's. Works included:</p> <ul style="list-style-type: none"> • Construction of a light weight lantern structure on the roof, • Construction of a ceiling diaphragm, along with internal bracing walls and foundations, • Construction of a reinforced concrete perimeter beam around the top of the external walls dowelled into the unreinforced masonry walls below, • Reinstatement of the original parapet and gable end walls using lightweight timber and polystyrene construction with a plaster finish.
Gravity Load Resisting System	<p>Timber trusses span across the building and are supported on the external unreinforced masonry walls.</p> <p>The external unreinforced masonry walls transfer gravity loads to the foundations through compression.</p>

Lateral Load Resisting System	<p><u>Across the building:</u></p> <p>Lateral load from unreinforced masonry walls loaded out of plane (face loading) is transferred to the foundation beam at the base of the wall and the reinforced concrete perimeter ring beam at the top of the wall.</p> <p>Lateral loading from walls loaded out of plane and the roof structure is transferred to the end (in-plane) walls through the ceiling diaphragm in shear.</p> <p>The unreinforced masonry end walls of the building then resist lateral loads through in-plane shear, transferring these loads to the supporting foundations.</p> <p><u>Along the building:</u></p> <p>Lateral load from unreinforced masonry walls loaded out of plane (face loading) is transferred to the foundation beam at the base of the wall and the reinforced concrete perimeter ring beam at the top of the wall.</p> <p>Lateral loading from walls loaded out of plane and the roof structure is transferred to the side (in-plane) walls through the ceiling diaphragm in shear.</p> <p>The unreinforced masonry side walls of the building then resist lateral loads through in-plane shear, transferring these loads to the supporting foundations.</p>
Wall/Cladding/Roof System	<p><u>Roof:</u></p> <p>Lightweight corrugated steel cladding spanning between timber purlins.</p> <p><u>Walls:</u></p> <p>One single 110mm (4”) leaf of unreinforced masonry.</p>
Floor System	<p>Timber floor supported on timber subfloor (joists and bearers) and shallow concrete piles and foundation beams.</p>
Foundation System	<p>Shallow reinforced concrete ring beam around the building perimeter with some additional foundation walls under internal bracing walls.</p> <p>The internal floor structure is supported on shallow concrete piles.</p>

Geotechnical Considerations	<p>Site Subsoil Class E (very soft).</p> <p>Westland District Council Lifelines Study June 2006, Figure 2.6 Ground Shaking Zones notes that the site subsoils consist of “Estuarine deposits, softer and finer than Zone 1 [Class D]”.</p> <p>This map is reasonably coarse and the building is near the boundary of Zones D and E. For the purpose of this assessment it has been conservatively classified as a Class E site.</p> <p>A liquefaction assessment of the site has not been carried out as part of this assessment and detailed geotechnical investigation and assessment would be required to further assess this risk. There is no known history of liquefaction in Hokitika.</p>
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Refer to photos of building in Appendix A, and drawings of the building in Appendix B that will assist with understanding building description.

Figure 2 below shows an aerial photo of the Hokitika Carnegie and Museum Buildings, and Figure 3 shows a plan of the building including the link structure between the Museum and Carnegie buildings.



Figure 2: Site Aerial View of the building (Source: WAMS www.wams.org.nz)

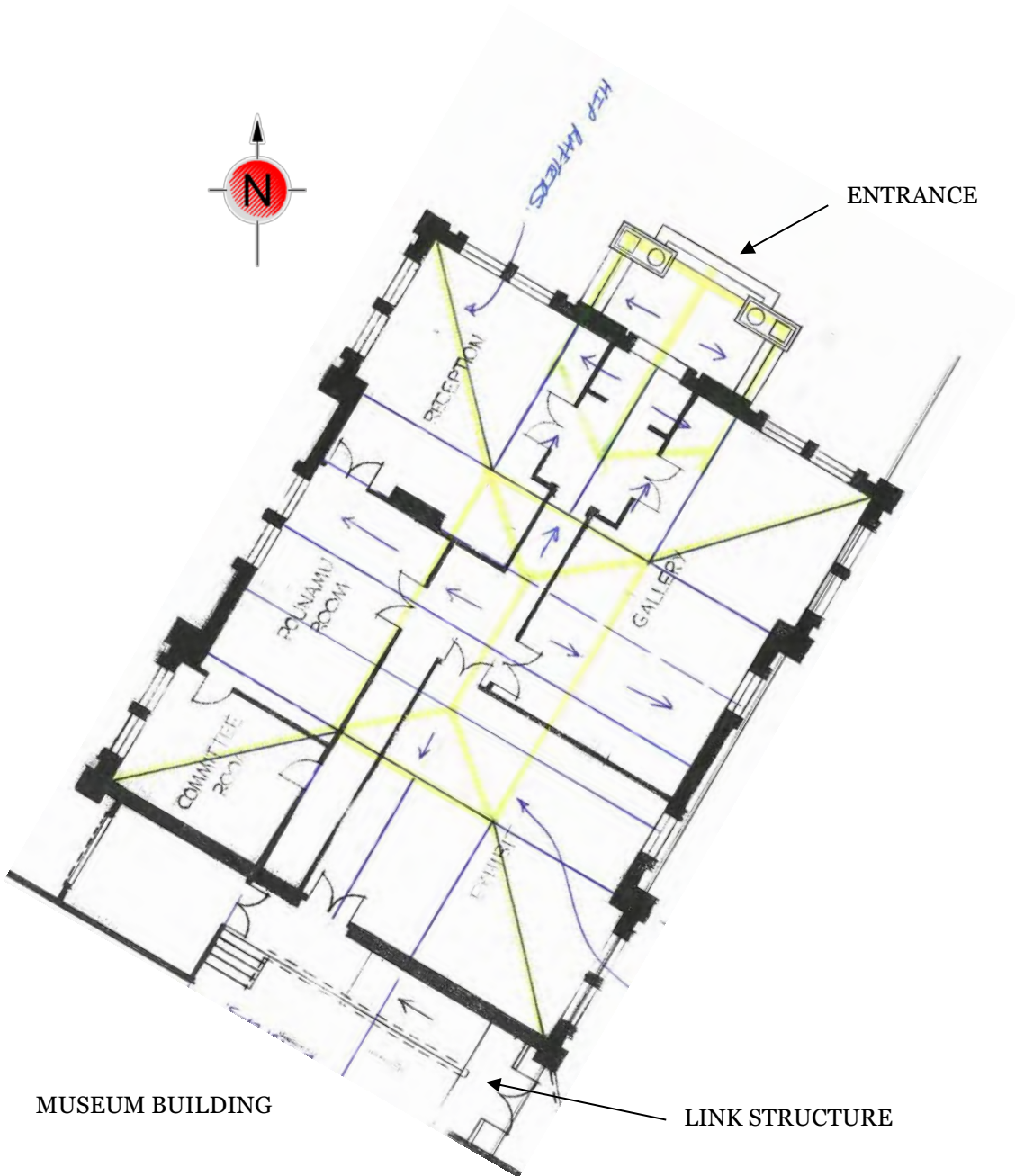


Figure 3: Plan of building layout

5 Building Inspection

5.1 Visual and Intrusive Inspection

A visual inspection and measure-up of the building along with some intrusive investigations was carried out on Thursday 28 July 2016 by an Opus Structural Engineer. The purpose of this inspection was to obtain sufficient information to complete the seismic evaluation of the building.

Intrusive investigations were carried out to confirm the makeup of the unreinforced masonry walls and also the quality of the bricks and mortar used in these walls.

5.2 General Observations

The following general observations were made during our inspections and assessment of this building:

- The building appears to generally be in an average condition.
- Some repointing of the mortar lines has been carried out. This repointing is failing in places exposing the underlying original “soft” mortar to weathering.
- The gable ends around the perimeter of the roof are leaking badly and there was a lot of water around these gable ends inside the roof at the time of our inspection.
- Intrusive investigations showed that the structural wall is two leafs thick with a cavity and single leaf veneer. The bricks are in reasonably good condition, however the original mortar is “soft to very soft”.
- There is little separation between the steel framed link structure and southern wall of the Carnegie building which could be an issue with pounding of the two structures oscillating out of phase in the north – south direction.

6.2 Assessment Criteria and Building Properties Assumptions

The criteria in Table 4 below, taken from the earthquake loadings standard NZS 1170.5:2004⁴, was used to determine the site loading spectrum.

Table 4: Parameters for Seismic Loads

Parameter	Value	Comments
Site Subsoil Class	E	A detailed geotechnical investigation has not been carried out. The site subsoil class has been based on the Westland District Council Lifelines Study, Figure 2.6 Ground Shaking Zones, (June 2006).
Z	0.45	Seismic hazard factor for Hokitika
R _u (ULS)	1.3	Importance Level 3 building – “structure containing contents of a high value to the community”
N(T,D)	1.0	>20 km from nearest major fault.
Ductility (μ)	Varies	Varies depending on the elements being assessed.

Probable strengths presented in the Table 5 below were adopted in accordance with NZSEE. These values have been used in the analysis process followed.

Table 5: Strength values for existing materials

Material	Probable Strength	Strength Reduction	Basis of assumption
Probable brick compressive strength, f_b	26MPa	1.0	Brick hardness is medium to hard, based on site observations. NZSEE AIPBE Section 10 Revision (2015), Table 10.3.
Probable mortar compressive strength, f_j	1MPa	1.0	Mortar hardness is very soft to soft based on site observations. NZSEE AIPBE Section 10 Revision (2015), Table 10.3.
Probable cohesion, c	0.2	N/A	Mortar hardness is very soft to soft based on site observations, $c=0.2$ represents cohesion in between that specified for very soft and soft. NZSEE AIPBE Section 10 Revision (2015), Table 10.3.
Probable coefficient of friction, μ_f	0.3	N/A	Mortar hardness is very soft to soft based on site observations. NZSEE AIPBE Section 10 Revision (2015), Table 10.3.

⁴ Standards New Zealand; NZS 1170.5: 2004, *Structural design actions: Earthquake actions – New Zealand*; 2004.

Material	Probable Strength	Strength Reduction	Basis of assumption
Probable yield stress of reinforcing steel	324MPa	1.0	Strengthening work carried out in the late 1990's during which the typical characteristic yield stresses for reinforcing steel were 300MPa (low tensile) and 430MPa (high tensile). As "D" bars are indicated on the drawings, it has been assumed that low tensile reinforcing steel has been used. NZSEE AIPBE 2006, clause 7.1.1(a) notes that the expected mean yield strength of reinforcing steel is typically 1.08 x the lower characteristic yield strength.
Probable compression stress of concrete	37.5MPa	1.0	Drawings for strengthening design note a nominal compressive stress of 25MPa. NZSEE AIPBE 2006, clause 7.1.1(f) notes that in the absence of specific information, a value of 1.5 x the nominal compression stress can be used.

The seismic weight of the existing walls and roof has been calculated based on information obtained on site and from the drawings, and assumed weights have not been used.

6.3 Assumptions

The assumptions listed in Table 6 have been made in completing the detailed seismic assessment of this building.

Table 6: Assumptions made in detailed seismic assessment

Assumption	Basis for Assumption
Class E (Deep) soil.	A detailed geotechnical investigation has not been carried out. The site subsoil class has been based on the following Westland District Council document: "Westland District Council Lifelines Study", Figure 2.6; June 2006.
Loading is distributed to bracing walls (frames) in proportion to tributary width.	Flexible roof diaphragm will transfer load to walls in proportion to the tributary width of the walls.
Shear stiffness of ceiling diaphragm, $G_d=7000\text{kN/m}$.	MBIE; The Seismic Assessment of Existing Buildings, Technical Guidelines for Engineering Assessments, Part C9: Timber Buildings; Draft Sector Briefings, June 2016, Table C9.3 for ceiling diaphragm lined with Gypsum plasterboard.
Probable shear strength of timber ceiling diaphragm = 6kN/m.	
Foundations fixed against rotation when walls are loaded out of plane (face loading).	All foundation walls are connected to perpendicular foundation walls at the ends and near the mid-span. Shape of foundation walls (steps in wall line) will also provide additional rigidity.
Flanges in walls loaded out of plane will not aid in the stability of the out of plane (face) loaded walls.	Due to the poor quality of the mortar, separation between the stiff in-plane loaded flange and flexible

Assumption	Basis for Assumption
	face loaded wall is likely to occur relatively quickly, after the first few initial cycles of shaking.
Flanges will not add to the capacity of the walls loaded in plane.	Flanges on corner piers are small and unlikely to have significant effect on the capacity if included. Due to the poor quality of the mortar, transfer of shear across the flange of the longer walls on the west and east elevations is unlikely to be a reliable mode of shear transfer.

6.4 Seismic Performance Assessment

Table 7 below summarises the results of the DSA.

Note that these tables summarise only those elements that achieved a seismic capacity of less than 67%NBS.

Table 7: Analysis results for main building

Structural Element / System	Direction of loading (Longitudinal / Transverse)	Failure mode or description of limiting criteria based on capacity of critical element	Ductility (μ)	% NBS based on calculated capacity	Critical Structural Weakness
Ceiling diaphragm	Transverse	Shear (nails)	1.0	12%	No
Ceiling diaphragm	Longitudinal	Shear (nails)	1.0	15%	No
Pounding of link structure and Carnegie Building	Longitudinal	Pounding	1.0	18%	Yes
Unreinforced masonry walls under out-of-plane (face) loading	Longitudinal and transverse	flexure	1.0	25%	Yes
Ceiling diaphragm	Transverse	Shear (bolts to reinforced concrete ring beam)	1.0	30%	No
Unreinforced masonry walls under in-plane loading	Transverse	Shear (rocking of piers)	1.0	34%	No
Unreinforced masonry walls under in-plane loading	Longitudinal	Shear (rocking of piers)	1.0	35%	No

Structural Element / System	Direction of loading (Longitudinal / Transverse)	Failure mode or description of limiting criteria based on capacity of critical element	Ductility (μ)	% NBS based on calculated capacity	Critical Structural Weakness
Ceiling diaphragm	Longitudinal	Shear (bolts to reinforced concrete ring beam)	1.0	39%	No

The assessment confirms that the building achieves an overall seismic performance of 12% NBS and is classified as “Earthquake Prone” as it has a seismic capacity of less than 34%NBS and the unreinforced masonry walls are likely to collapse out of plane.

This corresponds to a “Grade E” building as defined by the New Zealand Society for Earthquake Engineering (NZSEE) building grading scheme, and is classified as a “High Risk” building.

6.5 Structural Weaknesses & Life Safety Hazards

6.5.1 Critical Structural Weaknesses

The following Critical Structural Weaknesses were identified in this assessment:

- Pounding of link structure and Carnegie Building – this pounding could lead to failure of the south wall of the Carnegie Building and therefore loss of support to the ring beam and roof structure.
- Out of plane failure of the walls – the external URM walls are load bearing and the primary support elements for the ring beam at the top of the walls and the roof structure. Out of plane failure of these walls could lead to collapse or partial collapse of the roof structure.

6.5.2 Stairs

There were no stairs identified in this assessment.

6.5.3 Secondary Structural Weaknesses & Life Safety Hazards

There were no secondary structural weaknesses noted.

7 Seismic Improvements

7.1 Suggested Improvements

The building achieves a seismic performance of 12%NBS which does not meet the minimum seismic strength capacity of 34%NBS required under the Building Act 2004, therefore seismic improvement is required.

The minimum seismic performance required under the Building Act 2004 is one third of current code (34%NBS), however the Westland District Council Policy on Earthquake Prone, Dangerous and Insanitary Buildings requires strengthening to 34%NBS with strengthening of “B Buildings” (buildings which contain people in crowds or contents of a high value to the community) to 67%NBS strongly encouraged.

Note also that strengthening to 67%NBS is recommended by NZSEE.

7.1.1 Strengthening to 34%NBS

Strengthening to 34% NBS would most likely involve:

- Strengthening the existing timber framed, Gib lined ceiling diaphragm. This could be done by either:
 - » Overlaying the existing ceiling joists with 12mm Plywood.
 - » Installing steel cross bracing in the roof over top of the ceiling joists.
- Strengthening the perimeter URM walls out of plane. This could be done by either:
 - » Installing FRP strips into the inside face of the URM wall.
 - » Adding additional supports to the URM in the form of steel strong backs.
- Strengthening the northern wall to increase its in plane shear capacity. This could be done by constructing a reinforced concrete frame along the inside face of the north wall in one of the two rooms. This frame would also require additional foundations.
- Increasing the separation between the steel portal framed link structure and the southern wall could be carried out by cutting back the existing steel structure and creating a frangible section of roof in between the steel structure and southern wall of the Carnegie Building.
- We also recommend repining the external brick veneer to the internal URM structural wall. This can be done from the outside using Helifix ties or similar and will reduce the risk of the external veneer peeling off the building in an earthquake.

7.1.2 Strengthening to 67%NBS

Strengthening to 67% NBS would involve carrying out the works outlined above, along with construction of reinforced concrete frames along the west and east walls. This has not been investigated in detail at this time but a conceptual strengthening scheme to achieve a seismic performance of 67%NBS could be developed if required.

7.2 Rough Order of Cost Estimate

A rough order of costs to complete the strengthening of this building to achieve a minimum seismic performance of 34%NBS is \$260,000-\$300,000 + GST.

This rough order cost estimated has typically been calculated by assigning approximate lump sum amounts for items of work based on other similar projects. A contingency of 20% has also been added to reflect the level of detail in this rough order costing.

The above rough order of cost estimate is for the structural improvements only and does not allow for the following:

- Building Consent Fees.
- Consultancy fees.
- Alterations and making good to architectural and building services components to incorporate the suggested seismic improvements.
- Other costs associated with upgrades that may be considered if a strengthening project was to proceed. These may include assessment and upgrade for fire and accessibility.
- Cost escalations.
- Geotechnical investigations.

A more accurate cost estimate will be developed after completing a detailed design for the suggested structural improvements and with the engagement of a qualified builder and/or quantity surveyor.

8 Conclusions & Recommendations

8.1 Conclusions

The building achieves an overall seismic performance of 12% NBS when considered as an Importance Level 3 building. Note that this equates to approximately 15%NBS if this building were to be considered as an Importance Level 2 Building.

The building is classified as Earthquake Prone as it has a seismic rating of less than 34%NBS and the unreinforced masonry walls are likely to collapse out of plane.

Failure of the external walls out of plane and pounding between the south wall of the Carnegie Building and the link structure were identified as Critical Structural Weaknesses.

8.2 Recommendations

Seismic strengthening is required under the Building Act 2004 and Westland District Council Policy [1] as the building achieves a seismic capacity of 12%NBS and is less than the minimum required of 34%NBS.

We also recommend repairing the roof and gable end walls to prevent further leaking and associated deterioration of the building.

9 Explanatory/Limitations Statement

This report contains the professional opinion of Opus International Consultants Ltd as to the matters set out herein, in the light of the information available to it during preparation, using its professional judgment and acting in accordance with the standard of care and skill normally exercised by professional engineers providing similar services in similar circumstances. No other express or implied warranty is made as to the professional advice contained in this report.

We have prepared this report in accordance with the brief as provided and our terms of engagement. The information contained in this report has been prepared by Opus International Consultants Ltd at the request of its client, Westland District Council, and is exclusively for its use and reliance. It is not possible to make a proper assessment of this report without a clear understanding of the terms of engagement under which it has been prepared, including the scope of the instructions and directions given to and the assumptions made by Opus International Consultants Ltd. The report will not address issues which would need to be considered for another party if that party's particular circumstances, requirements and experience were known and, further, may make assumptions about matters of which a third party is not aware. No responsibility or liability to any third party is accepted for any loss or damage whatsoever arising out of the use of or reliance on this report by any third party.

The report is also based on information that has been provided to Opus International Consultants Ltd from other sources or by other parties. The report has been prepared strictly on the basis that the information that has been provided is accurate, complete and adequate. To the extent that any information is inaccurate, incomplete or inadequate, Opus International Consultants Ltd takes no responsibility and disclaims all liability whatsoever for any loss or damage that resulting from any conclusions based on information that has been provided to Opus International Consultants Ltd.

10 References

References used in the Detailed Seismic Assessment of this building include:



- [1] Westland District Council, *Earthquake-Prone, Dangerous and Insanitary Buildings Policy*, Adopted 24 November 2011.
- [2] NZS 1170.5: 2004, *Structural design actions, Part 5 Earthquake actions*, Standards New Zealand.
- [3] NZSEE: 2006, *Assessment and Improvement of the Structural Performance of Buildings in Earthquakes*, New Zealand Society for Earthquake Engineering.
- [4] Engineering Advisory Group, *Guidance on Detailed Engineering Evaluation of Earthquake Affected Non-residential Buildings in Canterbury, Part 2 Evaluation Procedure*, Draft Prepared by the Engineering Advisory Group, Revision 5, 19 July 2011.
- [5] Engineering Advisory Group, *Guidance on Detailed Engineering Evaluation of Non-Residential Buildings, Part 3 Technical Guidance*, Draft Prepared by the Engineering Advisory Group, 13 December 2011.
- [6] SESOC, *Practice Note – Design of Conventional Structural Systems Following Canterbury Earthquakes*, Structural Engineering Society of New Zealand, 21 December 2011.
- [7] NZSEE: *Assessment and Improvement of Building Foundations for Earthquake Resistance*, New Zealand Society for Earthquake Engineering, February 2011.
- [8] NZSEE: *Assessment and Improvement of the Structural Performance of Buildings in Earthquakes, Section 10: Revision Seismic Assessment of Unreinforced Masonry Buildings (2015)*.
- [9] Transit New Zealand: *Bridge Manual*, Third Edition, May 2013 (including amendments).
- [10] Westland District Council, *Westland District Council Lifelines Study*, June 2006.
- [11] AS/NZS 1170.0:2002, *Structural design actions, Part 0: General principles*, Standards New Zealand.
- [12] AS/NZS 1170.1:2002, *Structural design actions, Part 1: Permanent, imposed and other actions*, Standards New Zealand.
- [13] NZS 3101: Part 1: 2006, *Concrete Structures Standard, The Design of Concrete Structures*, Standards New Zealand.
- [14] NZS 3101: Part 2: 2006, *Concrete Structures Standard, Commentary on the Design of Concrete Structures*, Standards New Zealand.
- [15] NZBC, *Clause B1 Structure, Verification Method B1/VM1*, Department of Building and Housing.

- [16] ASCE/SEI 41-06, *Seismic Rehabilitation of Existing Buildings*, Structural Engineering Institute of the American Society of Civil Engineers, 2007.
- [17] NZSEE: *Assessment and Improvement of Unreinforced Masonry Buildings for Earthquake Resistance*, New Zealand Society for Earthquake Engineering, February 2011.
- [18] NZS3604:2011 *Timber Framed Buildings Standard*, Standards New Zealand, 2011.
- [19] NZSEE: *Seismic Assessment and Improvement of Buildings and Foundations: Lessons learned from on-going research and the Canterbury Earthquakes*, New Zealand Society for Earthquake Engineering, May 2013.
- [20] NZSEE: *Generic Procedure for Seismic Assessment of Out-of-plane Loaded URM Walls*, New Zealand Society for Earthquake Engineering, May 2013.



PHOTOGRAPHS



PHOTOGRAPH	DESCRIPTION
	<p>Photograph 1: Northern elevation (main entrance off Hamilton Street).</p>
	<p>Photograph 2: Eastern Elevation.</p>
	<p>Photograph 3: Southeast corner at junction with Link Structure.</p>



PHOTOGRAPH	DESCRIPTION
	<p>Photograph 4: Western elevation.</p>
	<p>Photograph 5: Southwest corner – connection to Link Building.</p>
	<p>Photograph 6: South wall of Carnegie building in Link.</p>



PHOTOGRAPH	DESCRIPTION
	<p>Photograph 7:</p> <p>Loss of mortar pointing in external brickwork exposing underlying (original) soft mortar.</p>
	<p>Photograph 8:</p> <p>Eastern wall from inside building.</p>


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PHOTOGRAPH	DESCRIPTION
	<p>Photograph 12: Water leaking / damage in gable end in southeast corner of building.</p>
	<p>Photograph 13: Timber roof trusses.</p>

PHOTOGRAPH	DESCRIPTION
	<p>Photograph 14: Timber roof trusses.</p>
	<p>Photograph 15: Connection between roof truss and ring beam, above main (northern) entrance.</p>

PHOTOGRAPH	DESCRIPTION
	<p>Photograph 16: Roof structure over entrance canopy.</p>
	<p>Photograph 17: Roof structure supporting lantern structure in centre of roof.</p>

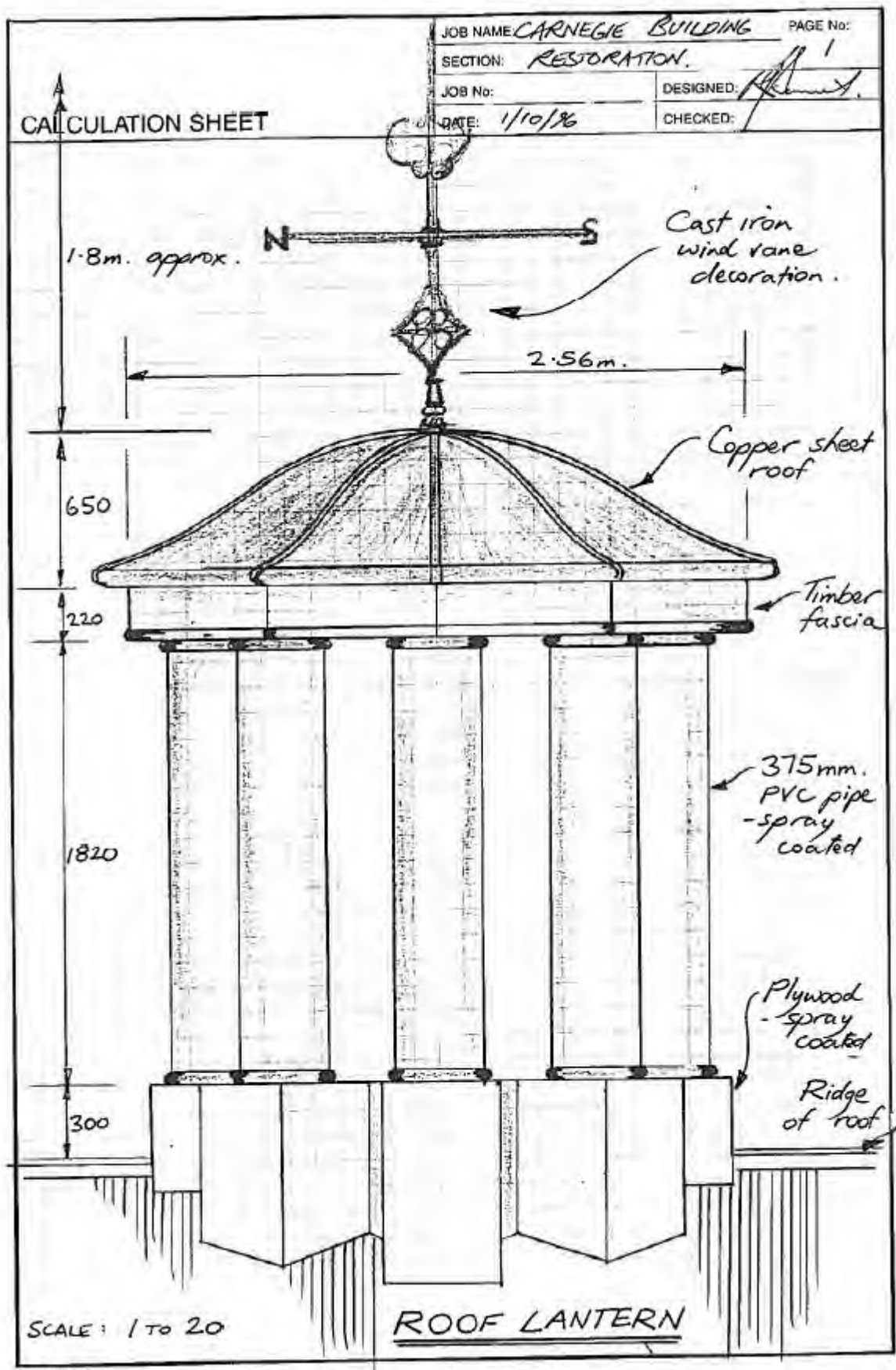
PHOTOGRAPH	DESCRIPTION
	<p>Photograph 18: Brick removed on southern wall.</p>
	<p>Photograph 19: Twisted metal tie between veneer and structural wall.</p>

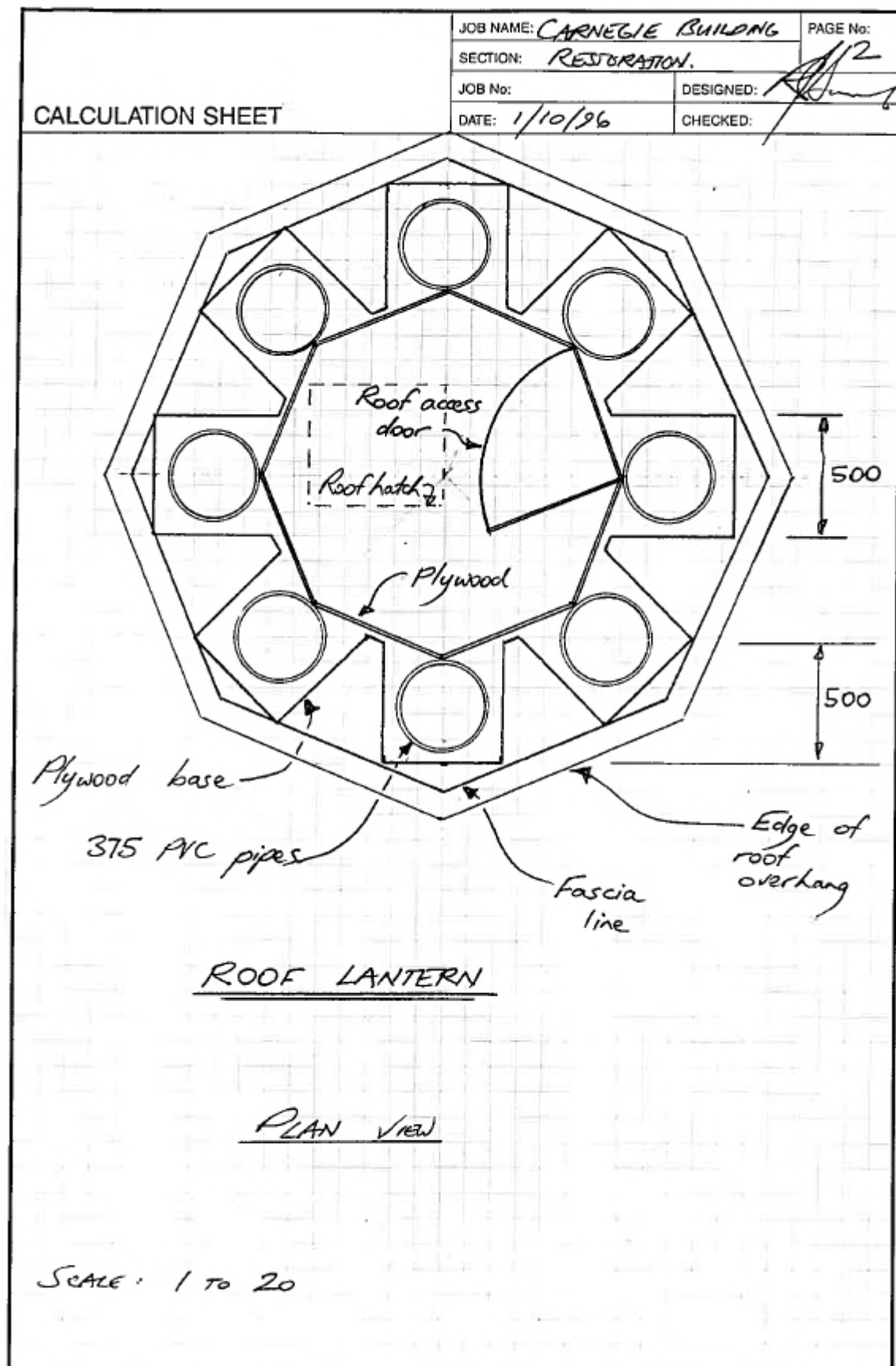
PHOTOGRAPH	DESCRIPTION
	<p>Photograph 20: Concrete piles and (c1998) foundation wall underneath bracing wall.</p>

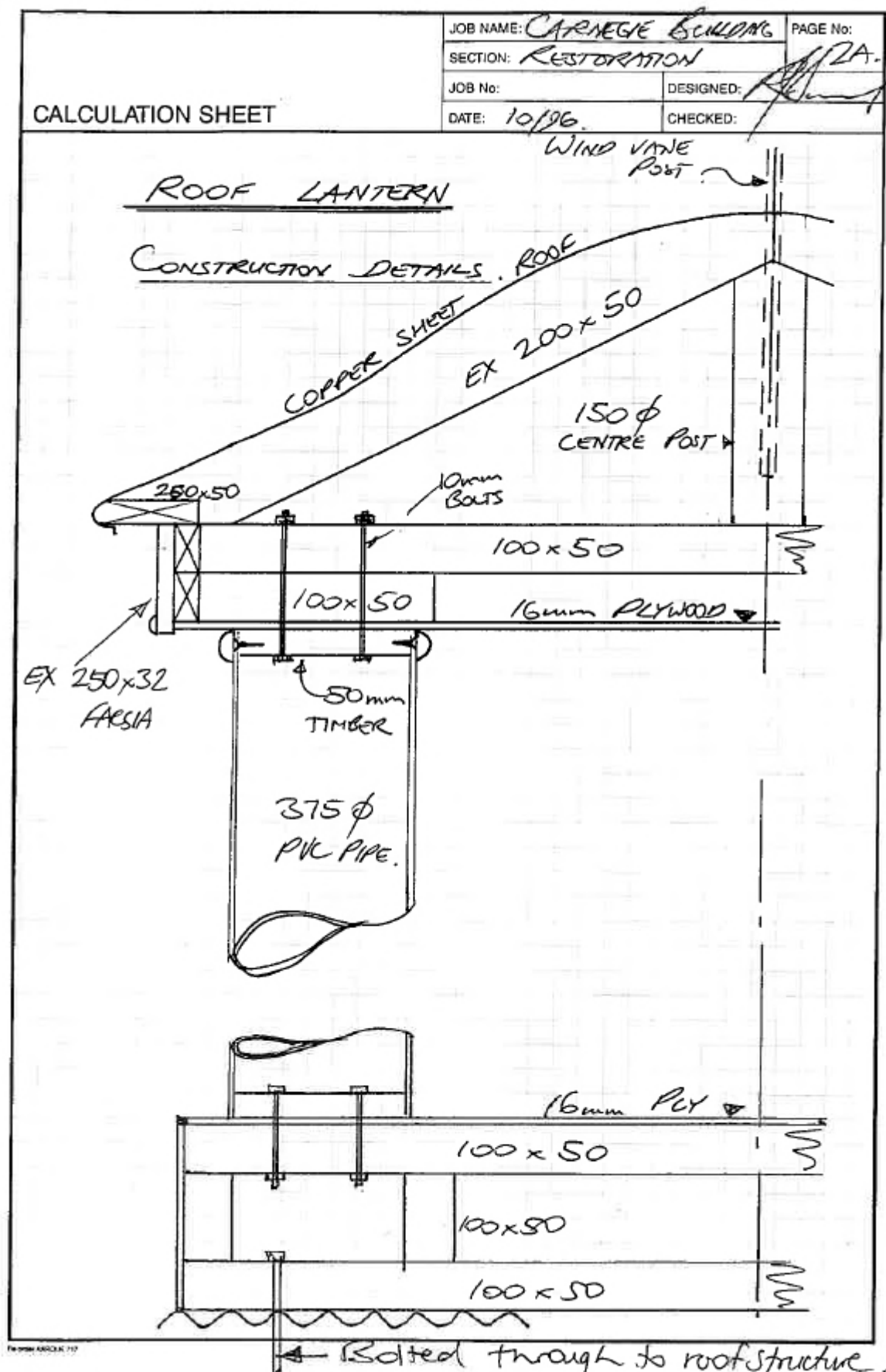
Appendix B

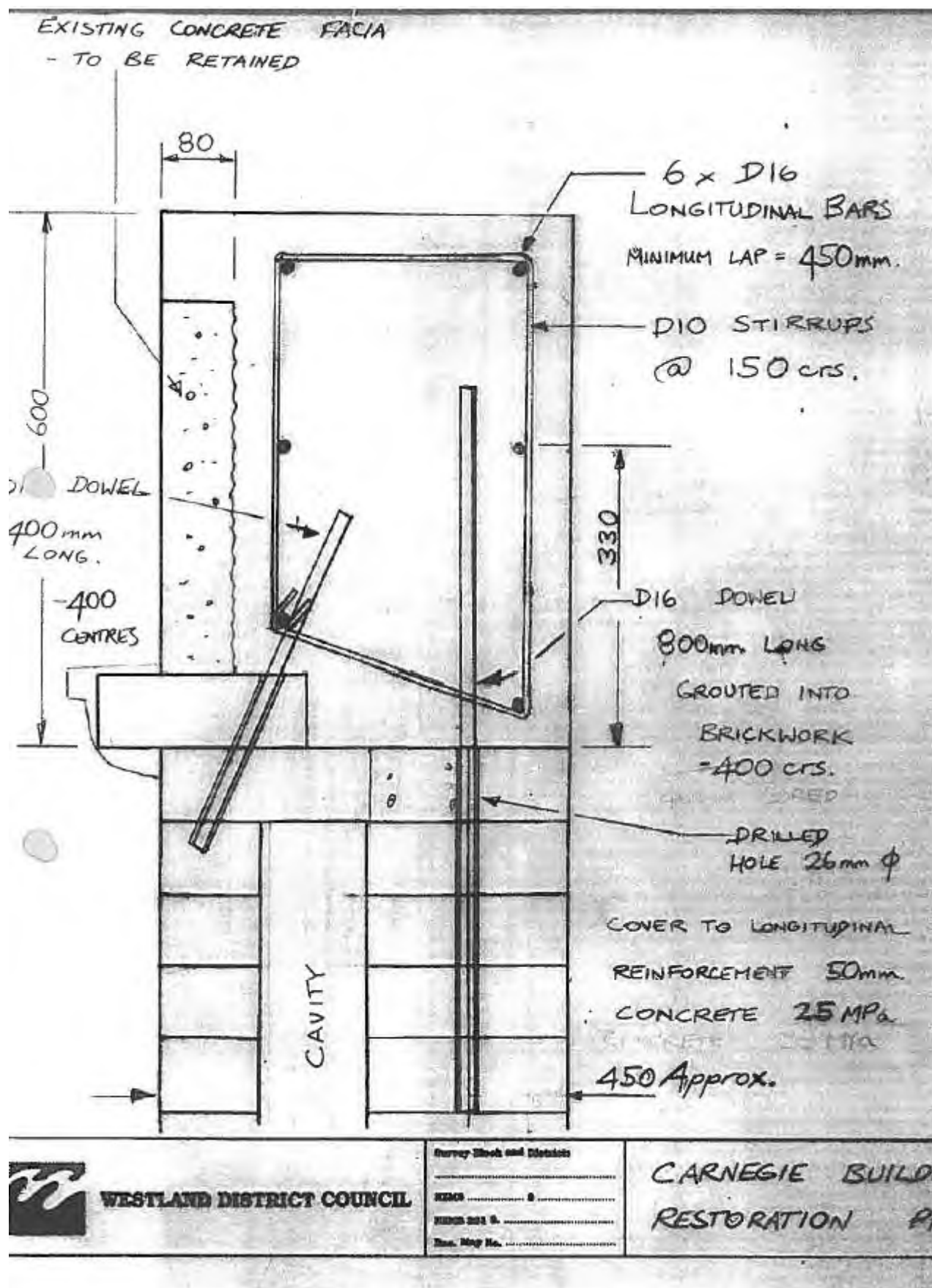
DRAWINGS

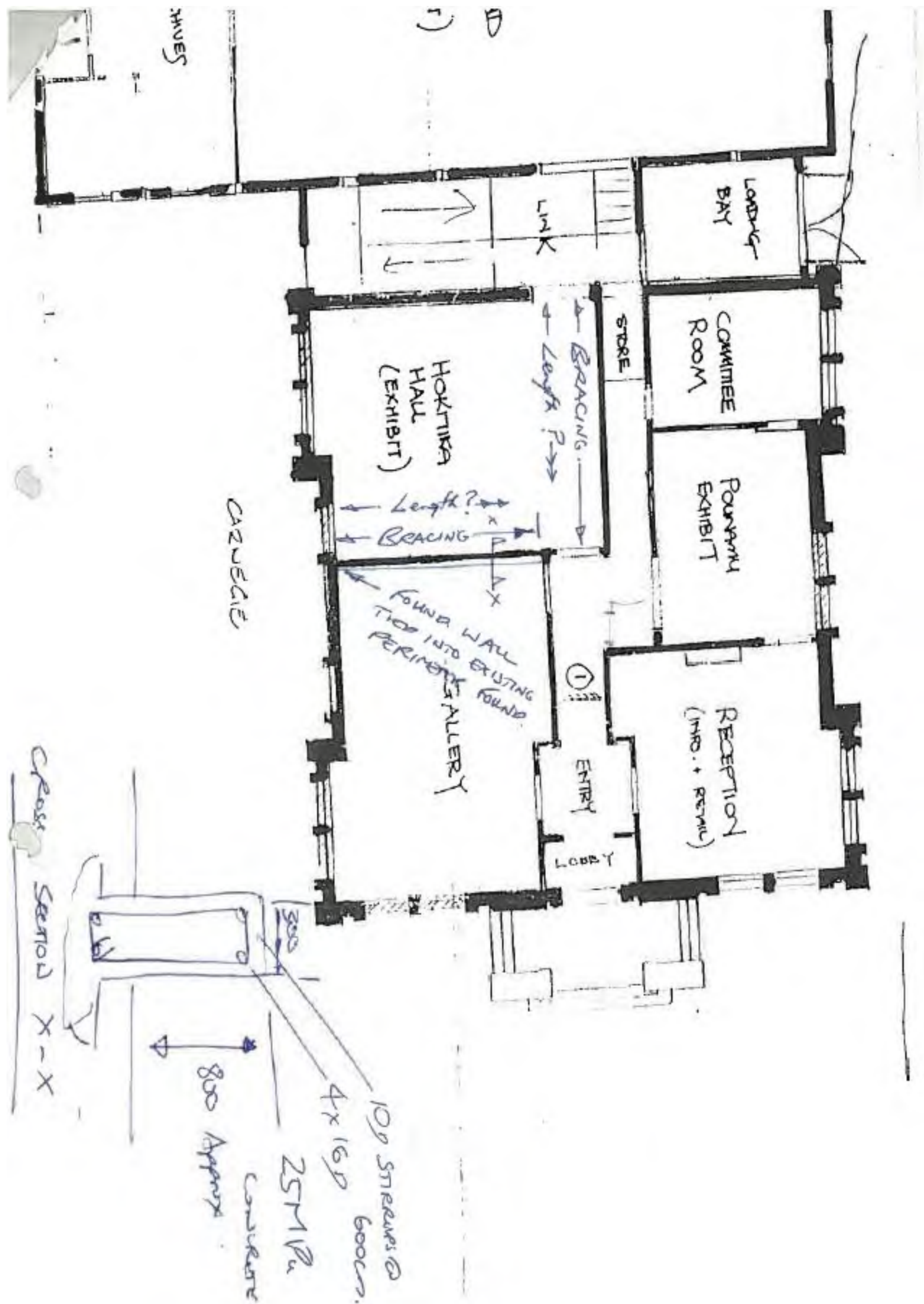










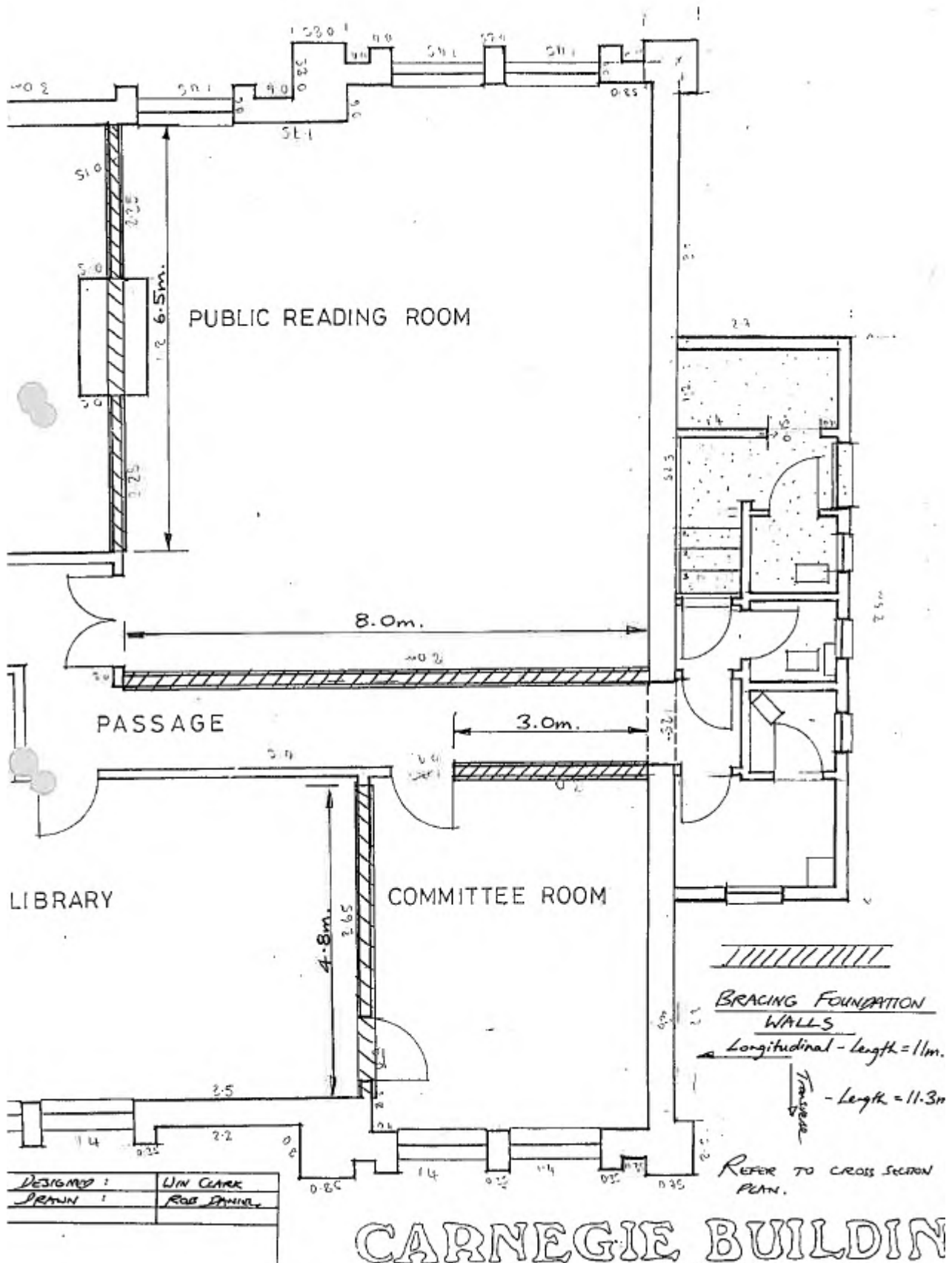


<p>CALCULATION SHEET</p>	JOB NAME: <u>CARNEGIE BUILDING</u>		PAGE No:
	SECTION:		
	JOB No:	DESIGNED: <u>[Signature]</u>	
	DATE: <u>29/5/26</u>	CHECKED: <u>WIN CLARK</u>	

FOUNDATION WALLS UNDER BRACING
LINES

300
 600 STIRRUP HEIGHT
 D10 STIRRUPS @ 400 CS.
 50mm COVER
 600 NOMINAL HEIGHT
 FOUNDATION MATERIAL - BEACH SANDY GRAVEL

- 25 MPa CONCRETE
- D16 BARS TO BE EMBEDDED INTO PERIMETER FOUNDATION WALLS AND FIREPLACE BASE BLOCK.
- EXCAVATE DOWN TO CLEAN SANDY GRAVEL.





British Steel New Zealand Limited



NEW PLYMOUTH
Ph: (06) 756 7629
Fax: (06) 756 7575

HASTINGS
Ph: (06) 878 3359
Fax: (06) 878 3411

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Ph: (06) 356 4557
Fax: (06) 356 2339

WELLINGTON
Ph: (04) 568 5014
Fax: (04) 568 6367

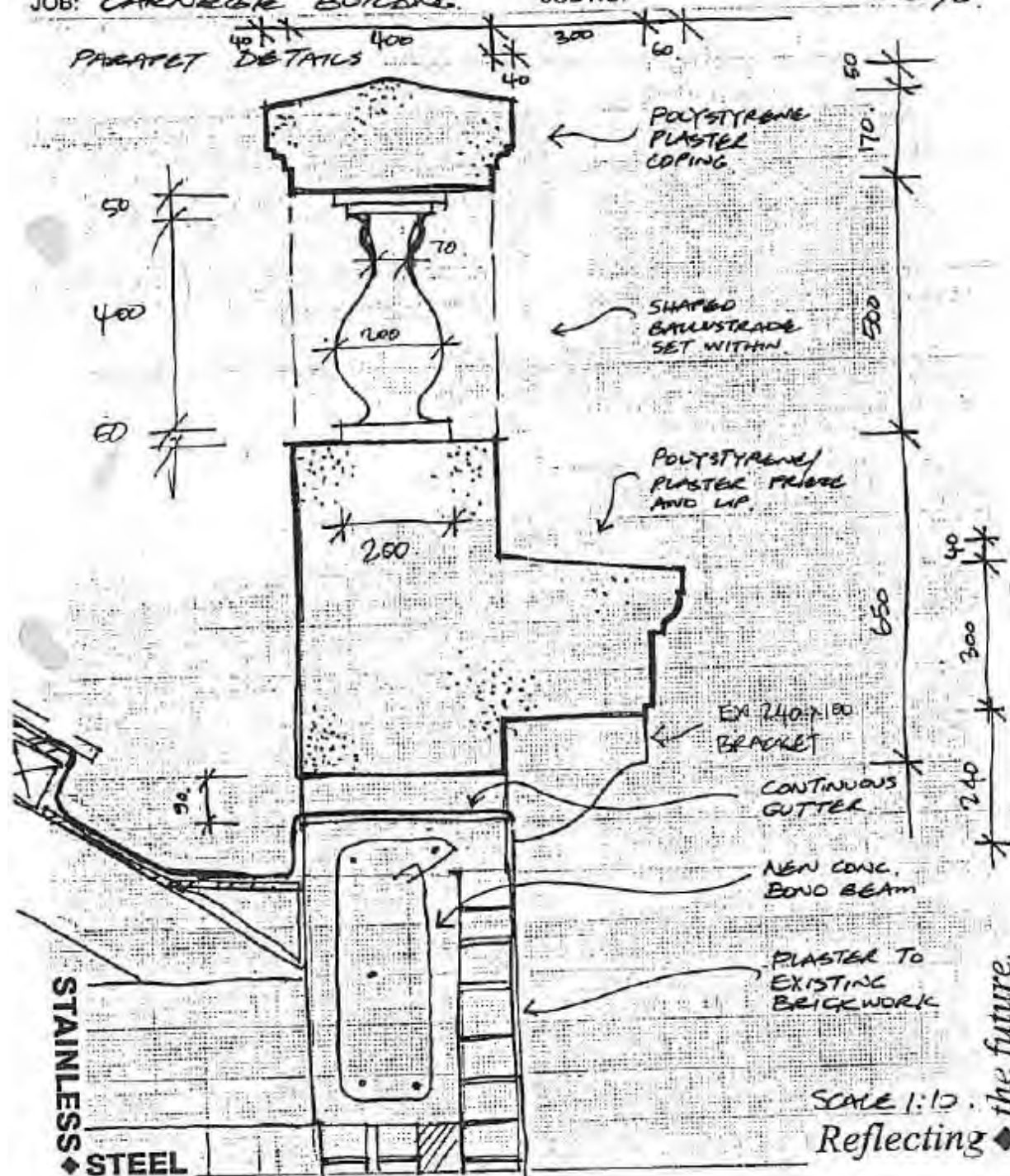
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Fax: (03) 548 0588

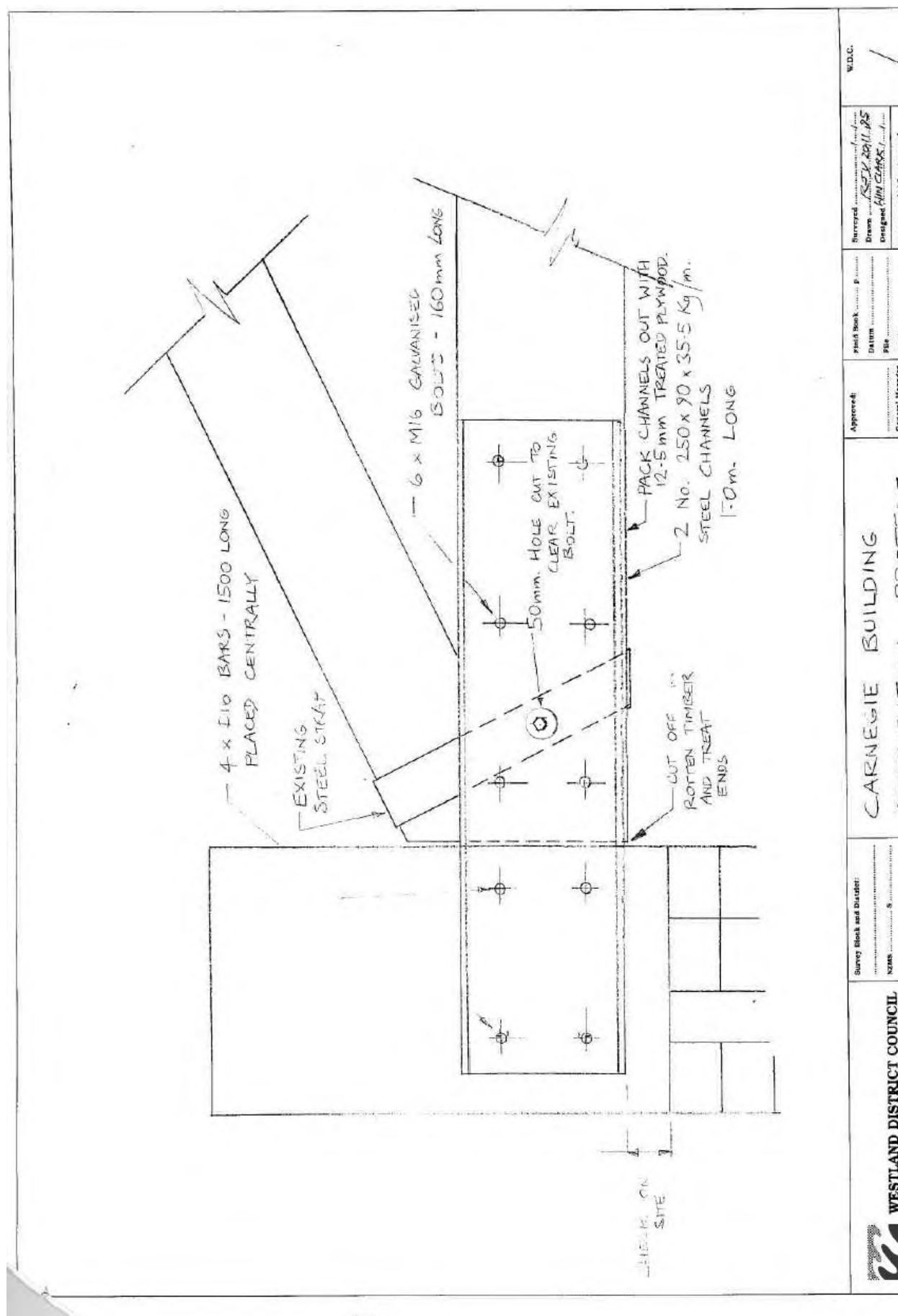
CHRISTCHURCH
Ph: (03) 336 0420
Fax: (03) 336 9105

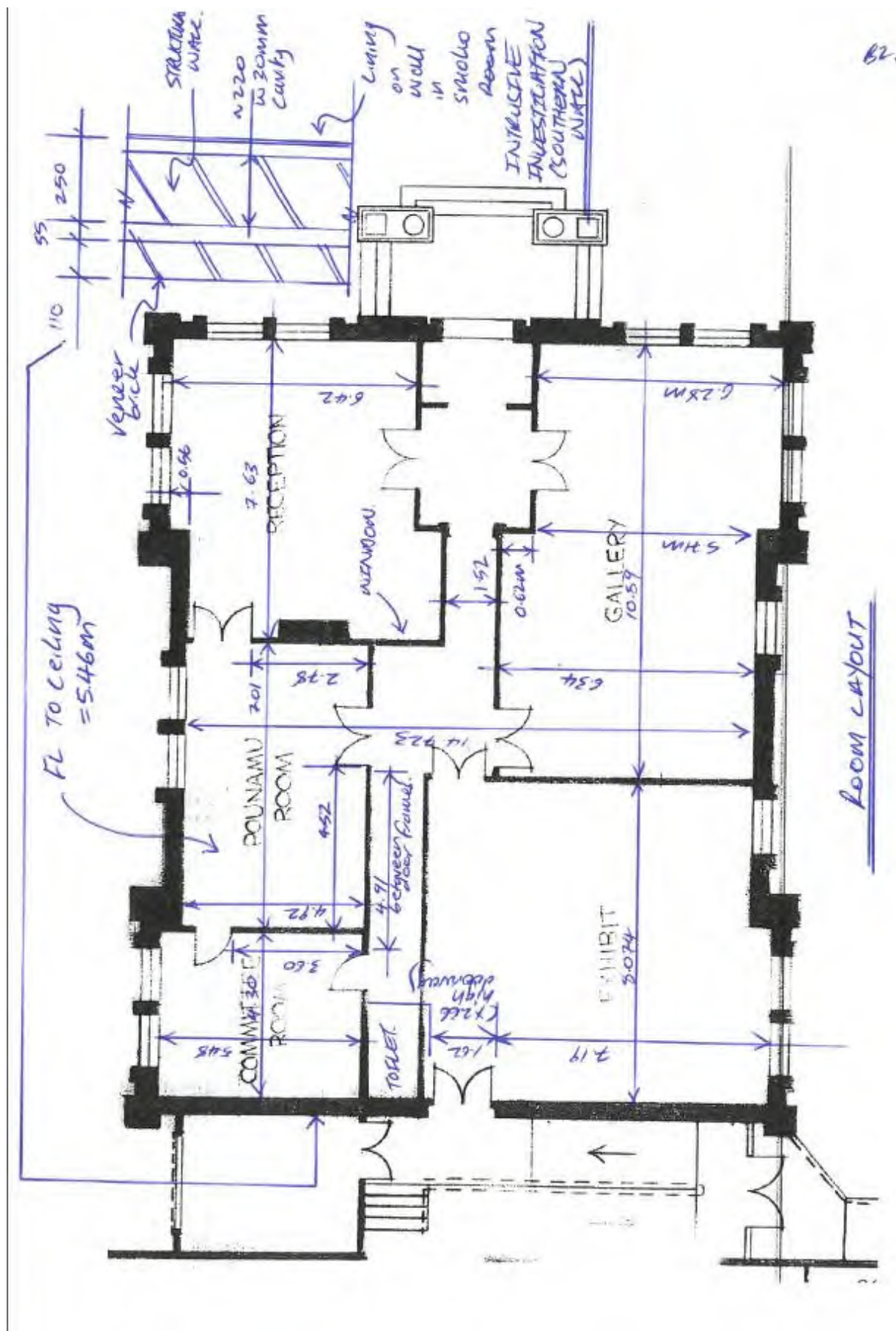
JOB: *CARNEGIE BUILDING*

JOB NO:

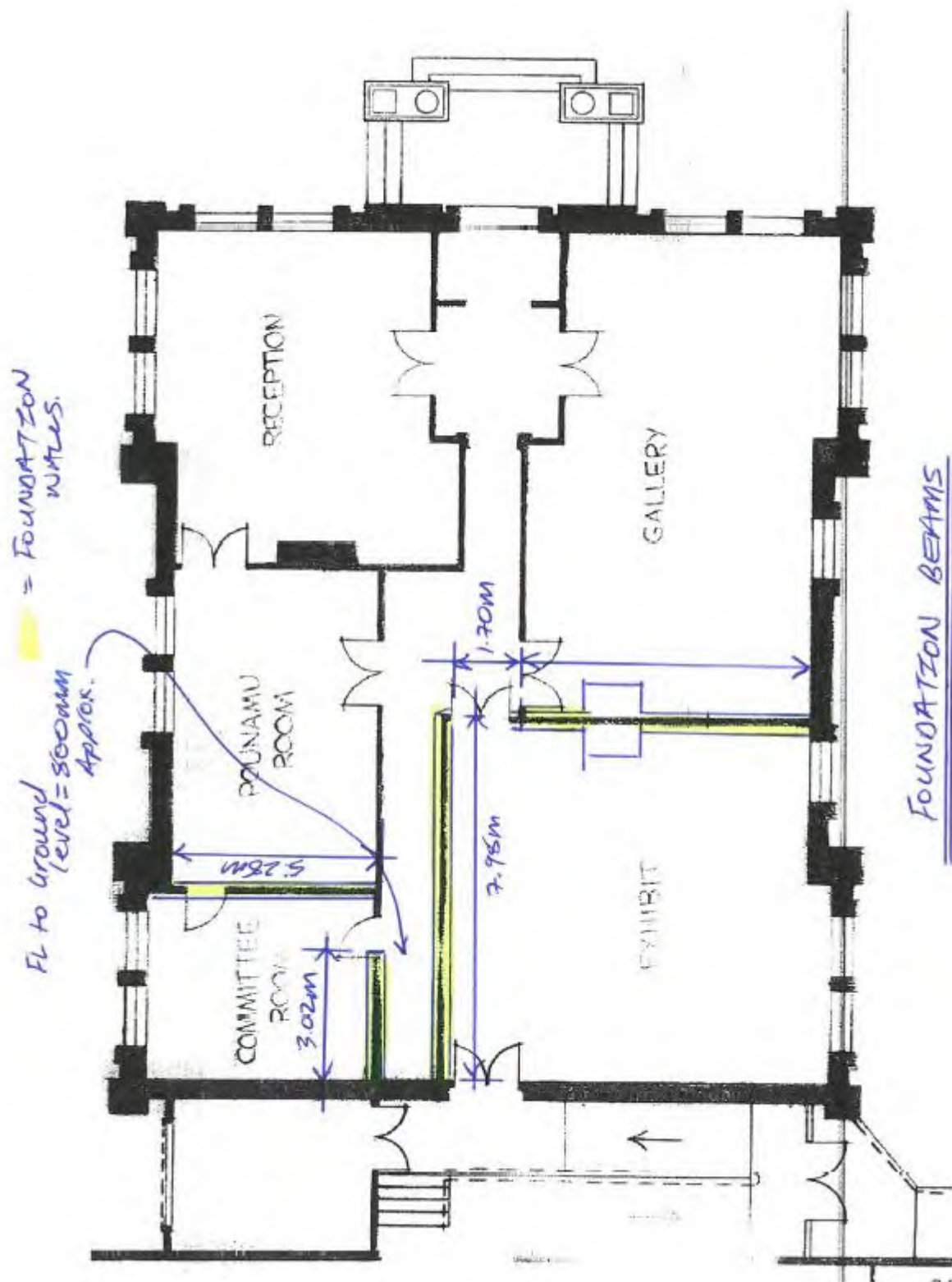
DATE: *FEB 96*

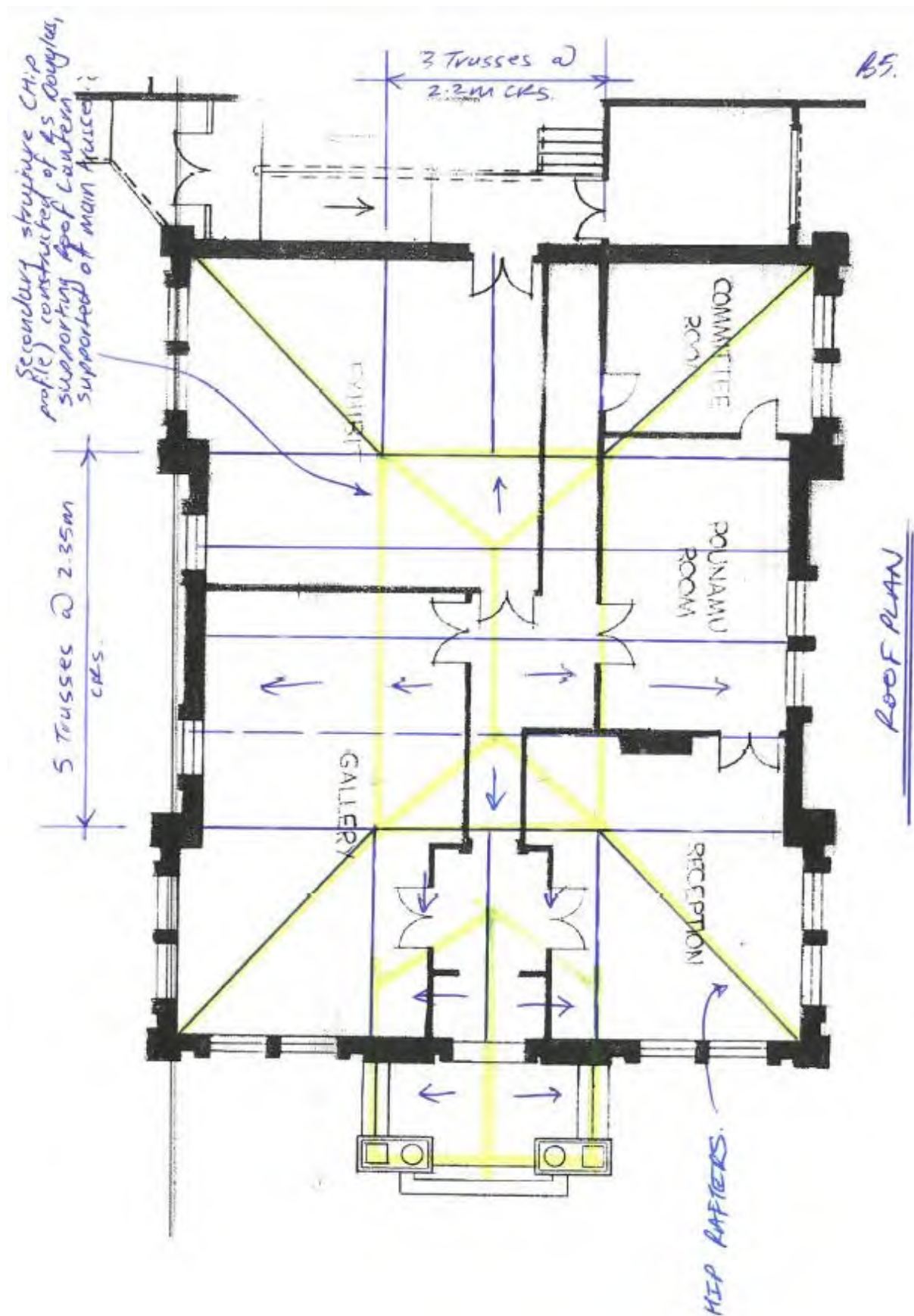












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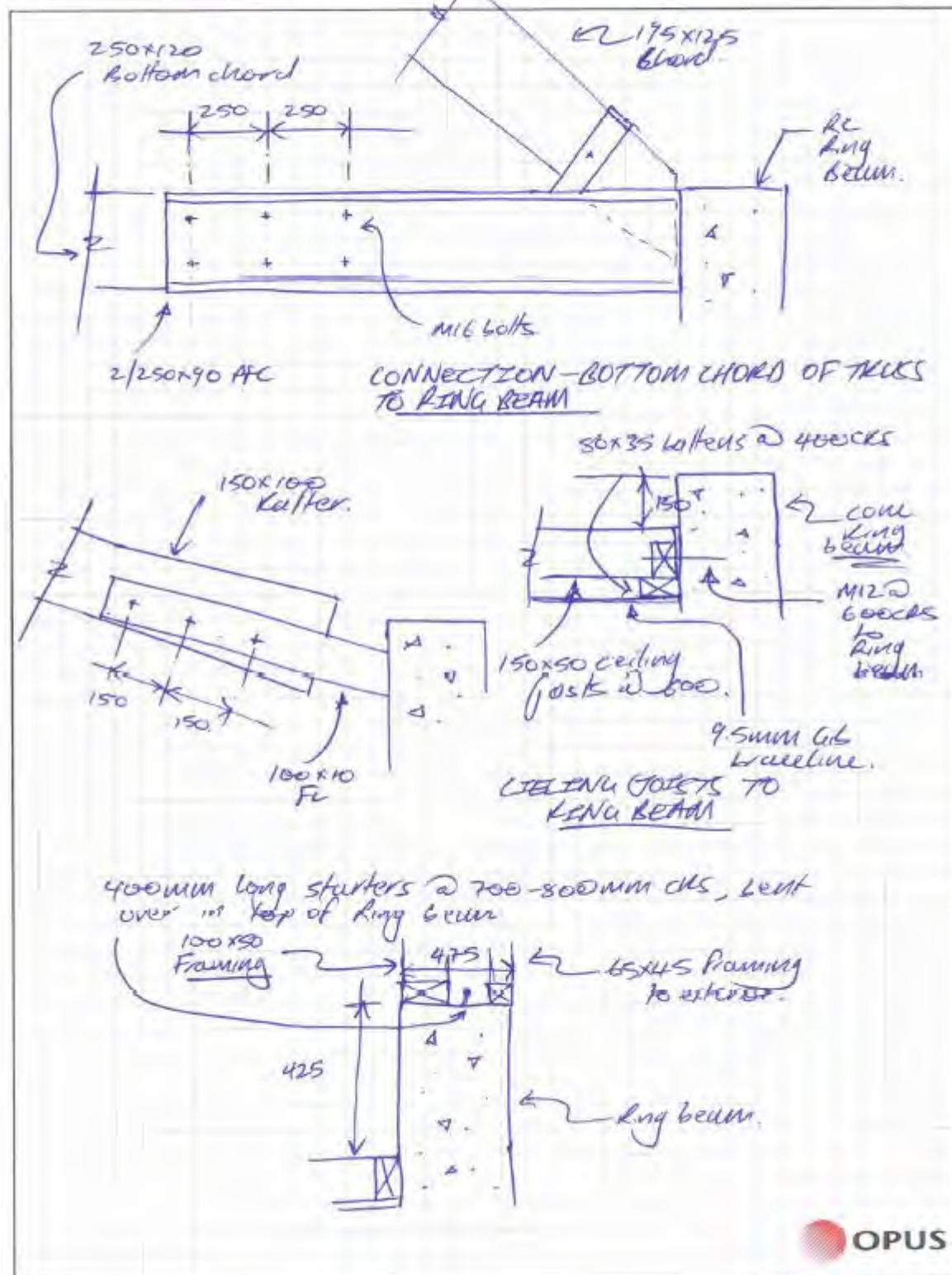
Sheet No 87. of

Project Description: CARNEGIE BUILDING -
MEASURE UP + INVESTIGATION.

Office:

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Check: / /



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Project/Task/File No:

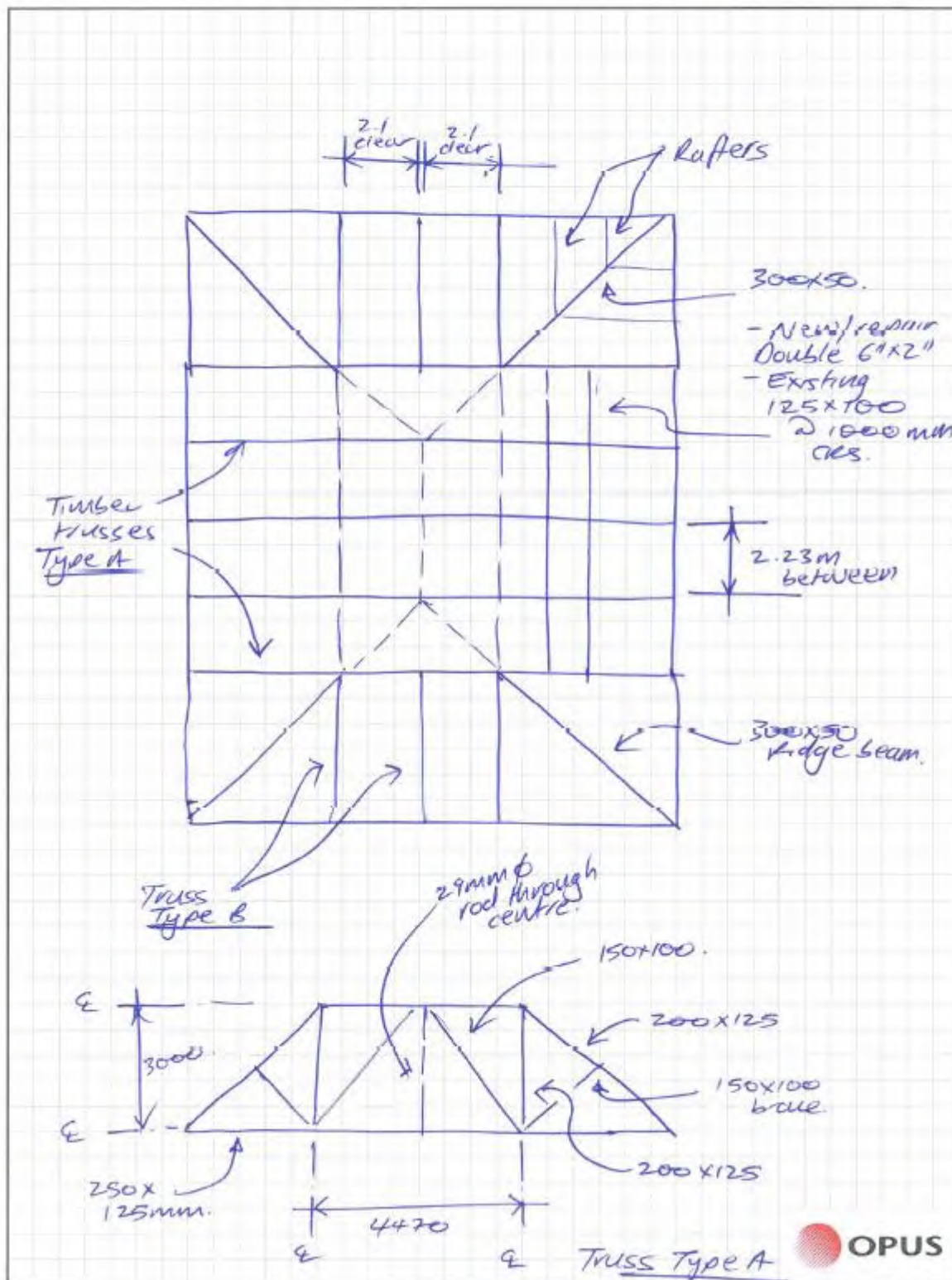
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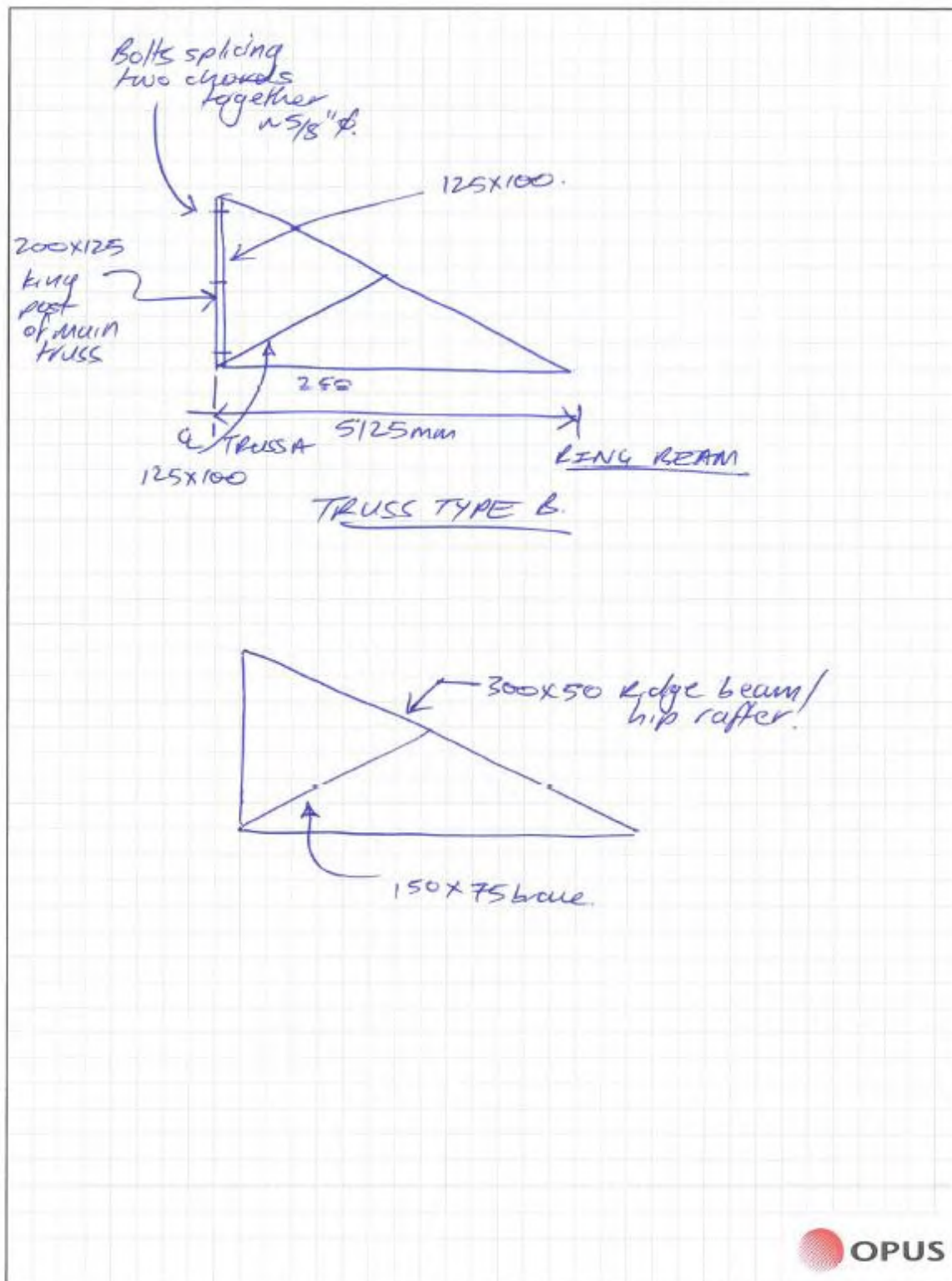
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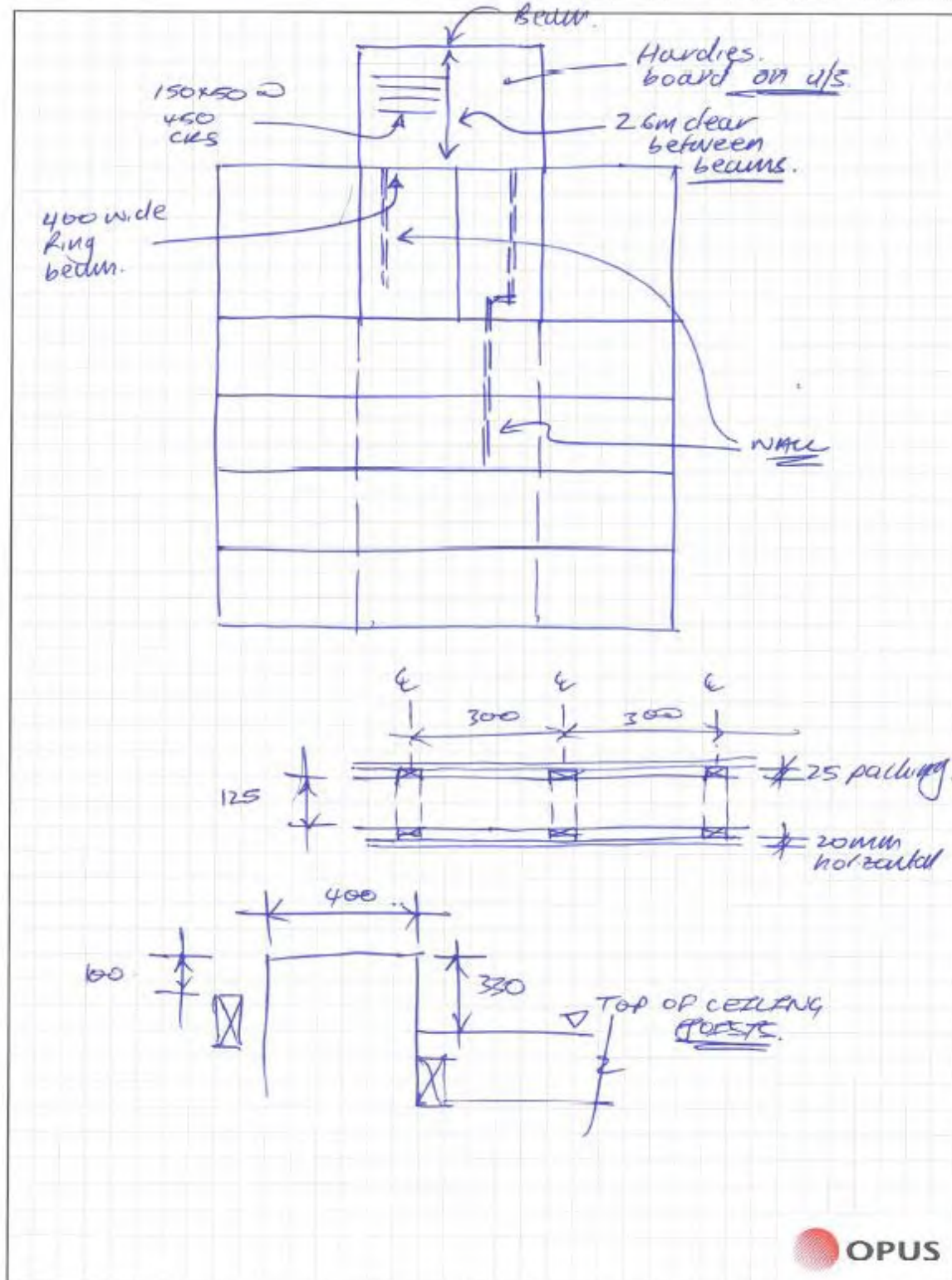
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CALCULATION SHEET

Project/Task/File No:

Sheet No B1. of


Project Description:

Office:

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NOTES FROM INTRUSIVE INVESTIGATION - SOUTHERN WALL.



Very soft mortar.
easily removed
by finger.

Bricks reasonably hard.
unable to scratch with fingernail
scratch (shallow) with
metal (steel) blade.


Brick removed in line - veneer
southern wall of Carnegie
Building

Some repointing of mortar has been carried out with
a darker, much stronger mortar.

On West wall this is already falling off as it is only
shallow (5mm approx) in places.

summary: Mortar = 'SOFT' easily scratched out with
fingers.

Brick = 'MEDIUM' to 'HARD' scratched
with steel blade (from reciprocating
saw) but only on surface.

 **OPUS**

Appendix C

RESTORATION PHOTOGRAPHS

















Opus International Consultants Ltd
23 High Street
PO Box 365, Greymouth 7840
New Zealand

t: +64 3 769 9330
f: +64 3 768 7498
w: www.opus.co.nz



DANGEROUS, EARTHQUAKE-PRONE AND INSANITARY BUILDINGS POLICY



FIRST Adopted by Council on Thursday 21 September 2006

Reviewed during 2011 and amended as a result of the special consultative procedure

Due for review prior to November 2016

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1. INTRODUCTION AND BACKGROUND

Section 131 of the Building Act, 2004 requires territorial authorities to adopt a policy on dangerous, earthquake-prone and insanitary buildings by 31 May 2006.

This document sets out the policy adopted by Westland District Council in accordance with the requirements of the Building Act, 2004.

The policy is required to state:

1. The approach that the Westland District Council will take in performing its functions under the Building Act 2004;
2. Westland District Council's priorities in performing those functions; and
3. How the policy will apply to heritage buildings.

In developing and adopting its earthquake-prone buildings policy, Westland District Council has followed the consultative procedure set out in section 83 of the Local Government Act 2002.

In preparing this policy, Westland District Council has made extensive use of the Department of Building and Housing's guidance documents.

2. BUILDING ACT PRINCIPLES

Section 4 of the Building Act lays down the principles to be applied in performing functions or duties or exercising powers under the Act. The subclauses appropriate to this policy are as follows:

- (2) *In achieving the purpose of this Act, a person to whom this section applies must take into account the following principles that are relevant to the performance of functions or duties imposed, or the exercise of powers conferred, on that person by this Act:*
 - (a) *when dealing with any matter relating to 1 or more household units, —*
 - (i) *the role that household units play in the lives of the people who use them, and the importance of—*
 - (A) *the building code as it relates to household units; and*
 - (B) *the need to ensure that household units comply with the building*

code:

- (ii) *the need to ensure that maintenance requirements of household units are reasonable:*
 - (iii) *the desirability of ensuring that owners of household units are aware of the maintenance requirements of their household units:*
- (b) *the need to ensure that any harmful effect on human health resulting from the use of particular building methods or products or of a particular building design, or from building work, is prevented or minimised:*
- (c) *the importance of ensuring that each building is durable for its intended use:*
- (d) *the importance of recognising any special traditional and cultural aspects of the intended use of a building:*
- (e) *the costs of a building (including maintenance) over the whole of its life:*
- (f) *the importance of standards of building design and construction in achieving compliance with the building code:*
- (g) *the importance of allowing for continuing innovation in methods of building design and construction:*
- (h) *the reasonable expectations of a person who is authorised by law to enter a building to undertake rescue operations or firefighting to be protected from injury or illness when doing so:*
- (i) *the need to provide protection to limit the extent and effects of the spread of fire, particularly with regard to—*
 - (i) *household units (whether on the same land or on other property); and*
 - (ii) *other property:*
- (j) *the need to provide for the protection of other property from physical damage resulting from the construction, use, and demolition of a building:*
- (k) *the need to provide, both to and within buildings to which section 118 applies, facilities that ensure that reasonable and adequate provision is made for people with disabilities to enter and carry out normal activities and processes in a building:*
- (l) *the need to facilitate the preservation of buildings of significant cultural, historical, or heritage value:*
- (m) *the need to facilitate the efficient use of energy and energy conservation and the use of renewable sources of energy in buildings:*
- (n) *the need to facilitate the efficient and sustainable use in buildings of—*

- (i) *materials (including materials that promote or support human health); and*
- (ii) *material conservation:*
- (o) *the need to facilitate the efficient use of water and water conservation in buildings:*
- (p) *the need to facilitate the reduction in the generation of waste during the construction process.*

3. DEFINITIONS OF BUILDINGS COVERED BY THIS POLICY

The definitions of dangerous, earthquake-prone and insanitary buildings are set out in sections 121 - 123 of the Building Act 2004 as follows:

121 Meaning of dangerous building

- (1) *A building is dangerous for the purposes of this Act if, —*
 - (a) *in the ordinary course of events (excluding the occurrence of an earthquake), the building is likely to cause —*
 - (i) *injury or death (whether by collapse or otherwise) to any persons in it or to persons on other property; or*
 - (ii) *damage to other property; or*
 - (b) *in the event of fire, injury or death to any persons in the building or to persons on other property is likely because of fire hazard or the occupancy of the building.*
- (2) *For the purpose of determining whether a building is dangerous in terms of subsection (1)(b), a territorial authority —*
 - (a) *may seek advice from members of the New Zealand Fire Service who have been notified to the territorial authority by the Fire Service National Commander as being competent to give advice; and*
 - (b) *if the advice is sought, must have due regard to the advice.*

122 Meaning of earthquake-prone building

- (1) *A building is earthquake prone for the purposes of this Act if, having regard to its condition and to the ground on which it is built, and because of its construction, the building —*
 - (a) *will have its ultimate capacity exceeded in a moderate earthquake (as defined in the regulations); and*
 - (b) *would be likely to collapse causing —*

- (i) *injury or death to persons in the building or to persons on any other property; or*
 - (ii) *damage to any other property.*
- (2) *Subsection (1) does not apply to a building that is used wholly or mainly for residential purposes unless the building—*
 - (a) *comprises 2 or more storeys; and*
 - (b) *contains 3 or more household units.*

The definition of moderate earthquake is laid down in the Building Regulations, 2005 as:

“... in relation to a building, an earthquake that would generate shaking at the site of the building that is of the same duration as, but that is one-third as strong as, the earthquake shaking (determined by normal measures of acceleration, velocity and displacement) that would be used to design a new building at the site.”

123 Meaning of insanitary building

A building is insanitary for the purposes of this Act if the building—

- (a) *is offensive or likely to be injurious to health because—*
 - (i) *of how it is situated or constructed; or*
 - (ii) *it is in a state of disrepair; or*
- (b) *has insufficient or defective provisions against moisture penetration so as to cause dampness in the building or in any adjoining building; or*
- (c) *does not have a supply of potable water that is adequate for its intended use; or*
- (d) *does not have sanitary facilities that are adequate for its intended use.*

4. OVERALL APPROACH

4.1 Policy Principles

Westland District Council has noted that provisions of the Building Act 2004 in regard to dangerous, earthquake-prone and insanitary buildings reflect the government's broader concern with the health and safety of the public in buildings and, more particularly, the need to address human safety in the event of an earthquake.

Council is committed to ensuring that the Westland District is a safe and healthy place to live and work while also ensuring that the District continues to develop and

thrive. This policy supports the following outcomes from the Westland District Long Term Plan:

- Community Outcome – Health: Healthy communities with access to quality facilities and services.
- Community Outcome - Safety: A District that is a safe place to live.
- Community Outcome – Environment: The distinctive character of the environment is appreciated and maintained.
- Community Outcome – Identity: A “happening” region with a strong community spirit and distinctive lifestyle.

Westland District Council has also noted that the development of dangerous, earthquake-prone and insanitary building policies is up to each territorial authority to determine and has responded accordingly.

This policy was first developed and finalized after due consultation with Westland District Council ratepayers and stakeholders in accordance with Section 83 of the Local Government Act 2002. This process involved a submission period and an opportunity for submitters to be heard before the Council decided on final policy content. As a result of that consultative approach, the Council resolved that no part of this policy will apply to Council and Transit New Zealand infrastructure covered by an Asset Management Plan.

The review of the policy commenced in February 2011 with consultation with the public and building owners. The Council also took advice from a structural engineer who had experience with the aftermath and repair of buildings in Christchurch subsequent to the September 2010 and February 2011 earthquakes.

4.2 District Characteristics

The built environment of the Westland District has developed over the last 150 years. European settlement has largely been based around the original early settlements. Construction of buildings has been according to the standards and styles of the period.

Local buildings comprise a range of types and ages with construction techniques ranging from wood and unreinforced masonry buildings to a few modern multi-storey steel and concrete buildings. The great majority of buildings are one or two-storey only.

Westland District Council has experienced a period of steady growth that reflected the confidence in greater agricultural productivity, a growth in tourist activity, increased land prices and an influx of new residents.

Westland District is in a zone of high to moderate seismic activity, with the alpine fault bordering the district, but due to the mountainous terrain – a very low density of building stock exists close to the Main Divide. Farm Buildings and Recreational Huts make up the greater percentage of buildings in this higher risk location of the District. However, the townships of Franz Josef/Waiau and Fox Glacier are in very close proximity to the alpine fault.

It is estimated that a movement in the alpine fault could produce shaking intensities in the region of 8 on the Modified Mercalli Scale over much of the District with intensities of 9 on the Mercalli Scale being experienced in the immediate vicinity of the fault line. (Reference:- “Probability and Consequences of the Next alpine fault Earthquake – Geotech Consulting Ltd”). Additionally, it is estimated that the next large to great earthquake rupture has a likelihood of being between 25% - 33% probability in the next 50 years.

In developing this policy the Westland District Council must balance the need to protect public health and safety against the economic implications of requiring significant remedial building work and the community’s desire to protect heritage structures.

Dangerous and Insanitary Buildings are addressed in this first part of the Policy, while Earthquake Risk Buildings are addressed in the second part.

5. DANGEROUS AND INSANITARY BUILDINGS POLICY

5.1 Policy Approach

Conversions of existing buildings, lack of maintenance, lack of appropriate facilities, overcrowding and un-consented alterations can cause serious health and safety problems.

The failure to obtain a building consent or the use of buildings for unauthorised purposes can pose a danger to the occupants as well as users. Dangers may include danger of collapse, inadequate fire protection or means of escape.

The development of the New Zealand Building Code and associated standards creates, over time, an effective “raising of the bar” for the standards which buildings

and Building Owners must meet. Existing buildings must be maintained appropriately in order to continue to meet such standards.

The Council is actively involved in educating the public on Building Act matters with a view to encourage owners to obtain building consent where necessary. The Council treats building safety as a serious matter; buildings must be safe for their intended use and for Occupiers.

5.2 Identifying Dangerous or Insanitary Buildings

The Council will identify potentially dangerous or insanitary buildings on the basis of:

1. Complaints from members of the public.
2. Advice received from Council staff.
3. Complaints or advice from other agencies (e.g. local health providers, NZ Police, trades people).

5.3 Assessment/Prioritisation Criteria

The Council will assess potentially dangerous or insanitary buildings in accordance with sections 121(1) or 123 of the Act as appropriate and in terms of the level of risk to public health or safety that is presented.

The Council will give priority to buildings that have been determined to present such a high level of risk as to warrant immediate action to remove the risk.

Options for such immediate action include:

- Prohibiting any person from occupying or using the building;
- If necessary, erecting barriers and warning signs, plus securing the building to prevent entry until such time as remedial action can be taken;
- Undertaking remedial action under s129 of the Building Act. Note that, in the case of insanitary buildings, the Council reserves the right to use its powers available under s34 of the Health Act, 1956.

Where the Council undertakes remedial action under either s129 of the Building Act or s34 of the Health Act, all costs will be recoverable from the building owner(s) as provided for in the relevant legislation.

Buildings that are determined to present a serious risk which is not immediate will be subject to the minimum timeframes for reduction or removal of the danger (being not less than 10 days) as set out in s124(1) (c) of the Act.

In addition to remedial action, the Building Act 2004 also empowers the Council to prosecute Building Owners and this power may be considered at times by the Council.

5.4 Investigation and Enforcement Process - Dangerous or Insanitary Buildings

The Council will:

1. Respond to and investigate all building complaints received.
2. Identify from these investigations any buildings that are dangerous or insanitary.
3. Assess the level of risk presented by the building and, if required, take immediate action.
4. Inform the owner and occupier of the building to take action to reduce or remove the danger or insanitary condition, as required by s124 and s125 of the Act.
5. Liaise with the New Zealand Fire Service when Council deems it appropriate, in accordance with s121 (2) of the Act which provides that:

“For the purpose of determining whether a building is dangerous in terms of s121 subsection (1) (b), a territorial authority-

(a) May seek advice from members of the New Zealand Fire Service who have been notified to the territorial authority by the Fire Service National Commander as being competent to give advice; and

(b) If the advice is sought, must have due regard to the advice.”

6. Where the building is a heritage building listed in Council’s District Plan or a building listed in the New Zealand Historic Places Register, the New Zealand Historic Places Trust shall also be advised and consulted.

If the building is found to be dangerous or insanitary but does not present an immediate risk the Council may:

7. Attach written notice to the building requiring work to be carried out on the building, within a time stated in the notice being not less than 10 days, to reduce or remove the danger.

8. Give copies of that notice to the building owner, occupier and every person who has an interest in the land, or is claiming an interest in the land, as well as the New Zealand Historic Places Trust, if the building is a registered heritage building.
9. Contact the owner at the expiry of the time period set down in the notice in order to gain access to the building to ascertain whether the notice has been complied with.
10. Where the danger is the result of non-consented building work the owner will formally be requested to provide an explanation as to how the work occurred and who carried it out and under whose instructions.
11. Pursue enforcement action under the Building Act 2004 and Health Act 1956 and recover actual and reasonable costs.

All owners have a right of objection as defined in the Act, which can include applying to the Department of Building and Housing for a determination under s 177(e) of the Act. However a formal objection process will be available whereby written objections may be lodged with the Council for a hearing and review by the Council or an appropriate Council Committee. Council will reserve the right to recover costs of this process from Objectors and/or Building Owners.

5.5 Interaction between this Policy and Related Sections of the Act

Section 41 of the Building Act 2004 provides for situations where, because of the urgency of the work to be done, it is not practical to apply for a building consent before the work is undertaken. In cases where a building is assessed as being immediately dangerous the Council may not require a building consent to be obtained for any building work considered to be immediately necessary to remove the danger. However, prior to any action being taken it is essential that building owners provide a written proposal of any proposed works to the Council for agreement on the matter.

5.6 Record Keeping

Any buildings identified as being dangerous or insanitary will have a requisition placed on the Council's records for the property on which the building is situated until the danger or insanitary condition is remedied.

In addition, the information will be placed on any Land Information Memorandum (LIMs) and will be available for public release in accordance with the provisions of Local Government Official Information and Meetings Act 1987.

6. **EARTHQUAKE-PRONE BUILDINGS POLICY**

6.1 Policy Approach

Because of the high to moderate seismic risk, with the alpine fault extending through the length of the District, Westland District Council has pursued a policy of encouraging the strengthening of earthquake-prone buildings through the building consent process and at times when alterations are being considered. It was clear during the review of the original policy that building owners took the opportunity of undertaking seismic upgrading work when other building work was carried out.

In developing this policy further the Westland District Council must balance the need to protect public health and safety against the economic implications of requiring significant remedial building work and the community's desire to protect heritage structures. In some instances, property owners have acted on their own accord and have carried out strengthening work.

Some buildings have also been strengthened in accordance with the requirements of Section 46 of the Building Act 1991 and as a result of the previous version of this policy.

In developing its approach to this policy, Westland District Council has to consider key issues of:

- Economic impacts of progressively strengthening building stock in anticipation of an earthquake that could damage the building stock.
- Economic impacts of NOT strengthening building stock and incurring the cost of repair / replacement all at the same time and at the same time that infrastructure may be damaged and require repair as the result of an earthquake.
- The level of risk to human life and safety which can be tolerated over both the short and long term if building strengthening is delayed.

In considering the key issues, the Council needs to achieve a balance between a number of conflicting issues and concerns:

- The safety of the public when an earthquake event occurs.
- The likelihood, severity and potential timing of a major earthquake and effects on different locations within the District.
- The economic impact on the District of a major earthquake.
- The relative age and condition of non-residential buildings within the District.
- The costs of undertaking a comprehensive review of potentially earthquake-prone buildings and the availability of funding for this work.
- The costs of planned and progressive strengthening of buildings versus the economic impact of catastrophic failures caused by an earthquake.
- The costs to building owners of undertaking various levels of strengthening work and the potential economic impact (including loss of businesses) to the District.
- The risk that buildings which are uneconomic to strengthen will be demolished and that the character of the built environment in Westland District will alter as a result.
- The potential loss of heritage buildings as the result of this process.
- The need for statutory compliance by Building Owners and the Council.

Westland District Council's Earthquake-Prone Building Policy needs to reflect Council's approach to reduce earthquake risk over time, but in a way that is acceptable to its ratepayers in terms of the key well-beings; - economic, social, environmental and cultural.

6.2 Identifying Earthquake-Prone Buildings

As part of the policy review process, a list of buildings in Westland considered to be "possible earthquake prone buildings" was compiled (acknowledged to be a desktop exercise and not an exhaustive list) and the Council has elected to liaise with the owners of those buildings about this policy.

The following criteria will now apply;-

1. When a Building Consent Application is received, or;

2. When a “Change the Use” occurs; or
3. When complaints are made or concern is received about the state of a building and the Council considers there are grounds for further investigation and assessment.

Notwithstanding the above, any building identified as earthquake-prone shall be modified to compliance with NBS within 10 years of the adoption of this policy.

4. When information is received by the Council that confirms a building subject to this policy is earthquake-prone.

6.2.1 Building Consent Applications

On receipt of an application for a Building Consent relating to alterations to an existing building involving an alteration greater than 30% of the existing building, the Council will require an assessment of structural strength of the entire building or parts of the building. Such an assessment will address whether or not the building could be earthquake-prone.

Where a Building Consent is applied for and a satisfactory assessment of structural strength of the building, or relevant parts of the building, has NOT been accepted by the Council, then a Building Consent will not be issued or progressed further, until the Council has been satisfied that the building currently meets the minimum requirements of this policy for structural strength, or will do so upon completion of the proposed works.

6.2.2 “Change the Use” Applications

All owners wishing to change the use of a building must advise the Council of their intentions and the Council must be satisfied that the requirements of section 115 of the Building Act 2004 can be met after the change of use has occurred.

Section 115 of the Act requires that, where the use of a building changes, and prior to issuing a code compliance certificate, the Council must be:

*“satisfied, on reasonable grounds, that the building, in its new use, will –
(i) comply, as nearly as is reasonably practicable and to the same extent as if it were a new building, with the provisions of the building code that relate to –*

(A) means of escape from fire, protection of other property, sanitary facilities, structural performance..."

6.2.3 Complaints

Potentially earthquake-prone buildings may also be identified as the result of complaints about a specific building or following investigations into complaints about dangerous or insanitary buildings.

6.2.4 Ten year period

Any building not subject to the criteria provided for in 6.2.1 – 6.2.3 (above) and identified as being earthquake-prone must be modified to the standard described in 6.3.2 within a period of 10 years.

6.2.5 Other information

Additionally, information is made available to the Council from time to time that indicates that particular buildings are (or could be) earthquake-prone. Such information will be used, where appropriate, to place buildings on the Earthquake-Prone Buildings Register.

6.3 Assessment and Strengthening Criteria

For practical purposes relating to this policy, Westland District Council will define earthquake-prone buildings as those that have ultimate strength less than 33% of the strength required under the earthquake loading standards for new buildings, (New Building Standard), with the exception of those buildings that have special strategic "Life Lines" importance to Westland District as set out in Section 6.3.2 of this policy.

The Council will require prior assessment and reporting by an appropriately qualified person or persons of the structural strength of a building, at the Building Owner's expense. Such assessment will be provided to the Council before a Building Consent is issued for any structural work on the building or parts of the building.

Where the building (or part of the building) is assessed as being potentially earthquake-prone the Council will require the building owner to undertake, the strengthening work detailed in the Structural Strength Assessment Report that has been accepted by the Council in conjunction with the work that prompted the need for the assessment.

Notwithstanding the above, if at any time a building poses a risk to persons or property due to the risk of partial or total collapse in an earthquake, then the Council

may declare the building dangerous and proceed in accordance with adopted policy in that regard.

6.3.1 Assessment Process, Criteria and Cost

Assessment of whether or not a building is earthquake-prone will be undertaken by an appropriately qualified person – i.e. a Chartered Professional Engineer with expertise in Earthquake Engineering and preferably recognised by the New Zealand Society of Earthquake Engineers. The Council anticipates that in the majority of occasions that the Building Owner will commission Structural Strength Assessment Reports on affected buildings. However the Council recognizes, that at times to fulfill its statutory obligations, some investigation and assessment may have to be commissioned by the Council and recovered from the Building Owner.

In addition to the more generic risks of the likely probability and magnitude of an earthquake affecting the building, assessments will take into account the following factors specific to the building and its site:

- Hazard – geographic proximity to an earthquake hazard/fault line.
- Vulnerability of site – building site conditions, especially with regard to liquefaction risk and soil types.
- Vulnerability of building – construction methods, materials, maintenance, current condition, height, design and loadings.
- Importance – of building and/or contents, e.g. strategic value of the building.
- Damage – risk of the building damaging neighbouring property.
- Exposure – the numbers of people using the building and frequency of use.

In all situations Building Owners will be required to fund 100% of costs incurred in assessment and strengthening of a building, including Objection Hearings Panel, Council staff, consultancy and legal costs, unless the Councils Funding Policy specifically contains provision for remission due to public benefit.

6.3.2 Strengthening Requirements

Westland District Council will use the New Zealand Society for Earthquake Engineering Recommendations as its preferred basis for defining technical requirements and criteria. These Recommendations are designed to be used in conjunction with AS/NZS 1170 Loadings Standard, NZS 3101 Concrete Structures Standard, NZS 3404 Steel Structures Standard and other materials Standards as well as NZS 3604:2011 Light Timber Frame Construction.

Where a building is formally identified as being earthquake-prone, the Westland District Council will apply the following strengthening criteria:

“A Buildings” with special post-disaster functions, “Life Lines” importance as defined in AS/NZS 1170.0: 2002, Importance Level 4, to be strengthened to a minimum of 67% of New Building Standard.

“B Buildings” that contain people in crowds or contents of high value to the community as defined in AS/NZS 1170.0: 2002, Importance Level 3, to be strengthened to a minimum of 34% of New Building Standard, with strengthening to 67% of New Building Standard to be strongly encouraged.

“C Heritage” buildings listed in Council’s District Plan Schedule, Marae and buildings listed in the New Zealand Historic Places Trust Register to be strengthened to a minimum of 34% of New Building Standard.

“C Heritage” buildings listed in Council’s District Plan Schedule, Marae and buildings listed in the New Zealand Historic Places Trust Register to be strengthened to a target of 67% of New Building Standard.

“D Buildings” with an Importance Level of less than 3 as defined in AS/NZS 1170.0: 2002 and identified as being earthquake-prone to be strengthened to a minimum of 34% of New Building Standard.

6.4 Liaison with Building Owners and Taking Action on Earthquake-Prone Buildings

Before exercising its powers under section 124, Westland District Council will seek to discuss options for remedial action with affected building owners to reach agreement on the best approach to deal with the danger. The building owner will then be required to submit a formal proposal to Council which confirms the works to be undertaken to strengthen the building, remove the danger or remove the building.

In the event that discussions do not result in a mutually acceptable proposal, Westland District Council may serve a formal notice on the building owner to

strengthen or demolish the building. A Building Consent will not be issued that could extend the building life or maintain/increase the level of danger to building occupants or neighbouring persons/buildings, unless the Building Consent also includes strengthening of the building/parts of the building, to the Councils' satisfaction.

Westland District Council will:

- i. Advise and liaise with the owners of buildings identified as earthquake-prone.
- ii. Encourage building owners to carry out an independent assessment of the structural performance of those buildings identified as earthquake-prone.
- iii. Serve formal notices on owners of earthquake-prone buildings in accordance with the building act 2004, requiring them to remove the danger.
- iv. Allow building owners to object to the classification of the building within 12 months of receipt of the notice.

6.5 Interaction Between Earthquake-Prone Building Policy and Related Sections of the Act

6.5.1 Section 112: Alterations to Existing Building

Whenever a building consent application is received for significant upgrading or alteration of a building that is or could be earthquake-prone, then, irrespective of the general priorities set by Westland District Council for dealing with earthquake-prone buildings, the Council will not issue a building consent unless it is satisfied that the building is not earthquake-prone and that the building work will not detrimentally affect the building's compliance with the Building Code. The obligation rests upon the Building Owner to show that the building is not of lesser levels of earthquake resistant strength than shown in this policy.

6.6 Recording a Building's Earthquake-Prone Status

Westland District Council will keep a register of all earthquake-prone buildings noting the status of requirements for improvement or the results of improvement as applicable.

In addition, the information will be placed on any Land Information Memorandum (LIMs) and will be available for public release in accordance with the provisions of

Local Government Official Information and Meetings Act 1987. The information will be available at the Council offices and via the LIM process.

7. **HERITAGE BUILDINGS**

Heritage buildings are those listed in Councils District Plan Schedule, Marae and buildings listed in the New Zealand Historic Places Trust Register. The Building Act 2004 recognises that special provision shall be made for such buildings. Westland District Council believes it is important that its heritage buildings have a good chance of surviving a major earthquake in order to retain these important connections to the District's history and unique character. However, Westland District Council does not wish to see the intrinsic heritage values of these buildings adversely affected by structural improvement measures.

Heritage buildings will be assessed in the same manner as other potentially dangerous, earthquake-prone or insanitary buildings and as per ss121-123 of the Act and discussions will be entered into with the owner and the New Zealand Historic Places Trust (pursuant to s125(2)(f) where the building is contained in their Register) to identify a mutually acceptable way forward which meets heritage objectives and Building Act requirements included in this Policy as near as is reasonably practicable in the circumstances.

Council will serve notices requiring upgrading or demolition or part demolition within specified timeframes, in consultation with building owners. A copy of any notice issued under s124 of the Act will be sent to the Historic Places Trust in the case of all heritage buildings. Any upgrading work must take into account the principles of the International Council on Monuments and sites (ICOMOS) NZ Charter, any advice from Council's heritage staff or other heritage professionals or organisations, where applicable and should be designed to involve minimal loss to heritage fabric.

In addition and in consultation with the building owner, an option exists to close part or parts of a heritage building until such time as an appropriate remedial solution can be found.

The Council accepts that Heritage Buildings may need to be subject to a program of strengthening to be undertaken over a designated timeframe in order to achieve either 67% or higher of the New Building Standard. Such a program would commence with a detailed assessment and concept plan for comprehensive strengthening that can be subject to a staged building consent process.

Waivers of modifications of the building code will be considered on a case by case basis and seismic strengthening methods that respect heritage values will be supported.

It is not expected that Council Funding of Structural Strength Assessments and Strengthening Works will occur. The Councils' Funding Policy will also be relevant to this matter.

Demolition is an option of last resort for heritage buildings.

8. **OBJECTIONS**

In the first instance, building owners or other directly affected parties who wish to object to a building being (or not being) declared dangerous, earthquake-prone or insanitary should record their objections in writing to the Council Chief Executive Officer who will undertake an investigation of the circumstances of the building and the reasons behind the Councils' decision on the matter and arrange for an appropriate Committee of Council to review the decision and if necessary to hear evidence from parties involved. The Committee decision will be provided by way of response to an objection.

Further legal remedies and application to the Department of Building and Housing for a Determination are also available to Building Owners.

The Council reserves the right to recover actual and reasonable costs incurred in conducting review and objection processes, in accordance with fees set from time to time.

Priority will be given to objections where the building has been declared to be of such as risk as to require immediate remedial action so that no undue delays are caused.

8.1 **Determinations**

Building owners and a variety of other interested parties can formally object to the Council's decision through the right to apply to the Chief Executive of the Department of Building and Housing for a determination. Determinations can be applied for concerning the Council's decisions to issue or not issue a consent or code compliance certificate, or to exercise its powers concerning dangerous, earthquake-prone or insanitary buildings. Sections 176 – 190 of the Building Act lay out the requirements for determinations.

9. **ECONOMIC IMPACT OF POLICY**

The economic impact of the dangerous and insanitary buildings section of this policy is assessed as being minor, since there are relatively few such issues each year.

The economic impact on the District of an earthquake involving the alpine fault is likely to be very substantial given the probability of a significant earthquake that is predicted to adversely affect building structures in the District. Given the high level of risk (in terms of

both severity and likelihood), it would seem reasonable for Westland District Council to pursue a much more proactive stance on earthquake-prone buildings. However, the Council is sensitive to issues such as the limited rating base and potential costs to Building Owners.

10. REVIEW

Pursuant to section 132 of the Building Act 2004 this policy is required to be reviewed by the Council every 5 years. Any amendment or replacement of the policy must be in accordance with the Local Government Act 2004 Special Consultative Procedure.

This policy was first adopted by the Westland District Council on Thursday 21 September 2006.

It was reviewed and amended in 2011 and was adopted on 25 August 2011 for the purposes of commencing the special consultative procedure pursuant to Section 132 of the Building Act 2004.

The Policy was adopted after amendments were made as a result of the special consultative procedure on 24 November 2011.

The policy is due for review by November 2016.

Report



DATE: 24 November 2016

TO: Mayor and Councillors

FROM: Group Manager: Corporate Services

COUNCIL CONTROLLED ORGANISATIONS DIRECTOR APPOINTMENT POLICY AMENDMENT

1 SUMMARY

- 1.1 The purpose of this report is for Council to review its Policy on Appointment and Remuneration of Directors of Council Organisations (COs) and Council Controlled Organisations (CCOs).
- 1.2 This issue arises because of Council's request that this be undertaken, and because an existing Board member has been elected to Council.
- 1.3 Council seeks to meet its obligations under the Local Government Act 2002 and the achievement of the District Vision adopted by Council as part of the Long Term Plan 2015-25. These are stated on Page 2 of this agenda.
- 1.4 This report concludes by recommending that Council retains the current policy and approves an interim period for which a departure from this policy continues due to the presence on the Board of one of its CCOs of a newly elected councillor.

2 BACKGROUND

- 2.1 Council undertook a review of its policy in 2015 and the current policy, attached as **Appendix 1** was adopted on 25 June 2015.
- 2.2 The reasons for this review was explained in a report to Council on 25 June 2015, attached as **Appendix 2**.
- 2.3 Comments received from the CCOs regarding the policy review in 2015 are attached as **Appendix 3**.

- 2.4 At this time a benchmarking exercise for directors' remuneration was also completed.
- 2.5 During the review period there was a vacant position on the Board of Westland Holdings Ltd for which no viable candidates could be identified and the former Mayor was installed on an interim basis. Another of the three directors had work commitments overseas and was compromised in their ability to fulfil their duties.
- 2.6 Following the adoption of this policy a successful recruitment process was undertaken to refresh the Board of Westland Holdings Ltd (WHL). Applications were received from 19 candidates for the positions and a refresh of the Board was effected in February 2016.

3 CURRENT SITUATION

- 3.1 The Board of WHL has updated the company's constitution to reflect Council's policy and this was adopted by Council on 29 September 2016. WHL is currently performing a recruitment process to fill vacant positions on the Boards of the subsidiary companies, under the guidance of Council's policy.
- 3.2 Following the local body elections in October 2016 Cr Havill, an existing Board member and former Chair of Westroads Ltd, was declared an elected member of Westland District Council. This has created a departure from Council's policy, which prescribes under Clause 5 that 'Elected members and Council staff may not stand for election of the CCO'.
- 3.3 Since Cr Havill is already a director, rather standing for election to the Board, it could be argued that technically there is no departure. Nevertheless, this situation is contrary to the spirit of the policy.
- 3.4 The constitution of Westroads Ltd does allow for one elected member to be a director. This is currently under review by WHL.

4 OPTIONS

- 4.1 Option 1: Adopt a revised policy
- 4.2 Option 2: Retain the policy and approve a temporary departure from policy until a suitable successor can be appointed at the next rotation.

5 SIGNIFICANCE AND ENGAGEMENT

- 5.1 The decision to adopt a policy on the appointment of directors to CCOs is administrative in nature and therefore is assessed as having a low level of significance.
- 5.2 Direct engagement with the Board of WHL was undertaken when the company's constitution was updated. Wider community engagement is not necessary.

6 ASSESSMENT OF OPTIONS (INCLUDING FINANCIAL IMPLICATIONS)

- 6.1 Option 1: Adopt a revised policy.
 - 6.1.1 Council may consider it appropriate for an elected member to hold a position on the Board of a CCO, and may wish to consider other revisions to the policy. It is advisable that Council continues to engage with the Board of WHL on such matters.
 - 6.1.2 Westroads Ltd is a commercial entity that regularly tenders for civil engineering and maintenance contracts in Westland on a competitive basis. Council should evaluate the potential for any conflicts of interest for Cr Havill and associated reputational risks for the group versus the beneficial knowledge and experience that the member offers to the company.
 - 6.1.3 The cost of reviewing and formulating the policy in 2015 was \$2,600. The information relied upon and contained in the reports is still relevant, so further costs are only likely if material changes are proposed.
- 6.2 Option 2: Retain the policy and approve a temporary departure from policy until a suitable successor can be appointed at the next rotation, *nominally at the company's Annual General Meeting in 2017*.
 - 6.2.1 The current policy was adopted by Council in 2015 following an extensive review that was preceded by a comprehensive examination of the structure of the group. The policy has already delivered benefit in the form of the more transparent and inclusive relationship that Council now has with its holding company and subsidiaries.
 - 6.2.2 Any material changes to policy may compromise the initiatives that WHL have in progress with regards to strategic direction and governance for the subsidiaries.
 - 6.2.3 Due to the circumstances that led to this situation and in the interests of continuity of governance it is sensible that Cr Havill remains in situ for the time being.

7 PREFERRED OPTIONS AND REASONS

- 7.1 The preferred option is 2: Retain the policy and approve a temporary departure from policy until a suitable successor can be appointed at the next rotation.
- 7.2 The current policy is relatively new and a period of stability would ensure that the positive direction initiated by WHL in 2016 continues.
- 7.3 Retaining the policy in its current form would protect both Council and its subsidiaries from exposure to sub optimal governance and retain clear objectivity in the oversight of an entity that, by virtue of Council's shareholding, exists to provide a return on investment for the benefit of the district.
- 7.4 There is no question that Cr Havill has made a key contribution the success of Westroads Ltd over the years. However, if the current situation persists he would find himself, as a continuing director, accountable to an entity (WHL) which is accountable to a shareholder (Council) of which he is a member.

8 RECOMMENDATIONS

- A) **THAT** Council retains the Policy on Appointment and Remuneration of Directors of Council Organisations (COs) and Council Controlled Organisations (CCOs)
- B) **THAT** Council instructs the Board of Westland Holdings Ltd to identify a suitable successor to Cr Havill to be appointed at the company's AGM in 2017.
- C) **THAT** Council acknowledges and endorses the temporary arrangement that is contrary to the intentions of its policy.

Gary Borg

Group Manager: Corporate Services

- Appendix 1:** Policy on Appointment and Remuneration of Directors of Council Organisations (COs) and Council Controlled Organisations (CCOs)
- Appendix 2:** Report to Council 25 June 2015
- Appendix 3:** Responses from CCOs to proposed policy 2015



POLICY ON APPOINTMENT AND REMUNERATION OF DIRECTORS OF COUNCIL ORGANISATIONS AND COUNCIL CONTROLLED ORGANISATIONS

Revised and Adopted by Council
25 June 2015

POLICY ON APPOINTMENT AND REMUNERATION OF DIRECTORS OF COUNCIL ORGANISATIONS AND COUNCIL CONTROLLED ORGANISATIONS

1. Introduction

Westland District Council either owns or has an interest in a number of Council Organisations (COs) and Council Controlled Organisations (CCOs).

Council Organisations (COs) are organisations in which one or more local authorities controls any proportion of the voting rights or right to appoint directors.

Westland's CO's are:

- Tourism West Coast
- West Coast Rural Fire Authority
- Westland Wilderness Trust

Council Controlled Organisations (CCOs) are best described as any organisation in which one or more local authorities control 50% or more of the voting rights or have the right to appoint 50% or more of the directors. Council Controlled Trading Organisations (CCTOs) are similar to CCOs except a CCTO has the objective of trading for profit.

In the rest of this document CCO is used to mean both CCO and CCTO.

CCO's within Westland are:

Westland Holdings Limited which holds 100% of the shares in:

- Westroads Ltd;
- Westland District Property Ltd; and
- Hokitika Airport Ltd.

The Local Government Act 2002 S(57) (2) states that Council may appoint a person to be a director of a Council Organisation only if it considers that the person has the skills, knowledge and experience to:

- guide the organisation given it's the nature and scope of its activities.
- contribute to the achievement of the objective of the organisation.

S(57) (1) of the Local Government Act 2002 requires a policy to be adopted setting out an objective and transparent process for the identification and consideration of the skills, knowledge and experience required of directors

of Council organisations, the appointing of directors and the remuneration to directors of a Council organisation.

2. Council Organisations (COs)

Council may appoint an elected representative or other nominated person as a director of a CO where requested by the organisation.

Council will consider the skills, knowledge and experience of the elected representative or nominated person to the activities and objectives of the organisation concerned.

These appointments are honorary appointments with no remuneration paid by Council. Remuneration can however be paid by the organisations themselves.

3. Council Controlled Organisations (CCOs)

It is considered that any person appointed to be a director of a CCO should, as a minimum, have the following skills:

- An understanding of governance and in the distinction in the roles and responsibilities of a director/trustee from that of management.
- Independence of thought and sound judgement in making balanced decisions.
- An intellectual ability and enquiring mind; demonstrated in ability formulate strategy and to test facts, options, benefits and risks when dealing with complex matters.
- A high level of personal integrity and candour.
- Commercial, technical or other experience and skill relevant to the activities of the organisation.
- The ability to work as a member of a team in an environment where dealing with differences of views is seen as an essential attribute of effectiveness.
- An understanding of the wider issues of a publicly accountable shareholder. In particular the ability to understand and find an optimal balance between meeting the public and private good objectives of the organisation.

4. Term of Appointment

Subject to any specific trust deed or constitution requirements, the initial term for a CCO director will be for a period of up to four years. Subject to a review of the director's performance at the end of each term, any provisions in the CCO trust deed or constitution, and a review of the needs of the CCO board in question, the typical tenure for a director will be eight years. This is to ensure that the board benefits from the knowledge and experience a director develops during their first term.

Following eight years of service on a board, and subject to any maximum term in the trust deed or constitution, there will be an option for further terms.

Following twelve years of service, and subject to any maximum term in the trust deed or constitution, a director may be re-appointed, but only in exceptional circumstances.

The rationale is that after eight to twelve years on the board, it is usually helpful to bring in fresh ideas and drive to the board. However, where an individual continues to display the necessary qualities to continue to take the entity forward, additional terms may be recommended at the discretion of the Executive Committee or Westland Holdings Ltd.

Where necessary, directors shall be appointed for terms of one to four years in order to avoid all the board members' terms becoming vacant at the same time. Where an appointment replaces an existing director, typically the appointment will be for the remainder of that director's term to maintain the effect of staggering expiry dates.

Any consideration of terms and reappointments should consider the question of succession and the need to balance fresh ideas with the need to maintain experience and institutional knowledge within the board.

Where possible, the appointment period will expire at the Annual General Meeting of the CCO to assist in the process of roll-overs and new appointments.

5. Appointment Process

When vacancies arise in any CO/CCO which Council directly controls, Council will identify a shortlist of candidates, who are considered to meet the above criteria, and will make a decision in a public excluded meeting in order to protect the privacy of these persons.

When canvassing for candidates for board appointments, Council or WHL shall:

- Take advice from the existing board on the needs of the board
- Make it publicly known that any interested and suited people can apply for possible selection.

Elected members and Council staff may not stand for election of the CCO.

Where a vacancy arises in organisations that are subsidiaries of WHL, the directors of WHL will be responsible for the appointment using a process that is consistent with this Policy. Council reserves the right to recommend suitable candidates and to veto any director appointment intended by WHL, if Council considers the appointment will not be in the best interests of achieving Council's vision and strategies. Council offers WHL the opportunity for Council to advertise the vacancy and conduct the administration of applications on behalf of WHL.

All candidates offered appointments shall first make themselves aware of the nature and circumstance of the business before taking up the

appointment, and Council will liaise with the organisation's board to give the appointee access to suitable information needed for the appointee to make an informed decision to take on the appointment.

Public announcement of the appointment will be made as soon as practicable after the Council has made its decision.

6. Conflicts of Interest

Westland District Council expects that directors of council organisations will avoid situations where their actions could give rise to a conflict of interest.

Council expects directors to follow the principles of the Institute of Directors in New Zealand INC (IOD) Conflicts of Interest, and Best Practice for New Zealand Directors Statements to minimise these situations.

In the case of any CCO, including Westland Holdings Limited or its subsidiaries, Hokitika Airport Limited, Westland District Property Limited and Westroads Limited, and any other subsidiaries of these subsidiaries, the director's remuneration, together with business transactions with businesses in which a director has an interest, may not exceed 10% of the annual gross revenue of the CCO without the prior approval of Council. Any director of a CCO may be dismissed for a breach of this requirement

Each CCO board of directors/trustees, including subsidiaries of holding companies, will adopt and keep current a board Code of Conduct that is in keeping with (IOD) recommended practice and consistent with Council's Code of Conduct.

7. Remuneration

Director's fee remuneration of Council Organisations is a matter of public interest.

Where Council or Westland Holdings Limited is the sole shareholder it will set directors fees either by resolution at the Annual General Meeting or review and approve fees on an annual basis (for those organisations that do not have an AGM). When approving the level of directors fees the following factors will be considered:

- The need to attract and retain appropriately qualified people to be directors of the CCO.
- Remuneration levels paid to comparable organisation.
- The objectives, nature and scale of the CCO.
- The past performance of the CCO.
- The financial situation of the CCO
- The responsibilities of the director, particular that of chair.

Where Council or Westland Holdings Limited cannot exercise direct control, such as in an organisation where it holds less than 50% of the shares, it can, if required, monitor salaries paid against the above factors and may

publicly disclose the name of any organisation which it considers is not complying with the above factors.

All directors will be entitled to claim reimbursement of necessary and prudently incurred expenses arising from the performance of their duties as a director. Where the CCO has a board policy on reimbursement it must be consistent with this requirement.

8. Holding Companies Consistency

Where Council holds 50% or more shares in a CCO holding company, where this company holds subsidiary companies, then for the holding company, each subsidiary and their subsidiaries, the policies set out here will be adopted by/be consistent with their policy and practice.



Report

DATE: 25 June 2015

TO: Mayor and Councillors

FROM: Chief Executive

POLICY ON APPOINTMENT AND REMUNERATION OF DIRECTORS OF COUNCIL ORGANISATIONS AND COUNCIL CONTROLLED ORGANISATIONS

1 SUMMARY

- 1.1 The purpose of this report is for Council to adopt a revised Policy on Appointment and Remuneration of Directors of Council Organisations (COs) and Council Controlled Organisations (CCOs).
- 1.2 This issue arises because it is good practise to review Director Appointment Policies periodically to ensure that they are meeting the needs of both Council as ultimate shareholder, and the CCOs themselves.
- 1.3 Council seeks to meet its obligations under the Local Government Act 2002 and the achievement of the District Vision adopted by the Council in September 2014, which will be set out in the next Long Term Plan 2015-25. These are stated on Page 2 of this agenda.
- 1.4 This report concludes by recommending that Council adopts the revised CCO Director Appointment and Remuneration Policy attached as **Appendix 1**.

2 BACKGROUND

- 2.1 Council has had a Director Appointment Policy in place for some time.
- 2.2 Section 57 of the Local Government Act requires the following be in place for CCOs:

s.57 Appointment of directors

(1) A local authority must adopt a policy that sets out an objective and transparent process for —

- (a) the identification and consideration of the skills, knowledge, and experience required of directors of a council organisation; and*
 - (b) the appointment of directors to a council organisation; and*
 - (c) the remuneration of directors of a council organisation.*
- (2) A local authority may appoint a person to be a director of a council organisation only if the person has, in the opinion of the local authority, the skills, knowledge, or experience to —*
- (a) guide the organisation, given the nature and scope of its activities; and*
 - (b) contribute to the achievement of the objectives of the organisation.*

- 2.3 In March 2015 Council held a workshop to review the current Director Appointment Policy, identify any changes it wanted and provide direction for a revised policy.

2 CURRENT SITUATION

- 2.1 Council identified the following issues in the current Director Appointment Policy:
- There was no finite term for Director appointments – directors could stay on the CCO boards indefinitely
 - Director remuneration was out of step with other similar CCO boards around the country
 - Elected members and Council staff should not be appointed to CCO boards
 - The skills for directors needed to be more clearly specified, particularly in regards to the governance role they are expected to perform.
- 3.2 With the above factors in mind the current policy was revised and a proposed draft policy was workshopped with Council on 25 May 2015. Two minor changes were made, and the draft is attached as **Appendix 1**.
- 3.3 It is worth noting that most of the current policy was retained. The enhancements were made using examples of good practise policies from other Councils with CCOs. The changes are highlighted in yellow in the attached draft policy.
- 3.4 The draft revised policy was sent to the Chair of Westland Holdings Ltd (WHL) for wider distribution to the subsidiary CCOs for their comment. This feedback has been received and is attached as **Appendix 2**.
- 3.5 The main feedback from the CCOs is around the proposed finite term of directors. The current directors are concerned that Council has not taken into consideration that Westland is a small and isolated community, and there is a small pool of people to draw from with the skills to be company directors. The other concern is that if Council (or WHL) were to use this policy, the entire

Westroads Board would be vacant, thus losing a huge amount of skills and knowledge.

- 3.6 The feedback from Westroads Ltd gives some examples from other Councils and also some suggestions of how rotation could be achieved to ensure the right mix of skills and experience is on the boards, without losing significant expertise built up by current directors.
- 3.7 An assumption that seems to have been made in the feedback received is that directors would largely come from the local community. The appointment of the current Chair of Westland District Property Ltd has demonstrated that there is interest from outside the district for these roles. If they are remunerated more in line with national benchmarks, the roles could attract a wider pool of candidates. Of course Council would have to balance this off against the benefits of having directors with local knowledge.

3 OPTIONS

- 3.1 The options available to Council are:
 - 3.1.1 Option 1: status quo – leave the existing policy in place
 - 3.1.2 Option 2: adopt the draft policy attached as **Appendix 1**
 - 3.1.3 Option 3: make changes to the draft policy and adopt an amended version

4 SIGNIFICANCE AND ENGAGEMENT

- 4.1 The decision to adopt a policy on the appointment of directors to CCOs is administrative in nature and therefore is assessed as having a low level of significance. However, Council's share in WHL is listed as a strategic asset in the Significance and Engagement Policy and therefore it is important to have a robust, transparent policy in place for appointment of directors to the CCOs.
- 4.2 There is also a high level of community interest in the CCOs, and in the CCO Review undertaken in 2014-15 and previous Annual Plan consultation processes submitters have suggested that Council update this policy.
- 5.3 Adopting a policy such as this one is administrative in nature and therefore wider community engagement is not necessary.
- 5.4 The draft policy was sent to the Chair of WHL and subsidiaries for comment and this feedback is attached as **Appendix 2**.

5 ASSESSMENT OF OPTIONS (INCLUDING FINANCIAL IMPLICATIONS)

- 5.1 Option 1 would mean that the current policy remains in place for now. This option is a legitimate option open to Council. Council has a policy in place that complies with the law. However, elected members have identified sections in the policy that they would like changes made, and this option would not address that.
- 5.2 Option 2 would see Council adopting the policy attached as Appendix 1. While this reflects the direction Council stated in the previous two workshops, feedback from the CCOs themselves has been received and should be considered.
- 5.3 Option 3 would see Council making some changes to the policy to reflect the feedback from the CCO directors. Most of the feedback from the CCOs is around the tenure and rotation of the CCO directors. Westroads Ltd have provided Council staff with examples of policies used by other Councils which may be worth considering.
- 5.4 Council staff have also examined the Wellington City Council policy and feel that the Clause below could be appropriate as it provides the flexibility required in the case where the individual continues to make the right level of contribution to the board to the ongoing benefit to the company but still upholds the principles of refreshment.

Term of Appointment

Subject to any specific trust deed or constitution requirements, the initial term for a CCO director will be for a period of up to three years. Subject to a review of the director's performance at the end of each term, any provisions in the CCO trust deed or constitution, and a review of the needs of the CCO board in question, the typical tenure for a director will be six years. This is to ensure that the board benefits from the knowledge and experience a director develops during their first term.

Following six years of service on a board, and subject to any maximum term in the trust deed or constitution, there will be an option for further terms if appointed as Chair or Deputy Chair of the CCO.

Following nine years of service, and subject to any maximum term in the trust deed or constitution, a director may be re-appointed, but only in exceptional circumstances.

The rationale is that after six to nine years on the board, it is usually helpful to bring in fresh ideas and drive to the board. However, where an individual continues to display the necessary qualities to continue to take the entity forward, additional terms may be recommended at the discretion of the Executive Committee or Westland Holdings Ltd.

Where necessary, directors shall be appointed for terms of one to three years in order to avoid all the board members' terms becoming vacant at the same time. Where an appointment replaces

an existing director, typically the appointment will be for the remainder of that director's term to maintain the effect of staggering expiry dates.

Any consideration of terms and reappointments should consider the question of succession and the need to balance fresh ideas with the need to maintain experience and institutional knowledge within the board.

Where possible, the appointment period will expire on 31 December to assist in the process of roll-overs and new appointments.

- 5.5 There are no financial implications associated with this decision. While the policy includes a section on director remuneration, this report is not recommending changes to that.

6 PREFERRED OPTION AND REASONS

- 6.1 The preferred option is Option 3. This retains the draft policy as directed by Council but includes more flexibility around the length of tenure by directors, and balances the need to bring fresh ideas to a board with the benefit of institutional knowledge.
- 6.2 Council may wish to expand the policy to place a requirement on CCO boards to demonstrate that they have succession plans in place for directors, and particularly the role of Chair.
- 6.3 Council may also wish to reinforce with WHL that periodic reviews of the performance of directors should be undertaken to ensure they are still fit to undertake the role.

7 RECOMMENDATION

- A) **THAT** the Policy on Appointment and Remuneration of Directors of Council Organisations and Council Controlled Organisations be adopted by Council with an amendment to section 4; Appointment Process as outlined in 6.4 above.

Tanya Winter
Chief Executive

Appendix 1: Draft Revised Policy on Appointment and Remuneration of Directors of Council Organisations and Council Controlled Organisations

Appendix 2: Feedback from CCOs

Diane Maitland

From: Graeme King <graeme.king@renton.co.nz>
Sent: Friday, 12 June 2015 2:14 p.m.
To: Tanya Winter
Subject: FW: WDC - Comment on directors appointment and remuneration
Attachments: CCO Policy Appointment of Directors to Council Controlled Organisations - Western Bay of Plenty.pdf; CCO Policy - Waitomo Policy on Appointment of Directors.pdf; Comment on the draft policy on the appointment and remuneration of directors of CCO.pdf; Council Controlled Organisations-Hamilton City Council Policy.pdf; 20150612130026460.pdf

Hi Tanya

Please find attached response from Westroads.

Linda from Airport writes as follows:

"The rotation and refreshment policy is of some concern to HAL. The turnover of directors say every 6 years does not leave a lot of experience and knowledge on the board at any one time, particularly when we are operating with such a small number. For us at the moment Les has served his maximum of three terms, I am into my third term, and Marcel is in his second term. While it is good to keep fresh ideas and perspectives in the mix, it might be detrimental to have such a prescriptive policy in place. What happens if there are no suitably qualified people available?"

Graeme (WDPL) didn't have any particular issue.

WHL hasn't met however from my point of view I re-iterate the sentiments of Westroads.

Hokitika hasn't got the luxury of having a large pool of suitable people with the ability to run these companies as council requires. Any policy that restricts the length of service of well capable persons is going to be detrimental in my view.

We are struggling presently to get the right people on board now as it is, and there is know easy solution insight.

The ultimate responsibility of WHL is to appoint directors to its CCO's, and this must remain the case.

Regards

Graeme

**Westroads Ltd****HOKITIKA BRANCH**

267 Kaniero Road, HOKITIKA, 7811

PH +64 (0)3 756 8044

FAX +64 (0)3 755 6734

EMAIL office@hokitika.westroads.co.nz

GREYMOUTH BRANCH

Flower St Ext, Blaketown, PO Box 488, GREYMOUTH, 7840

PH +64 (0)3 768 7042

FAX +64 (0)3 768 9888

EMAIL office@greymouth.westroads.co.nz

Comment on the draft policy on the appointment and remuneration of directors of CCO's prepared by Westroads Ltd.

Westroads Ltd has been a phenomenally successful company for the Westland District Council. Over its 20 year existence, its value has grown from \$1.4m to near \$7m this year, a 400% increase. It has also paid out more than \$9m in dividends. The directors are confident that this level of return wouldn't have been achieved without the input and the guidance of the current directors. Equally they believe there would be no chance of a return like this if the company had been rotating directors every four years like the draft policy proposes.

As an overall comment the policy appears to have been drafted for a larger population base than Westland District. The population and business community within Westland does not allow for a large pool of suitably qualified and experienced directors from which to pick replacement directors from.

Westroads Ltd has 4 directors

- Durham Havill (20 years' experience with Westroads, previous experience leading Council's and experience leading a large workforce with a large investment in equipment)
- Peter Cuff (20 years' experience with Westroads, more than 20 years' experience as a chartered accountant, focusing on growth of clients and experienced director both as a director and chair of other organisations.)
- Maurice (Jacko) Fahey (10 years' experience on the board and 10 years' experience as General Manager of the company. This practical experience has been invaluable to the current GM and other board members when it comes to tendering)
- Bryce Thomson (16 years' experience with Westroads, experienced business person and past councillor and hearings commissioner)

The draft policy would see all of these directors replaced over a short period of time. The wealth of knowledge and experience would be lost to Westroads.

The unenviable challenge for Westland Holdings would then be to find 4 directors with the experience, knowledge and skill of the current board, who also have Westland at heart. Although you can find directors out of district, many decisions are made for what is the betterment of Westland and using the director's personal local contacts to achieve favourable outcomes.

One of the biggest losses would be around pricing. Contracts themselves will span over this term and approving multi-million dollar tenders without the prior experience would be near suicidal. It would in effect make the GM's position unreplaceable as he would then be the only person in that organisation with the experience of the previous tender rounds. The GM leaving would then be a significant risk to the business.

Contrast this other policies

- Hamilton City Councils policy – attached which allows two full terms, plus reappointment after at least 1 term absence
- Waitomo District Councils policy which has no restriction on reappointment of existing directors
- Western Bay of Plenty District Council which allows reappointment subject to skills the incumbent brings to the board, the skills which the board needs and succession issues as well as length of tenure

The draft policy appears to be more extensive than required and more prescriptive. The result is likely that there will be compromises made in the quality of candidates to meet the objective of replacing current directors.

Compare this with the current policy, which has directors retiring on rotation and being reappointed subject to them being the best appointee. Perhaps work could be done around this process, but the process should require any new appointee to have equal or better skills and should also take account of how the company is performing.

In summary we submit that while much of the policy is appropriate, the rotation and refreshment policy needs to be substantially rewritten to suit a smaller community and taking into account the concerns we have raised above.

For the board

Durham Havill



Westroads Chairman

12 June 2015

Report



DATE: 24 November 2016

TO: Mayor and Councillors

FROM: Group Manager: Corporate Services

COUNCIL CONTROLLED ORGANISATIONS STRUCTURE

1 SUMMARY

- 1.1 The purpose of this report is for Council to determine a process for considering alternative structures for the Group of Council Controlled Organisations (CCOs).
- 1.2 This issue arises from a request from Council to investigate the suitability and effectiveness of the current structure and evaluate alternatives.
- 1.3 Council seeks to meet its obligations under the Local Government Act 2002 (LGA) and the achievement of the District Vision adopted by Council as part of the Long-term Plan (LTP) 2015-25. These are stated on Page 2 of this agenda.
- 1.4 This report concludes by recommending that Council retains the current group structure until adoption of the LTP 2018-28 and instructs the Board of WHL to report on a proposal to combine the Boards of HAL and WDPL.

2 BACKGROUND

- 2.1 In 2013 Council commenced a full review of the structure of the group of subsidiaries, culminating with a statement of proposal, attached as **Appendix 1**, that was subject to public consultation and presented to Council for adoption in February 2015.
- 2.2 The proposal was not adopted by Council and the group structure remained.
- 2.3 The total direct cost of this process from November 2013 to February 2015 was \$136,607.37

- 2.4 When Council reviewed its Policy on Appointment and Remuneration of Directors of Council Organisations (COs) and Council Controlled Organisations (CCOs) in June 2015 the Executive Committee also considered options for a restructure of the Boards. These are contained in a presentation attached as **Appendix 2**.
- 2.5 The Committee gave direction that a refresh of the Board of WHL should proceed after which the company would be expected to undertake a strategic review of the group.
- 2.6 The WHL Board was refreshed in February 2016. At the request of the Executive Committee their primary focus to date has been to ensure consistency of governance across the group and alignment of constitutions and Statements of Intent with Council's relevant policies and plans.

3 CURRENT SITUATION

- 3.1 Council has given direction that the following propositions be evaluated:
 - 3.1.1 Disestablishing Westland Holdings Ltd (WHL), and
 - 3.1.2 Merging Hokitika Airport Ltd (HAL) and Westland District Property Ltd (WDPL).
- 3.2 In its Annual Plan 2015-16 Council approved a management agreement and a fee of \$100,000 payable to WDPL in recognition of the community benefit and non-profit element of the activities that it carries out on Council's behalf.
- 3.3 HAL is one of only two airports in New Zealand that consistently returns a surplus and exceeded its target for this in 2016. In May 2016 Air New Zealand rationalised its flight schedule with fewer flights to Hokitika but using larger planes. Early reports from the airline are that passenger numbers have increased, although anecdotally there have been more cancelled flights. The impact on the results of HAL is yet to be assessed.
- 3.4 There is a long standing vacancy on the Board of WDPL.
- 3.5 In June 2016 the draft Local Government Amendment Act Amendment Bill (No 2): Better Local Services was published. The Bill proposes changes to legislation around how local infrastructure and services are provided, with potential consequences for how territorial authorities and CCOs are structured. This received a large number of submissions from the sector and the Minister has asked the Select Committee to extend the report back date for the Bill to 31 March 2017 to allow further discussions with the sector and to address the concerns raised in submissions.

- 3.6 Under LGA S17a Council is required to complete a review of the cost-effectiveness of current arrangements for meeting the needs of communities within its district or region for good-quality local infrastructure, local public services, and performance of regulatory functions by 30 June 2017. This review will evaluate the various options for service delivery models for key activities and thus will include the scope and remit of CCOs.
- 3.7 This review will naturally flow into Council's process for preparing its Long-Term Plan 2018-28.

4 OPTIONS

- 4.1 Option 1: Do nothing
- 4.2 Option 2: Commence a separate process to consult on the disestablishment of WHL
- 4.3 Option 3: Instruct WHL to commence a separate process to consult on the merging of HAL and WDPL.
- 4.4 Option 4: Retain the existing structure and instruct WHL to commence a separate process to consult on the establishment of a single Board of Directors for both WDPL and HAL.

5 SIGNIFICANCE AND ENGAGEMENT

- 5.1 All three of the entities are, or are accountable for some of Council's strategic assets.
- 5.2 There is an annual ratepayer contribution to the Hokitika Swimming Pool and the operations of WDPL amounting to \$325,000 and the group returns a contribution to Council in the order of \$500,000 each year. At 1.25% of rates the net inflow of \$175,000 is a material amount.
- 5.3 As at 30 June 2016 Council's debt was \$17.6 million of which \$8.295 million related to the formation of the group and Council's acquisition of its shareholding in WHL. While it is unlikely that this would be materially affected by the proposal there may be longer term considerations. The tax efficiency of the group could be affected and independent advice would be required on this.
- 5.4 This decision connects to Council's vision with regards to the delivery of sound policy and regulation and involving the community and stakeholders. As such the process that ensues is critical.

- 5.5 There is the potential for ratepayers, users of the Hokitika swimming pool, customers of the Hokitika Airport and residents of pensioner housing to be affected by this decision. The previous reviews indicate that there is a high degree of public interest in this matter.
- 5.6 As both WDPL and HAL operate activities that have particular land use implications Ngāi Tahu and Te Rūnanga o Makaawhio may have an indirect interest in this decision.
- 5.7 Any change to the structure is likely to be more difficult to reverse than to implement. In the year ended 30 June 2015 the business of Westroads (Greymouth) Ltd combined with Westroads Ltd. These were essentially identical entities and there were obvious synergies and commercial benefits to be realised. Nevertheless, this integration generated considerable operational and reporting challenges for a period of time. The changes to group structure that are now proposed are far more complex.
- 5.8 This matter is also covered by the provisions of LGA S97 which stipulates that certain decisions are to be taken only if provided for in a long-term plan:
 - 5.8.1 a decision to alter significantly the intended level of service provision for any significant activity undertaken by or on behalf of the local authority, including a decision to commence or cease any such activity
 - 5.8.2 a decision to transfer the ownership or control of a strategic asset to or from the local authority
- 5.9 Furthermore, S97(2) prescribes that a local authority must not make a decision to which this section relates unless:
 - 5.9.1 the decision is explicitly provided for in its long-term plan; and
 - 5.9.2 the proposal to provide for the decision was included in a consultation document
- 5.10 In view of the above this matter has been assessed as being of high significance, and would require public engagement and consultation through an LTP process. If conducted outside of a LTP planning cycle a variation to the current LTP would be required. This would need a Special Consultative Procedure under LGA S83 and audit.

6 ASSESSMENT OF OPTIONS (INCLUDING FINANCIAL IMPLICATIONS)

- 6.1 Option 1: Under this option the existing structure would remain in place until the S17a reviews and LTP 2018-28 consultations are completed. This option merely defers a decision until the matter can be thoroughly investigated

through a robust and legally compliant process. There may be an opportunity cost if savings are anticipated from any structural changes, although these would be largely eroded by the cost of performing an LTP amendment, including associated legal and audit costs if the process was brought forward.

- 6.2 Option 2: Should the ultimate decision after consultation be that WHL is to be disestablished the operating costs of the company, estimated at a baseline of \$75,000 per annum, would be avoided. In the short term this saving would be offset against the costs of running a separate consultation and LTP amendment. Although much of the information from the review undertaken in 2014/15 would still be relevant; fresh tax and legal advice would still be required.
- 6.3 Option 3: The business models for HAL and WDPL are very different. Each operates with distinct risks and legislative frameworks and prima facie it is difficult to identify any obvious operating synergies, beyond some administrative consolidation. Such a proposal would still require public consultation and an LTP amendment and the associated costs as with Option 2. It would be more appropriate to consider the scope of activities that these entities undertake, particularly WDPL, and how they are delivered as part of the imminent S17a review.
- 6.4 Option 4: This option would allow time for the initiatives that WHL are implementing to become effective and a better understanding of the potential of the group to be gleaned, and for Council to satisfy itself as to the extent to which the company fulfils its governance role and provides strategic benefit. As noted above it would be prudent to incorporate any structural reviews into the S17a and forthcoming LTP processes, with an emphasis on how core infrastructure and community activities can be most effectively and economically delivered. A review of the Board structures does not affect ownership or control nor any of the key areas of significance that a proposed merger would elicit.

7 PREFERRED OPTION AND REASONS

- 7.1 The preferred option is 4: Retain the existing structure and instruct WHL to commence a separate process to consult on the establishment of a single Board of Directors for both WDPL and HAL.
- 7.2 By June 2017 Council will have completed its S17a reviews and have begun its service level reviews for the LTP 2018-28. These processes would by definition include a reassessment of the purpose and structure of CCOs. Option 4 therefore avoids duplication.

- 7.3 In addition to the vacant board position at WDPL the two companies already have a director in common. WHL has recently completed a job sizing exercise for the CCO directorships and has commenced some recruitment activity for the vacant positions.

8 RECOMMENDATIONS

- A) **THAT** Council resolves to retain the existing structure of its group of CCOs until adoption of the LTP 2018-28.
- B) **THAT** through the Chief Executive, Council instructs the Board of WHL to report on a proposal to combine the Boards of HAL and WDPL

Gary Borg

Group Manager: Corporate Services

Appendix 1a: Report to Council Feb 15: CCO Review – Outcome of The Special Consultative Procedure

Appendix 1b: Feb 15 Final Proposal to Reorganise Westland Holdings Limited and Subsidiaries

Appendix 1c: Feb 15 Summary of Submissions on the Proposal to Reorganise Westland Holdings Limited and Subsidiaries

Appendix 2: Apr 15: Presentation - Review of Options for Board Structures

Report

WESTLAND
DISTRICT COUNCIL



DATE: 26 February 2015

TO: Mayor and Councillors

FROM: Chief Executive

CCO REVIEW – OUTCOME OF THE SPECIAL CONSULTATIVE PROCEDURE

1.0 SUMMARY

- 1.1 The purpose of this report is to adopt the final Proposal to reorganise Westland Holdings Ltd and subsidiaries.
- 1.2 This issue arises as a result of the review Council undertook in late 2013, which examined the structure of the Council Controlled Organisations (CCOs), and subsequent consultation process undertaken to receive community feedback on the Proposal.
- 1.3 Council seeks to meet its obligations under the Local Government Act 2002 and the achievement of the District Vision adopted by the Council in September 2014, which will be set out in the next Long Term Plan 2015-25. These are stated on Page 2 of this agenda.
- 1.4 This report concludes by recommending that Council adopts the final Proposal attached as **Appendix 1**.

2.0 BACKGROUND

- 2.1 In 2002, Council formed Westland Holdings Limited to consolidate its CCOs under one governance and reporting entity. This structure has developed over time and the current structural arrangement is shown on page 4 of **Appendix 1**.
- 2.2 In late 2013 Council commenced an independent review of the structure, governance and effectiveness of its CCOs, which include Westland Holdings Limited and its subsidiaries, Westland District Property Limited, Hokitika Airport Limited and Westroads Limited and its subsidiary Westroads

Greymouth Limited. The review was in part driven by community concern about Westland's CCO activities with a particular focus on Westland District Property Limited.

- 2.3 Findings of the independent review recommended changes to the way in which Council assets and services are managed and to the structure of Council's CCOs. The CCO structure that was proposed is shown on page 5 of **Appendix 1**.

3.0 CURRENT SITUATION

- 3.1 Based on the review, officers prepared a Statement of Proposal that proposed the following:
- Disestablish Westland District Property Limited
 - Disestablish Westland Holdings Limited
 - Transfer the management of community assets such as pensioner housing, Hokitika Swimming Pool and the Jackson Bay Wharf back in-house from Westland District Property Limited
 - Transfer property currently owned by Westland District Property Limited to Council
 - Retain Hokitika Airport Limited and Westroads Limited as its key operating CCOs, with the shares of each company held directly by Council
 - Further investigate amalgamating Westroads Limited subsidiary Westroads Greymouth Limited into its parent Westroads Limited.
- 3.2 At its meeting on 18 December 2014, Council adopted a Statement of Proposal to undertake a Special Consultative Procedure under the Local Government Act 2002.
- 3.3 Consultation commenced on Monday 5 January and concluded on Friday 30 January 2015 (20 working days), with the information actually made available on the Council website and at the Customer Service Centre and Westland District Library from Monday 22 December 2014.
- 3.4 A total of 16 written submissions were received with five submitters requesting to speak at a Hearing. A summary of main themes from submissions is attached as **Appendix 2**, along with officer comments next to each.
- 3.5 The Hearing was held on Tuesday 17 February 2015. After the last submitter had presented, Council provided feedback to the Chief Executive on any issues that came out of the submission process that required further

investigation in order for a decision to be made on 26 February. These issues are on pages 8-9 of **Appendix 2**.

3.6 Now that the Hearing is complete Council is required to make a decision.

4.0 OPTIONS

4.1 Option 1: adopt the Proposal as **Appendix 1**

4.2 Option 2: make amendments to the Proposal and adopt it

4.3 Option 3: do not adopt the Proposal

5.0 SIGNIFICANCE AND CONSULTATION

5.1 In accordance with Council's Policy on Significance the decision to disestablish Council's subsidiaries is deemed to be of high significance for the following reasons:

5.1.1 Council's ownership of Westland Holdings Ltd is listed as a strategic asset on page 276 of the 2012-22 Long Term Plan (LTP). Strategic assets are defined in Section 5 of the LGA and any proposal to make changes to a strategic asset is deemed to be significant.

5.1.2 Section 97 of the Local Government Act 2002 (LGA) identifies those decisions which can only be made if provided for in Council's LTP. This proposal is not in Council's current LTP, however any decision made to either:

(a) alter significantly the intended level of service provision for any significant activity undertaken by or on behalf of the local authority, including a decision to commence or cease any such activity; OR

(b) transfer the ownership or control of a strategic asset to or from the local authority;

requires either an amendment to the current LTP, or to be included in a new LTP. Council is not proposing to amend the current LTP, so this change will be included in the 2015-25 LTP.

5.1.3 This matter has generated high levels of public interest.

5.2 Council has just completed a Special Consultative Procedure. This process was advertised twice in the Hokitika Guardian, and on Council's website. Copies of the Statement of Proposal were available in hard copy from Council's Customer Service Centre and the Westland District Library. A public information evening was held on 21 January 2015 and attracted 20 attendees.

6.0 ASSESSMENT OF OPTIONS (INCLUDING FINANCIAL IMPLICATIONS)

- 6.1 Option 1 means the final Proposal is adopted exactly as it was presented in the consultation process. The advantage of this is that the Proposal reflects the direction Council has agreed on as a result of the CCO Review undertaken in early 2014. The disadvantages are there will be some one-off costs associated with this option. These are identified in **Appendix 2**. Submitters who opposed the Proposal may feel that their submissions were not taken into consideration. There would also be implications for directors and staff of the subsidiaries who are most affected by this change.
- 6.2 Option 2 means that Council would not be adopting the Proposal in its current form. In this option staff would need clear direction from Council on the concerns with the Proposal and any changes required. If extra information is required to enable a decision to be made this would need to be conveyed to staff and would delay any decision until the next Council meeting on 26 March 2015. This option has the advantage of providing Council with more time if required to further consider all options. The disadvantage is that the Long Term Plan deadlines require Council to provide its draft to Audit NZ in the first week of March 2015, thus placing timely completion of the Long Term Plan process at risk.
- 6.3 In Option 3 Council may decide to not adopt the Proposal, and retain the current CCO structure. If that is the case, staff would be seeking clarification on the rationale for that decision in order to convey that clearly to the community. The advantages of retaining the current structure are that further costs of implementing the CCO Review are avoided, and there is minimum disruption to staff and directors. Like Option 1, those submitters who supported the Proposal for change may feel that their submissions were not considered adequately.

7.0 PREFERRED OPTION AND REASONS

- 7.1 The preferred option is Option 1: adopt the Proposal as **Appendix 1**. Council commenced the CCO Review in late 2013. The outcomes of the Review were adopted in 2014 and Council put those recommendations out for public consultation through a Statement of Proposal in December 2014. The decision to adopt the Proposal in its current form is consistent with Council's wish to simplify the governance structure of its CCOs. Unless through the submission process, new information has come to light that has convinced Council to adopt another approach, it is recommended that the structure on page 5 of the final Proposal be implemented.

8.0 RECOMMENDATIONS

- A) **THAT** Council adopts the Proposal as attached as **Appendix 1**.
- B) **THAT** Council instructs the Chief Executive to undertake the required steps to implement the new CCO structure on page 5 of **Appendix 1**.
- C) **THAT** provision for the new CCO structure be included in Council's Long Term Plan 2015-25.

Tanya Winter
Chief Executive

Appendix 1: Final Proposal to Reorganise Westland Holdings Ltd and Subsidiaries

Appendix 2: Summary of Submissions on the Statement of Proposal to Reorganise Westland Holdings Ltd and Subsidiaries

**Final Proposal to
Reorganise
Westland Holdings Limited
and Subsidiaries**

26 February 2015

Summary

The proposal

Council is proposing to reorganise Westland Holdings Limited and its subsidiaries. Council is proposing to:

- Disestablish Westland District Property Limited.
- Disestablish Westland Holdings Limited.
- Transfer the management of community assets such as pensioner housing, Hokitika Swimming Pool and the Jackson Bay Wharf back in-house from Westland District Property Limited.
- Transfer property currently owned by Westland District Property Limited to Council.
- Retain Hokitika Airport Limited and Westroads Limited as its key operating CCOs, with the shares of each company held directly by Council.
- Further investigate amalgamating Westroads Limited subsidiary Westroads Greymouth Limited into its parent Westroads Limited.

Reason for the proposal

In late 2013 Westland District Council commenced an independent review of the structure, governance and effectiveness of its Council Controlled Organisations (CCOs)¹, which include Westland Holdings Limited and its subsidiaries, Westland District Property Limited, Hokitika Airport Limited, and Westroads Limited and its subsidiary Westroads Greymouth Limited. The review was in part driven by community concern about Westland's CCO activities with a particular focus on Westland District Property Limited

Findings of the independent review recommended changes to the way in which Council assets and services are managed and to the structure of Council's CCOs.

The proposed reorganisation of Westland Holdings Limited will allow Council to simplify the structure and governance of its operating entities, to establish a closer relationship between Council and its CCOs, and to focus more directly on core business.

Council has sought community views on the proposed reorganisation of Westland Holdings Limited and its subsidiaries.

Next steps and decision-making

After receiving submissions and hearing community views, Council will make a decision about whether to proceed with the proposal to: transfer the management of community assets back in-house, disestablish Westland District Property Limited, and disestablish Westland Holdings Limited.

Council's decision will take into account many matters, including the views of expressed by the community.

Key dates

18 th December 2014	Council adopts Statement of Proposal for consultation with community
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¹ The organisations considered in the review are technically classed as council controlled trading organisation (CCTOs), which are CCOs that trade to make a profit.

5 th January 2015	The proposal opens for community consultation
5-9 th January 2015	Information is published in a local newspaper to let the community know that the proposal is being consulted on
Mid-January 2015	A public information session will be held in the Council Offices in Hokitika
30 th January 2015	Public submissions on the proposal close at 4pm
Mid-February 2015	Hearings held by Council to hear those who wish to speak to their submissions
26 th February 2015	Council makes a decision whether to proceed with the proposal or not, or to proceed in an amended form

Proposal

Introduction

This proposal involves assets of Council which are listed as Strategic Assets in Council's current policy on significance. On this basis and because there has been substantial community interest in the activities undertaken by and the performance of Westland Holdings Limited and its subsidiaries, Council undertook a Special Consultative Procedure under the Local Government Act 2002. A Statement of Proposal was prepared in accordance with the requirements set out in sections 83 and 83AA of the Local Government Act 2002.

Council Vision

In September 2014 Council adopted a new strategic vision:

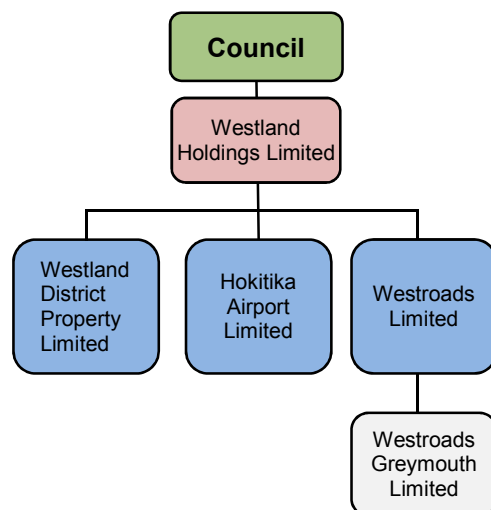
Westland District Council will facilitate the development of communities within its district through delivery of sound infrastructure, policy and regulation.

This will be achieved by:

- *Involving the community and stakeholders.*
- *Delivering core services that meet community expectations and demonstrate value and quality.*
- *Proudly promoting, protecting and leveraging our historic, environmental and natural resource base to enhance life style and opportunity for future generations.*

Background

In 2002, Westland District Council formed Westland Holdings Limited to consolidate its CCOs under one governance and reporting entity. This structure has developed over time and the current structural arrangement is shown in the diagram below.



In late 2013 Council commissioned an independent review of the structure, governance and effectiveness of its CCOs. The review included Westland Holdings Limited, Westland District Property Limited, Hokitika Airport Limited, and Westroads Limited and its subsidiary Westroads Greymouth Limited.

Review Approach

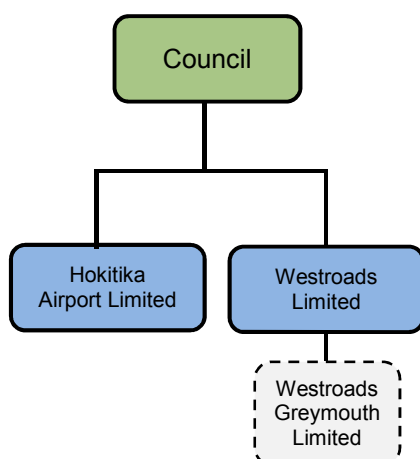
The review was informed by an analysis of key governance and reporting documents, such as the CCOs' constitutions and Statements of Intent, and the available Annual Reports of Council and the CCOs. The review was also informed by a survey of and targeted interviews with past and present elected members, senior staff and CCO Directors.

The review findings and potential options to improve the structure, governance and effectiveness of the CCOs, and the advantages and disadvantages of each option, were discussed with Councillors and senior council staff at a series of Council workshops. Following on from this, the findings of the review and recommended changes to the structure and governance of Council's CCOs were reported to Council at an ordinary Council meeting in January 2014.

The Proposal

Council is proposing to reorganise Westland Holdings Limited and its subsidiaries.

Proposed Structure



The Proposal

Council is proposing to:

- Disestablish Westland District Property Limited.
- Disestablish Westland Holdings Limited.
- Transfer the management of community assets such as pensioner housing, swimming pools and the Jackson Bay Wharf in-house, to be managed directly by Council.
- Transfer property currently owned by Westland District Property Limited to Council.
- Retain Hokitika Airport Limited and Westroads Limited as its key operating CCOs, with the shares of each company held directly by Council.
- Further investigate amalgamating Westroads Limited subsidiary Westroads Greymouth Limited into its parent Westroads Limited.

Reason for the proposal

An independent review of the structure, governance and effectiveness of Council's CCOs, including Westland Holdings Limited, Westland District Property Limited, Hokitika Airport Limited, and Westroads Limited and its subsidiary Westroads Greymouth Limited has been undertaken. The review was in part driven by community concern about Westland's CCO activities.

Findings of the independent review recommended changes to the way in which Council assets and services are managed and to the structure and governance of Council's CCOs.

The review found that the current structure of Council's CCOs is not optimal and is more complicated than it needs to be given the size and scope of what is being delivered. It also found that the current structure has inhibited a common understanding and appreciation of issues between Council as shareholder and the directors of Westland Holdings Limited's subsidiaries Westland District Property Limited, Hokitika Airport Limited, and Westroads

Limited and its subsidiary Westroads Greymouth Limited. This has led to a lack of awareness of the activities of or the risks being entered into by subsidiaries, particularly Westland District Property Limited.

Westland District Property Limited's involvement in property and other developments has exposed Council to the commercial risks associated with the property development market. Council has indicated that it no longer wishes to be actively involved in the property development sector, and on this basis there is no reason to continue to have a property development company.

While the management of community assets (such as the Hokitika Swimming Pool, pensioner housing and the Jackson's Bay Wharf), mining license royalties, properties on road reserves, and disposal of surplus land may benefit slightly from a commercial focus, the scale of activity is too small to justify a commercial company. Provided these activities are appropriately resourced, they can be effectively undertaken within Council and there is no material benefit from contracting this to Westland District Property Limited at commercial rates.

The performance of Hokitika Airport Limited has improved and the company is now making a small surplus. Given the strategic nature of the airport and its value to the Westland community, it is proposed that it should be retained as a commercial company and any profits reinvested in the future renewal and upgrading of airport assets.

Westroads Limited has proved to be a well performing maintenance and construction company engaged in roading, utilities and parks with significant third party revenue and is highly regarded in the community. However, the review found no compelling reason for Westroads Limited and Westroads Greymouth Limited to continue as separate entities. Given this, Council also intends to further investigate the advantages of amalgamating Westroads Greymouth Limited into its parent Westroads Limited.

When considering Council and Westland Holdings Limited balance sheets together, the restructure will have no material effect on the financial result. Westland District Council's balance sheet will show the current investment in shares in Holdings as now split into shares in Westroads Limited and Hokitika Airport Limited, with \$3m of assets and \$1m of associated debt transferred from Westland District Property Limited.

The cost of implementing the restructure is budgeted at \$100,000, and Council is aiming to complete the work within this budget. There may be additional costs associated with the transfer of assets and personnel into Council. These are unable to be quantified at this stage but are not expected to be material.

While the restructure is not driven by cost savings, Council does expect to make some ongoing savings in overheads, for example in directors' fees, audit costs, and reporting.

Alignment with Council's Vision

Council's new vision promotes a focus on the delivery of core services that meet community expectations and demonstrate value and quality. This proposal to reorganise Westland Holdings Limited and its subsidiaries allows Council to focus more directly on core business in alignment with Council's strategic direction.

Advantages of the proposed option

The advantages of the proposal are that:

- It simplifies the governance structure of Council's two key operating companies (Westroads Limited and Hokitika Airport Limited), provides for greater accountability between these operating companies and Council, and makes it easier for Council to fulfil its responsibilities as a Shareholder.
- It provides for a closer relationship and facilitates an understanding of important and strategic issues between Council as shareholder and its two key operating companies of Westroads Limited and Hokitika Airport Limited.
- It reduces Council's exposure to commercial risk of the property market and allows Council to focus more directly on the core business of infrastructure and community facilities provision.
- There is likely to be long term savings from the simplified structure in respect of directors' fees, audit costs and reporting.

Disadvantages of the proposed option

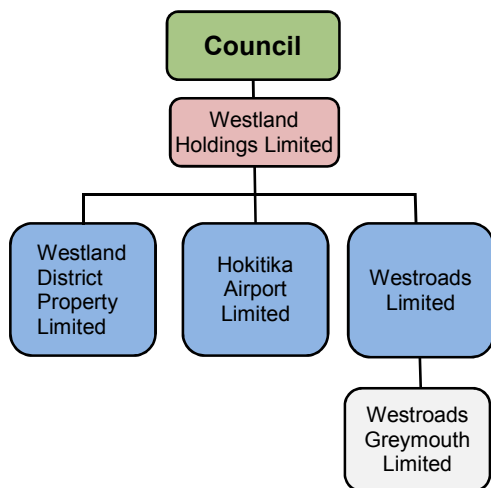
The disadvantages of the proposal are:

- There is a requirement to closely manage the process of the restructure.
- There will be some initial costs associated with the proposed restructure, as well as, in the longer-term, ongoing costs of employing staff to manage the property portfolio within Council.

Other options considered

Option A – Status Quo

Structure



Description

Under this option:

- Westland Holdings Limited would remain a wholly owned Council Controlled Trading Organisation of Westland District Council.
- Westland Holdings Limited continues to own Westland Property Limited, Hokitika Airport Limited and Westroads Limited.
- Westroads Limited continues to own Westroads Greymouth Limited.

The advantages are:

- There would be no need to change the structure.

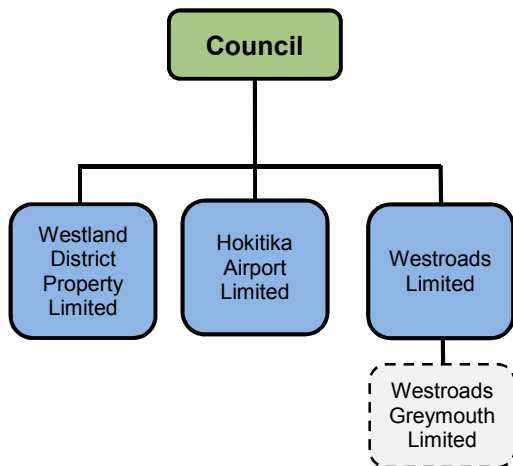
The disadvantages are:

- This option would not address issues identified in the review, such as the structure being more complicated than it needs to be given the size and scope of what is being delivered.

- The governance relationship between Council and its operating companies, Westland District Property Limited, Hokitika Airport Limited, and Westroads Limited and its subsidiary Westroads Greymouth Limited, would continue to be inhibited.
- Council would continue to be exposed to commercial risk of the property market and there would be no change in focus on Council's core business of infrastructure and community facilities provision.

Option B – Removal of Westland Holdings Limited

Structure



Description

Under this option Council would:

- Disestablish Westland Holdings Limited.
- Assume ownership and governance of
- Westland District Property Limited,
- Hokitika Airport Limited
- Westroads Limited.
- Further investigate amalgamating Westroads Limited subsidiary Westroads Greymouth Limited into its parent Westroads Limited.

The advantages are:

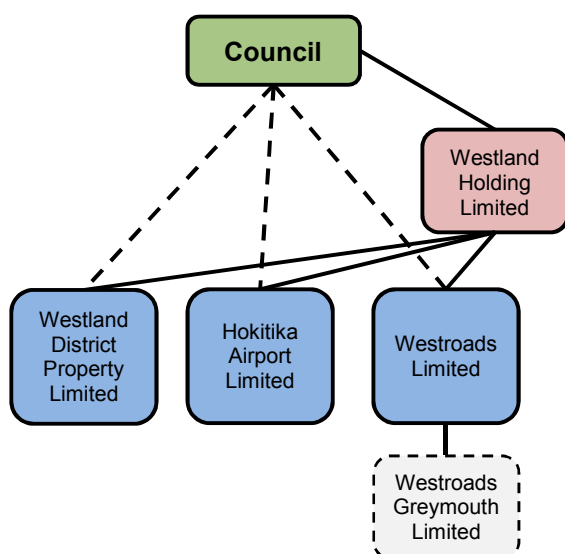
- It simplifies the governance structure of Council's operating entities, provides for greater clarity of accountability between the operating companies and Council, and makes it easier for Council to exercise its shareholder role.
- It provides for a closer relationship and understanding of important and strategic issues between Council as shareholder and its operating companies, Westroads Limited, Hokitika Airport Limited and Westland District Property Limited.
- There may be some slight savings resulting from the simplified structure in respect of directors' fees, audit costs and reporting.

The disadvantages are:

- Council would continue to be exposed to commercial risk of the property market, and there would be no change in focus on Council's core business of infrastructure and community facilities provision.
- There will be some costs associated with the proposed restructure.

Option C – Modified Status Quo

Structure



Description

This structure was considered to be a reasonable option only if it was necessary to retain Westland Holdings Limited for financial or other reasons. This has proved not to be the case. Under this option Council would:

- Retain Westland Holding Limited but amend its constitution to prescribe its primary role as ensuring the financial sustainability of its subsidiaries and that the strategic direction and statement of intent for all subsidiaries would be the responsibility of Council.
- Westland Holdings Limited would continue to own but Council would directly govern:
 - Westland District Property Limited
 - Hokitika Airport Limited
 - Westroads Limited.
- Further investigate amalgamating Westroads Limited subsidiary Westroads Greymouth Limited into its parent Westroads Limited.

The advantages are:

- This option would have been advantageous if there were compelling financial reasons for retaining Westland Holdings Limited. The review found no compelling financial reason for retaining Westland Holdings Limited.
- There would be some improvement in the governance relationship between Council and the operating subsidiary companies, but not to same extent as the proposed option.

The disadvantages are:

- The responsibilities and accountability of the directors of Westland Holdings Limited would be seriously compromised.
- Council would continue to be exposed to commercial risk of the property market, and there would be no change in focus on Council's core business of infrastructure and community facilities provision.

Summary of Submissions on the Proposal to Reorganise Westland Holdings Limited and Subsidiaries

	Number of Submissions	%
Received	16	100%
In Support	11	68.75%
Against	5	31.25%

	Theme	Matter raised	Comment
1	<i>Election of Board Directors</i>	<ul style="list-style-type: none"> Directors of the Company Boards should be elected not appointed Directors of the remaining Company Boards should be appointed by elected representatives who are accountable to their electorate 	<p>Best practice is for Directors to be appointed based on a set of required business and commercial skills and competencies that will ensure the Council Controlled Organisation (CCO) is successful.</p> <p>Selection should occur by Council through a process of public advertising, short listing, and assessment of candidates against the required commercial and business skills.</p>
2	<i>Focus on core services</i>	<ul style="list-style-type: none"> That Westland District Council (WDC) should focus on core services, including services such as pensioner housing and the pool 	Noted

	Theme	Matter raised	Comment
3	<i>Performance monitoring</i>	<ul style="list-style-type: none"> That, going forward, there is a need to ensure that the performance of the remaining CCOs is robustly monitored and that Councillors and ratepayers should be kept informed in an open, timely and transparent manner 	<p>Council is bound under the Local Government Act to regularly undertake performance monitoring of its CCOs to evaluate contribution to the achievement of:</p> <ul style="list-style-type: none"> the local authority's objectives for the organisation; and the desired results, as set out in the statement of intent; and the overall aims and outcomes of the local authority <p>Council has established a governance mechanism for this through the Executive Committee. The Group Manager: Corporate Services will be responsible for day to day operational matters in relation to the CCOs. It is noted that the CCO's statement of intent (SOI) is a public document and that the CCO is bound by the Act to provide an annual report that is available to the public.</p>
4	<i>CCO cost structure relative to returns</i>	<ul style="list-style-type: none"> Concern raised around the cost of the CCOs being high relative to the benefits and returns Conversely, some concerns that there is a lack of recognition that the benefits realised by the CCOs outweighs the cost of having them 	<p>Comments noted.</p> <p>Where a commercial and trading type of activity is to be undertaken (e.g. running an airport or contracting etc.) the use of a properly established commercial business structure with appropriately skilled directors will invariably produce better outcomes than such venture being undertaken within a public body.</p>

	Theme	Matter raised	Comment
5	<i>Arm's length decision making</i>	<ul style="list-style-type: none"> Concerns that without the property company and holding company in place, the efficiencies and revenues that have been gained from decision making being at arm's length from Council will be reversed Concern expressed that the transfer of asset ownership and management back to Council following the disestablishment of Westland District Property Limited (WDPL) would result in poor outcomes for ratepayers (e.g. levels of service may decline, the condition of properties may decline) That much progress has been made since WDPL was established – with levels of service and asset levels improved and net revenue generally improved. It is suggested that WDPL are now in a position to sustainably manage the portfolio of assets to the benefit of ratepayers and that disestablishing WDPL will result in lost momentum and may result in poor outcomes for ratepayers Conversely, it was suggested that decision-making will be as effective, and at a lesser cost, by removing these CCOs 	<p>It is acknowledged that the property company has improved performance in revenues and efficiency in managing Council's assets at a level above that previously achieved by Council.</p> <p>Council is very aware of the need to maintain and continue to improve performance in levels of service and the maintenance of key facilities and to continue to maintain the levels of revenues being generated from users.</p> <p>A particular focus of Council is establishing sustainable in-house capability with the appointment of skilled and accountable staff with appropriate delegations.</p> <p>Ensuring the functions continue to operate at the same level of service will be a Key Performance Indicator for the Chief Executive for 2015-16.</p>
6	<i>Lack of control</i>	<ul style="list-style-type: none"> Concern that the current CCO structure, with the holding company in situ, removes too much control and influence from elected members and that removing the holding company and retaining Westroads Limited (WRL) and Hokitika Airport Limited (HAL) as CCOs is a more appropriate structure 	Refer number 13..
7	<i>Tax implications</i>	<ul style="list-style-type: none"> Concern that the sale of WDPL properties to WDC will attract GST as an additional cost Concern that without the holding company in place tax effectiveness will not occur 	<p>Council's tax advisors have noted that:</p> <ul style="list-style-type: none"> sale of land between two GST registered entities will be zero rated or exempt for GST; and the most significant tax loss offset occurs between Council and WRL. The removal of WDPL and WHL will have no impact on the ability for these offsets to continue.

	Theme	Matter raised	Comment
8	<i>Impact on Council revenue</i>	<ul style="list-style-type: none"> A number of submitters note that WDPL is required to pay rates to Council on those properties which have been transferred to WDPL and that wrapping up WDPL will result in a reduction of rates revenue for WDC Council's implementation of cost recovery policies (e.g. to recover costs relating to commercial usage of the Jackson Bay Wharf) was not always effected. This resulted in arrears or shortfalls in revenue and there is some concern that this could again be the case following the disestablishment of WDPL and the transfer of asset ownership and management back to Council. This could have a negative impact on ratepayers 	<p>Any payment of rates by WDPL to Council is sourced from the general revenues received from WDPL's business activities. If these general revenues are still collected by Council following the transfer of WDPL activities to Council the net position is unchanged.</p> <p>Council is very aware of the need to maintain current or greater revenue flows from its assets including the Jackson Bay Wharf. Refer also to Item 5 above.</p>
9	<i>Impact of Council decision-making and Council process</i>	<ul style="list-style-type: none"> That decisions of Council have inhibited WDPL from performing its role or have resulted in cost to WDPL, for instance the decision by Council not to transfer the ownerships of assets to WDPL and a flawed management contract A number of submitters note that WDPL has been required to pay consent fees to Council, where applications have been made for land to be re-zoned or subdivided, without any certainty of outcome and with significant time and effort required to reach an outcome 	Noted
10	<i>Cost of re-organisation</i>	<ul style="list-style-type: none"> Concern that the full cost implications of bringing these activities back in house has not been quantified and that the level of resource required to undertake the activities within Council has not been quantified 	See item 19

	Theme	Matter raised	Comment
11	<i>Asset management and level of service</i>	<ul style="list-style-type: none"> In relation to those assets which WDC has transferred the ownership of or the management of to WDPL, recognition has not been given to these factors (of ownership and or management responsibility): <ul style="list-style-type: none"> the condition of the assets was generally poor, on transfer, and that condition of assets has improved significantly under the ownership and or management of WDPL the level and quality of service has improved since the ownership and or management of these assets has been transferred to WDPL that under the ownership and or management of WDPL net income, for property portfolios, has typically increased Concern that there has been no clear statement of the levels of service at which Council would deliver these activities. 	<p>It is acknowledged that the property company has improved the condition of assets, and levels of service and revenues in respect of managed assets.</p> <p>Council is very aware of the need to maintain and indeed improve performance in levels of service and the maintenance of key facilities; and to continue to maintain the levels of revenues being generated.</p> <p>Council has prepared dual budgets for the Long Term Plan 2015-25. One budget retains the status quo, the other has the functions of WDPL delivered in-house. Provision has been made for additional staff to manage this activity.</p>
12	<i>Asset Value</i>	<ul style="list-style-type: none"> A number of those assets for which ownership was transferred to WDPL were later found to be worth significantly less than the transferred value and some were unsaleable or unable to generate revenue 	Noted.

	Theme	Matter raised	Comment
13	<i>Shareholder relationships</i>	<ul style="list-style-type: none"> • That for some time there has been a lack of shareholder support for WDPL and that this inhibits WDPL • That a structural solution has been proposed when a number of the key issues relate to Council's governance role and shareholder responsibilities; and that these issues could be addressed through shareholder and governance mechanisms (such as the Statement of Intent). • It is also noted that some of the relative disadvantages of alternative options (e.g. Option C would somewhat improve the governance relationship, but not to the same extent as the proposed option) could also be addressed through good shareholder and governance mechanisms (such as the Statement of Intent) 	<p>Agreed that the relationships have been strained for some time.</p> <p>Going forward it is vitally important that the elected members have a clear understanding of the Council's shareholder role and that "control and influence" is exercised through the appropriate mechanisms such as the SOI and a letter of expectations to the directors. These deal with "big picture" matters. This should be supplemented by periodic meetings between the Council Committee responsible for Council's governance role and the directors. Such meetings should provide a greater level of mutual understanding that enhances supportive relationships. However running the business to meet the SOI performance targets <u>must</u> be left in the hands of the directors.</p>

	Theme	Matter raised	Comment
14	<i>Limited Liability</i>	<ul style="list-style-type: none"> Concern that the reorganisation will expose Council to additional liability – WHL is a limited liability company so affords Council some level of protection from liability for the activities undertaken by its subsidiaries 	<p>All of WHL's subsidiary companies WDPL, WRL and HAL are limited liability companies themselves. Council's exposure would be limited to the value of equity capital in a company and any unpaid loans to a company. This situation would be unchanged with the removal of WHL. Moreover the Council is prohibited by the Local Government Act from providing any guarantee, indemnity, or security to any of these companies at present due to their status as council controlled <u>trading</u> organisations.</p> <p>It is noted however that given the strategic and intrinsic value of the Hokitika Airport to the Westland community and economy Council is considering changing the status of HAL to a council controlled organisation (that does not have as its purpose the making of a profit). The effect of this would be that:</p> <ul style="list-style-type: none"> any trading surpluses would be invested back into the airport and not paid to Council shareholder as a dividend; and most importantly that Council would not be prohibited from providing guarantees and, should it choose to do so, is able to underwrite the performance of HAL to ensure the continued operations of the airport.
15	<i>CCO Purpose</i>	<ul style="list-style-type: none"> Concern that the rationale for the formation of WHL and WDPL was not taken into account in the review Concern that the rationale for the re-organisation is premised on WDPL being a property development company and that Council no longer wishes to actively be involved in property development. It is noted that WDPL has not engaged in property development and that this is not its primary function 	Noted, but Council is looking forward and structuring the CCO's to meet its current requirements.

Further Matters Arising from the Hearings

	Theme	Matter raised	Comment
16	<i>Taxation</i>	What are the taxation issues around removing Westland Holdings Limited (WHL)	<p>Refer Item 7 above</p> <p>Council's Tax advisors have commented as follows:</p> <p>The transfer of WDPL assets to Council will not give rise to any additional costs due to the imposition of GST. Importantly, the sale of land assets between two GST registered parties will typically be either zero-rated for GST purposes, or exempt from GST. Further, where any GST is charged by WDPL, this would be added to the sale price, and Council will be entitled to recover that GST as input tax. The result is that the imposition of GST, if any, on the transfer of WDPL assets to Council will not have any financial cost for either party. In short, this should be a GST neutral transaction.</p> <p>Tax loss offsets currently occur between all members of the Council Group (Council and its subsidiaries). However, the most significant tax loss offset, that we are aware of, occurs between Council and WRL. The removal of WDPL and WHL will have minimal impact on the ability for these offsets to continue.</p>
17	<i>Limited Liability</i>	What is the liability for Council in removing WHL	The exposure of the shareholder is limited to its equity investment in a limited liability company plus any unpaid loan advances made to the company.

18	Governance	What are the extra responsibilities elected members will take on once WHL is gone?	<p>The responsibilities of a shareholder in respect of its CCOs are set down in the Local Government and Companies Acts. With the removal of WHL these are essentially unchanged. Specifically relating to the former the Council must:</p> <ul style="list-style-type: none">• Regularly monitor the performance of its CCOs (refer to Item 3 above)• Approve the SOI for WRL and HAL (which previously was done by WHL)• Receive half yearly reports and the audited annual report of each CCO• Exercise its powers as set out in the companies' constitutions <p>Additionally there are best practice approaches to shareholder governance that Council will adopt. For example, this could be protocols around communication, and regular meetings with the CCOs.</p>																				
19	Cost	What is the full cost of implementing the proposal?	<table><tr><td>Summary of one-off costs</td><td>\$</td></tr><tr><td>Personnel related</td><td>100,000</td></tr><tr><td>Professional fees, legal and recruitment</td><td>80,000</td></tr><tr><td>Contingency</td><td>20,000</td></tr><tr><td>TOTAL</td><td>200,000</td></tr></table> <table><tr><td>Summary annual savings, external to WDC efficiency savings</td><td>\$</td></tr><tr><td>Director fees</td><td>50,000</td></tr><tr><td>WHL Audit fee</td><td>10,000</td></tr><tr><td>TOTAL</td><td>60,000</td></tr></table> <table><tr><td>Pay-back period</td><td>3 to 4 years</td></tr></table>	Summary of one-off costs	\$	Personnel related	100,000	Professional fees, legal and recruitment	80,000	Contingency	20,000	TOTAL	200,000	Summary annual savings, external to WDC efficiency savings	\$	Director fees	50,000	WHL Audit fee	10,000	TOTAL	60,000	Pay-back period	3 to 4 years
Summary of one-off costs	\$																						
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TOTAL	200,000																						
Summary annual savings, external to WDC efficiency savings	\$																						
Director fees	50,000																						
WHL Audit fee	10,000																						
TOTAL	60,000																						
Pay-back period	3 to 4 years																						
20	Levels of Service and Revenues	What assurance does Council have that the same levels of service and revenues will be delivered by an in-house property team?	Refer item 11 above.																				

Council's Group of Subsidiary Companies

Review of Options for Board Structures

April 2015

Introduction

- ❖ Council in March 2015 determined that it would retain all of its CCOs with continuation of services currently provided
- ❖ In so doing it wishes to consider the most appropriate makeup of the CCO boards of directors that will enhance the overall performance of the CCOs and relationships with Council and the community
- ❖ This high level review examines four options suggested by elected members and draws conclusions on which may be considered most appropriate
- ❖ The review concerns itself with each of the CCOs except WRGL which is assumed will be amalgamated into WRL in the short/medium term

Decision Criteria

- ❖ In evaluating the options the following criteria for success have been taken into account:
 - The skill and experience of directors align to the specific business of each CCO
 - The number of directors on the board gives an effective scale mix and diversity of views in decision making
 - Reporting and accountability of the subsidiary CCOs to WHL and thereby to Council is effective
 - Conflicts of interest and/or compromised accountability to the shareholder are minimised
 - The governance framework facilitates a sound understanding and communication between Council and the CCOs on direction and issues confronting either and resolution of these
 - The overall governance structure is cost efficient

Options Considered

The following board options are under consideration:

- A. The status quo
- B. One common set of directors on each board
- C. The WHL board is made up of the chairs of the subsidiary boards plus an independent chair
- D. WDPL and HAL share a common board
- E. Other options and issues

Option A – Status Quo

Outline of option:

- ❖ The current board arrangements per Companies Office are:
 - WHL – 3 directors including one elected member (traditionally the Mayor) (King, Teen, MT Havill)
 - HAL – 3 directors (Fekkes, Robinson, Singer)
 - WDPL – 2 directors (Purches, Singer)
 - WRL – 4 directors (Cuff, Fahey, DM Havill, Thomson)
- ❖ HAL and WDPL have a director in common

Option A – Status Quo Assessment

❖ Pros

- No change – business as usual and continuity maintained
- Allows each operating CCO board to be aligned with its business
- Council has undertaken director rotation to refresh focus and relationship
- Relatively cost efficient

❖ Cons

- Historic tensions and lack of mutual understanding between Council and CCOs
- Status quo could signal no (perceived or real) shift from past issues
- Operating company boards of 2 and 3 members risk lack of diversity and skill depth
- An elected member as a director can give rise to conflicts of interest risk

Option B – Common Board for all CCOs

Outline of option:

- ❖ This assumes a common board directors for each operating CCO and the same board for WHL
- ❖ Assumption is board would be 4 directors including a chair

Option B – Common Board for all CCOs Assessment

❖ Pros

- Potentially the most cost efficient
- Would give board good general understanding of all CCOs, particularly useful on WHL board
- Director roles will be substantial and challenging and potentially attractive to candidates
- Board size of all CCOs allows for more diversity

❖ Cons

- Risks distracting WRL board
- Risk that director skill profile is generalised and not aligned to the specific business of the CCO (e.g. skills and experience for governing an airport different to an infrastructure contractor)
- A conflict of interest for the WHL directors in performance oversight role of operating CCOs – accountability compromised
- Risk of 'group think' over time and of one or two forceful directors dominating thinking of whole CCO Group

Option C – WHL Board of Subsidiary Chairs

Outline of option:

- ❖ WDPL, HAL and WRL boards each comprised of 4 directors chosen for their business specific skills and experience
- ❖ The chairs of each CCO comprise the WHL board, together with an independent chair experienced in company governance

Option C – WHL Board of Subsidiary Chairs - Assessment

❖ Pros

- Allows each operating CCO board to have scale and be aligned with its business
- One member of the WHL board very knowledgeable of each subsidiary CCO, should enable quality decision making
- WHL 'group think' and lack of objectivity risk low as CCO representative has only 1 vote
- WHL diversity and accountability enhanced by independent chair
- WHL board mix is not overly weakened if any one conflicted member is abstaining

❖ Cons

- A risk that individual chair's competencies, while suited to their CCO chair role, might not give the best skill, experience and diversity mix in the performance oversight role required by a holding company (i.e. board members not objectively appointed as best suited to WHL governance needs)
- A risk remains for the WHL directors in their performance oversight role of operating CCOs that, together, they could be compromised by self interest
- Most costly option

Option D – Common HAL and WDPL Board

- ❖ Option is for common boards for HAL and WDPL and a separate board for WRL
- ❖ Assumes HAL and WDPL boards will increase in size to 4 directors

Option D – Common HAL and WDPL Board - Assessment

❖ Pros

- WRL board profile aligned to company's business
- HAL and WDPL could build on the synergies of both being in a service type industry with elements of property rental in each
- Cost neutral with status quo
- Potentially wider skill base and diversity available to each CCO vs. status quo
- Reduces diversity and scale risks in current HAL and WDPL boards being too small

❖ Cons

- The board profile may not completely match the nature of each on the HAL and WDPL businesses. e.g.
 - customer bases are somewhat different and range from highly commercial for HAL and a more community approach for WDPL)
 - Airports are highly regulated with rigorous compliance standards and inherently different from sustainably managing community services

Option E – Other Options and Issues

- ❖ Other options of value are variants of the 4 options considered; along these lines:
 - Option C (CCO chairs comprise WHL board + independent chair) could be combined with:
 - Option D (common boards for HAL and WDPL). This reduces the WHL board to 3 members from 4, which is not ideal from a mix and scale viewpoint, particularly where a director then abstains on a matter of conflict
 - Option A (status quo). This holds the WHL directors at the intended 4 but has increased risk that (with the present small HAL and WDPL boards) there is not the diversity on each operating CCO that the full Option D provides
 - A variant on status quo is for all subsidiaries to have at least 3 directors
- ❖ The need to actively invest in a governance framework that facilitates a sound understanding and communication between Council and the CCOs on direction and issues goes beyond board composition and hierarchical structures. Routine and candid meetings between the WHL board and Council's Executive Committee is paramount, as are robust SOI processes and content

Conclusions

- ❖ Option C (all CCO's have 4 directors and WHL comprised of CCO chairs + independent):
 - Appears to have most depth and chance of sustained success, with limited governance risk;
 - However, is potentially most expensive because of the number of directors and this needs to be weighed against the added value likely
- ❖ Option D (common boards for HAL and WDPL) has some potential benefit over status quo and can be done on a stand alone basis
- ❖ Option A (status quo) remains workable but it is preferable to have a minimum of 3 directors on each board
- ❖ Option B is not favoured. Given the diverse nature of the CCOs this option is seen as less effective and giving greater governance risk than either Option A or C



A word cloud of terms related to local government. The words are arranged in a cluster on the right side of the slide. The terms include: local government, procurement, alliance partnering, long term financial plan, asset management, waste management, governance, financial/feasibility modeling, economic development, and sustainability. The words are in various colors (dark blue, green, purple) and sizes, with 'local government' being the largest and 'long term financial plan' being the smallest.

local government
procurement
alliance partnering
long term financial plan
asset management
waste management
governance
financial/feasibility modeling
economic development
sustainability

Report



DATE: 24 November 2016

TO: Mayor and Councillors

FROM: Chief Executive

CODE OF CONDUCT

1.0 SUMMARY

- 1.1 The purpose of this report is to adopt a Code of Conduct for Council.
- 1.2 This issue arises from the requirements of the Local Government Act 2002 (LGA).
- 1.3 Council seeks to meet its obligations under the Local Government Act 2002 and the achievement of the District Vision adopted by Council as part of the Long Term Plan 2015-25. These are stated on Page 2 of this agenda.
- 1.4 This report concludes by recommending that Council adopt a Code of Conduct.

2.0 BACKGROUND

- 2.1 Council is required to have a Code of Conduct [cl.15 sch.7](#) of the LGA.
- 2.2 The LGA requires a Code of Conduct be adopted as soon as practicable after the commencement of the Act 2002.
- 2.3 Once adopted any amendments to Code of Conduct requires a 75% majority.

3.0 CURRENT SITUATION

- 3.1 While it is only required that a Council adopt a Code of Conduct once, and not renew it each triennium, it is recommend that this occur.
- 3.2 The Code of Conduct represents an agreement amongst elected members as to how they will behave towards one another, staff and members of the public.

- 3.3 While the LGA requires members to comply with the Code of Conduct a breach of the code is not a breach of the LGA.
- 3.4 Note: the chairperson has additional powers under standing orders (also on this agenda) should conduct at a meeting not meet expectations.
- 3.5 Experience has shown that allegations of breaches of codes of conduct often become time consuming, political and result in little consequence.
- 3.6 A copy of the current Code of Conduct is attached as **Appendix 1**. This was adopted by the previous Council in November 2013.
- 3.7 As a result of feedback from its membership, Local Government New Zealand (LGNZ) produced a template and guidelines for Codes of Conduct. These are attached as **Appendix 2** and **Appendix 3**.

4.0 OPTIONS

- 4.1 Adopt the Code of Conduct template as produced by LGNZ.
- 4.2 Amend and then adopt the LGNZ Code of Conduct.
- 4.3 Continue with the existing Code of Conduct.

5.0 SIGNIFICANCE AND ENGAGEMENT

- 5.1 The adoption of the Code of Conduct is administrative and therefore of low significance.
- 5.2 No engagement or consultation is required.

6.0 ASSESSMENT OF OPTIONS (INCLUDING FINANCIAL IMPLICATIONS)

- 6.1 While the Code of Conduct template produced by LGNZ has the same intent as Council's current Code of Conduct the following changes of note have been made:
 - 6.1.1 Amendments to some of the language
 - 6.1.2 References to legislation have been updated, eg. Health and Safety at Work Act
 - 6.1.3 Sections 2.2 to 2.4 of Council's current Code of Conduct are not included in the LGNZ template
 - 6.1.4 Section 4 "Compliance and Review" that deals with breaches of the Code of Conduct has been significantly amended in the LGNZ

template. This is in response to feedback from Councils who have used the Code of Conduct that it “has no teeth.”

6.1.5 Appendix B has been included in the LGNZ template so that the process for determination and investigation of complaints is clearer.

6.2 There are no financial implications in adopting the Code of Conduct.

6.3 Council can adopt the Code of Conduct as appended or amend it, with a 75% majority vote in favour.

6.4 Should Council fail to have a 75% majority vote in favour the existing Code of Conduct remains the code by which members must comply.

7.0 PREFERRED OPTION AND REASONS

7.1 The preferred option is that Council adopt the Code of Conduct template produced by LGNZ that has been updated for the current legislation and terminology, and also has clearer guidelines around the way breaches of the Code and complaints are managed.

8.0 RECOMMENDATION

A) **THAT** Council adopts the Code of Conduct template produced by Local Government New Zealand attached as **Appendix 2**.

Tanya Winter
Chief Executive

Appendix 1: Current Westland District Council Code of Conduct – adopted November 2013

Appendix 2: Local Government NZ Code of Conduct Template

Appendix 3: Local Government NZ Code of Conduct Guidelines



Code of Conduct

Adopted by Council –28.11.13

Ver. 2013.01

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CODE OF CONDUCT

PART 1: INTRODUCTION

Schedule 7 of the Local Government Act 2002 (the Act) requires each local authority to adopt a Code of Conduct. Once adopted, all elected members are required to comply with the code.

This Code of Conduct provides guidance on the standards of behaviour that are expected from the Mayor and elected members of the Westland District Council. The code applies to elected members in their dealings with:

- Each other.
- The Chief Executive.
- All staff employed by the Chief Executive on behalf of Council.
- The media.
- The general public.

The objective of the code is to enhance:

- The effectiveness of Council as the autonomous local authority with statutory responsibilities for the good local government of the Westland District.
- The credibility and accountability of Council within its community.
- Mutual trust, respect and tolerance between the elected members as a group and between the elected members and management.

This Code of Conduct seeks to achieve its objectives by recording:

- An agreed statement of roles and responsibilities (recorded in Part Two of the Code).
- Agreed general principles of conduct (recorded in Part Three of the Code).
- Specific codes of conduct applying to particular circumstances or matters (also recorded in Part Three of the Code).

Elected members are primarily accountable to the electors of the District through the

democratic process. However members must note that the Auditor-General may hold them to account for unlawful actions or expenditure or for breaches of the Local Authorities (Members' Interests) Act 1968.

The Code of Conduct that follows is based on the following general principles of good governance:

- **Public Interest** - Members should serve only the interests of the District as a whole and should never improperly confer an advantage or disadvantage on any one person.
- **Honesty and Integrity** - Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.
- **Objectivity** - Members should make decisions on merit including making appointments, awarding contracts, or recommending individuals for rewards or benefits. Elected members should also note that, once elected, their primary duty is to the interests of the entire District, not the ward that elected them.
- **Accountability** - Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should cooperate fully and honestly with the scrutiny appropriate to their particular office.
- **Openness** - Members should be as open as possible about their actions and those of the Council, and should be prepared to justify their actions.
- **Personal Judgment** - Members can and will take account of the views of others, but should reach their own conclusions on the issues before them, and act in accordance with those conclusions.
- **Respect for others** - Members should promote equality by not discriminating against any person and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation, or disability. They should respect the impartiality and integrity of the Council staff.
- **Duty to uphold the law** - Members should uphold the law, and on all occasions, act in accordance with the trust the public places in them.
- **Stewardship** - Members must ensure that the Council uses resources prudently and for lawful purposes, and that the Council maintains sufficient resources to meet its statutory obligations.
- **Leadership** - Members should promote and support these proposals by example, and should always endeavour to act in the best interests of the community.

PART 2: ROLES AND RESPONSIBILITIES

This part of the Code describes the roles and responsibilities of elected members, the additional roles of the Mayor and Deputy Mayor, and the role of the Chief Executive.

2.1 Elected Members

Elected members, acting as the Council, are responsible for:

- The development and adoption of Council policy.
- Monitoring the performance of the Council against its stated objectives and policies.
- Prudent stewardship of Council resources.
- Employment of the Chief Executive.
- Representing the interests of the residents and ratepayers of the Westland District Council. (On election, the members' first responsibility is to the District as a whole.)

Unless otherwise provided in the Local Government Act 2002 or in standing orders, the Council can only act by majority decisions at meetings. Each member has one vote. Any individual member (including the Mayor) has no authority to act on behalf of the Council unless the Council has expressly delegated such authority.

2.2 Mayor

The Mayor is elected by the District as a whole and as one of the elected members shares the same responsibilities as other members of Council. The Mayor also has the following roles:

- To provide leadership to other elected members and to the people of the Westland District.
- To lead the development of Council's plans, policies and budgets.
- To appoint the Deputy Mayor.
- To establish committees.
- To appoint chairperson to those committees.
- To be the presiding member at Council meetings. The Mayor is responsible for ensuring the orderly conduct of business during meetings (as determined in standing orders).
- To advocate on behalf of the community. This role may involve promoting

the community and representing its interests. Such advocacy will be most effective where it is carried out with the knowledge and support of Council.

- To be the ceremonial head of Council; and
- To be a Justice of the Peace (while the Mayor holds office).

The Mayor must follow the same rules as other elected members about making public statements and committing Council to a particular course of action, unless acting in accordance with the rules for media contact on behalf of Council under a delegation of authority from Council.

2.3 Deputy Mayor

The Deputy Mayor can be appointed by the Mayor or elected by the members of Council, at the first meeting of Council. The Deputy Mayor exercises the same roles as other elected members, and if the Mayor is absent or incapacitated, the Deputy Mayor must perform all of the responsibilities and duties, and may exercise the powers, of the Mayor (as summarised above). The Deputy Mayor may be removed from office by resolution of Council.

2.4 Committee Chairpersons

The Mayor may create one or more committees of Council and appoint chairpersons. A committee chairperson presides over all meetings of the committee, ensuring that the committee acts within the powers delegated by Council, and as set out in Council's *Delegations Manual*. Committee chairpersons may be called on to act as an official spokesperson on a particular issue. They may be removed from office by resolution of Council.

2.5 Chief Executive

The Chief Executive is appointed by Council in accordance with sections 42 of the Local Government Act 2002. The Chief Executive is responsible for implementing and managing Council's policies and objectives within the service levels and budgetary constraints established by Council. In terms of section 42 of the Act, the responsibilities of the Chief Executive are:

- Implementing the decisions of Council.
- Providing advice to Council.
- Ensuring that all responsibilities, duties and powers delegated to the Chief Executive or to any person employed by the Chief Executive, or imposed or

conferred by any Act, regulation or bylaw are properly performed or exercised.

- Managing the activities of the local authority effectively and efficiently.
- Maintaining systems to enable effective planning and accurate reporting of the financial and service performance of the local authority.
- Providing leadership for the staff of the local authority.
- Employing staff on behalf of the local authority (including negotiation of the terms of employment for the staff of the local authority).

Under section 42 of the Local Government Act 2002 the Chief Executive employs all other staff on behalf of the local authority.

PART 3: RELATIONSHIPS AND BEHAVIOURS

This part of the code sets out Council's agreed standards of behaviour. Some of the matters described in this part of the code reflect other legislation such as the Local Authorities (Members' Interests) Act 1968. The majority of the code is material that Council has decided to include of its own initiative.

3.1 Relationships with Other Members

Successful teamwork is a critical element in the success of any democratically elected organisation. No team will be effective unless mutual respect exists between members. With this in mind elected members will conduct their dealings with each other in ways that:

- Maintain public confidence in the office to which they have been elected.
- Are open and honest.
- Focus on issues rather than personalities.
- Avoid aggressive, offensive or abusive conduct.

3.2 Relationships with Staff

The effective performance of Council also requires a high level of cooperation and mutual respect between elected members and staff. To ensure that level of cooperation and trust is maintained, elected members will:

- Recognise that the Chief Executive is the employer (on behalf of Council) of all Council employees, and as such only the Chief Executive may hire, dismiss or

instruct or censure an employee.

- Make themselves aware of the obligations that Council and the Chief Executive have as employers and observe those requirements at all times.
- Treat all employees with courtesy and respect (including the avoidance of aggressive, offensive or abusive conduct towards employees).
- Observe any guidelines that the Chief Executive puts in place regarding contact with employees.
- Not do anything which compromises, or could be seen as compromising, the impartiality of an employee.
- Avoid publicly criticising any employee in any way, but especially in ways that reflect on the competence and integrity of the employee.
- Raise concerns about employees only with the Chief Executive, and concerns about the Chief Executive only with the Mayor or any committee responsible for assessing the Chief Executive's performance.

Elected members should be aware that failure to observe this portion of the Code of Conduct may compromise Council's obligations to act as a good employer and may expose Council to civil litigation and audit sanctions.

3.3 Relationships with the Community

Effective Council decision-making depends on productive relationships between elected members and the community at large.

Members should ensure that individual citizens are accorded respect in their dealings with Council, have their concerns listened to, and deliberated on in accordance with the requirements of the Act.

Members should act in a manner that encourages and values community involvement in local democracy.

3.4 Contact with the Media

The media plays an important part in local democracy. In order to fulfil this role the media needs access to accurate, timely information about the affairs of Council. From time to time, individual members will be approached to comment on a particular issue either on behalf of Council, or as an elected member in their own right. This part of the code deals with the rights and duties of Councillors when speaking to the media on behalf of Council, or in their own right.

The following rules apply for media contact *on behalf of Council*:

- The Mayor is the first point of contact for the official view on any issue. Where the Mayor is absent, any matters will be referred to the Deputy Mayor or relevant committee chairperson.

The Mayor may refer any matter to the relevant committee chairperson or to the Chief Executive for their comment.

- No other member may comment *on behalf of Council* without having first obtained the approval of the Mayor.

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

- Media comments must not state or imply that they represent the views of Council.
- Where an elected member is making a statement that is contrary to a Council decision or Council policy, the member must not state or imply that his or her statements represent a majority view.
- Media comments must observe the other requirements of the Code of Conduct, e.g. not disclose confidential information, or compromise the impartiality or integrity of staff.

3.5 Confidential Information

In the course of their duties members will occasionally receive information that may need to be treated as confidential. This will generally be information that is either commercially sensitive or is personal to a particular individual or organisation.

Elected members must not use or disclose confidential information for any purpose other than the purpose for which the information was supplied to the elected member.

Elected members should be aware that failure to observe these provisions will impede the performance of Council by inhibiting information flows and undermining public confidence in the Council. Failure to observe these provisions may also expose Council to prosecution under the Privacy Act 1993 and/or civil litigation.

3.5 Conflicts of Interest

Elected members must be careful that they maintain a clear separation between their personal interests and their duties as an elected member. This is to ensure that people who fill positions of authority carry on their duties free from bias (whether real or perceived). Members therefore need to familiarise themselves with the provisions of the Local Authorities (Members' Interests) Act 1968 which concerns financial interests, and with other legal requirements concerning non-financial conflicts of interest.

The Act provides that an elected member is disqualified from office, or from election to office, if that member is concerned or interested in contracts under which payments made by or on behalf of the local authority exceed \$25,000 in any financial year.

Additionally, elected members are prohibited from participating in any Council discussion or vote on any matter in which they have a pecuniary interest, other than an interest in common with the general public. The same rules also apply where the member's spouse contracts with the authority or has a pecuniary interest. Members must declare their interests at Council meetings where matters in which they have a pecuniary interest arise.

Members shall annually make a general declaration of interest as soon as practicable after becoming aware of any such interests. These declarations are recorded in a register of interests maintained by Council. The declaration must notify Council of the nature and extent of any interest, including:

- Any employment, trade or profession carried on by the member or the member's spouse for profit or gain.
- Any company, trust, partnership etc. for which the member or their spouse is a director, partner, trustee or beneficiary.
- The address of any land in which the member has a beneficial interest and which is in the Westland District Council.
- The address of any land where the landlord is the Westland District Council and:
 - the member or their spouse is a tenant, or
 - the land is tenanted by a firm in which the member or spouse is a partner, or a company of which the member or spouse is a director, or a trust of which the member or spouse is a trustee or beneficiary.
- Any other matters which the public might reasonably regard as likely to influence the member's actions during the course of their duties as a member.

If the member is in any doubt as to whether or not a particular course of action (including a decision to take no action) raises a conflict of interest, then the member should seek guidance from the Chief Executive *immediately*.

Members may also contact the Office of the Auditor General for guidance as to whether that member has a pecuniary interest. If there is a pecuniary interest, the member may seek an exemption to allow that member to participate or vote on a particular issue in which they may have a pecuniary interest. The latter must be done before the discussion or vote. The Chief Executive must also seek approval from the Office of the Auditor General for contractual payments to members, their spouses or their companies that exceed the \$25,000 annual limit.

Failure to observe the requirements of the Local Authorities (Members' Interests) Act 1968 could potentially invalidate the particular decision made, or the action taken, by Council. Failure to observe these requirements could also leave the elected member open to prosecution under the Local Authorities (Members' Interests) Act 1968. In the event of a conviction elected members can be ousted from office.

3.6 Standing Orders

Elected members must adhere to any standing orders adopted by Council. These standing orders are subject to the same legal requirements as a Code of Conduct with regard to their adoption and amendment.

3.7 Ethics

Westland District Council seeks to promote the highest standards of ethical conduct amongst its elected members. Accordingly, elected members will:

- Claim only for legitimate expenses as laid down by any determination of the Remuneration Authority then in force, and any lawful policy of Council developed in accordance with that determination.
- Not influence, or attempt to influence, any Council employee to take actions that may benefit the member, or the member's family or business interests.
- Not use Council resources for personal business (including campaigning).
- Not solicit, demand, or request any gift, reward or benefit by virtue of their position notify the Chief Executive if any gifts are accepted.
- Where a gift to the value of \$100 or more is offered to a member, immediately disclose this to the Chief Executive for inclusion in the publicly available register of interests.

3.8 Disqualification of Members from Office

Elected members are automatically disqualified from office if they are convicted of a criminal offence punishable by two or more years imprisonment, or if they cease to be or lose their status as an elector or of certain breaches of the Local Authorities (Members' Interests) Act 1968.

Under the Local Government Act 2002, local authorities, when adopting a Code of Conduct, must consider whether or not they will require members to declare whether they are an undischarged bankrupt. This Council believes that bankruptcy does raise questions about the soundness of a person's financial management skills and their judgment in general. Council therefore requires elected members who are declared bankrupt to notify the Chief Executive as soon as practicable after being declared bankrupt.

PART 4: COMPLIANCE AND REVIEW

This part deals with ensuring that elected members adhere to the Code of Conduct and mechanisms for the review of the Code of Conduct.

4.1 Compliance

Elected members must note that they are bound to comply with the provisions of this Code of Conduct (Local Government Act 2002, Schedule 7, section 15(4)).

Members are also bound by the Local Government Act 2002, the Local Authorities (Members' Interests) Act 1968, the Local Government Official Information and Meetings Act 1987, the Secret Commissions Act 1910, the Crimes Act 1961 and the Securities Act 1978. The Chief Executive will ensure that an explanation of these Acts is made at the first meeting after each triennial election and that copies of these Acts are freely available to elected members. Short explanations of the obligations that each of these has with respect to conduct of elected members is attached in the Appendix to this code.

All alleged breaches of the code will be reported to the Mayor and Chief Executive. Any allegation of a breach of a Code of Conduct must be in writing, make a specific allegation of a breach of the Code of Conduct, and provide corroborating evidence.

The Chief Executive will investigate the alleged breach and prepare a report for the consideration of Council.

Council will consider the report in open meeting of Council, except where the alleged breach relates to the misuse of confidential information or could impinge on the privacy of a member of staff or of the general public.

4.2 Responses to Breaches of the Code

The exact nature of the action Council may take depends on the nature of the breach and whether there are statutory provisions dealing with the breach.

Where there are statutory provisions:

- Breaches relating to members' interests render members liable for prosecution by the Auditor-General under the Local Authority (Member's Interests) Act 1968.
- Breaches which result in Council suffering financial loss or damage may be reported on by the Auditor-General under the Local Government Act 2002, which may result in the member having to make good the loss or damage.
- Breaches relating to the commission of a criminal offence may leave the elected member liable for criminal prosecution.

In these cases Council may refer an issue to the relevant body, any member of the public may make a complaint, or the body itself may take action of its own initiative.

Where there are no statutory provisions, Council may take the following action:

- Censure.
- Removal of the elected member from Council committees and/or other representative type bodies.
- Removal of the elected member from a position as Deputy Mayor or Chair of a committee.

A decision to apply one or more of these actions requires a Council resolution to that effect.

4.3 Review

Once adopted, a Code of Conduct continues in force until amended by Council. The code can be amended at any time but cannot be revoked unless the Council replaces it with another code. Once adopted, amendments to the code of the conduct require a resolution supported by 75% or more of the members of Council present.

Council will formally review the code as soon as practicable after the beginning of each triennium. The results of that review will be presented to Council for their consideration and vote.

APPENDIX TO THE CODE: LEGISLATION BEARING ON THE ROLE AND CONDUCT OF ELECTED MEMBERS

This is a summary of the legislation requirements that has some bearing on the duties and conduct of elected members. Copies of these statutes can be found on-line www.legislation.govt.nz .

1. Local Authority (Members' Interests) Act 1968

This Act regulates situations where a members' personal interests impinge, or could be seen as impinging on their duties as an elected member.

The Act provides that an elected member is disqualified from office if that member is concerned or interested in contracts under which payments made by or on behalf of the local authority exceed \$25,000 in any financial year.

Additionally, elected members are prohibited from participating in any Council discussion or voting on any matter in which they have a pecuniary interest, other than an interest in common with the general public. The same rules also apply where the member's spouse contracts with the authority or has a pecuniary interest.

Members may also contact the Office of the Auditor General for guidance as to whether that member has a pecuniary interest, and if so, may seek an exemption to allow that member to participate or vote on a particular issue in which they may have a pecuniary interest. The latter must be done before the discussion or vote. The Chief Executive must also seek approval from the Office of the Auditor General for contractual payments to members, their spouses or their companies that exceed the \$25,000 annual limit.

Failure to observe these requirements could also leave the elected member open to prosecution under the Local Authority (Members' Interests) Act 1968. In the event of a conviction elected members can be ousted from office.

2. Local Government Official Information and Meetings Act 1987

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

- create a disturbance or a distraction while another Councillor is speaking

- be disrespectful when they refer to each other or other people
- use offensive language about the Council, other Councillors, any employee of the Council or any member of the public.

3. Secret Commissions Act 1910

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

If convicted of any offence under this Act a person can be imprisoned for up to 2 years, or fines up to \$1,000, or both. A conviction therefore would trigger the ouster provisions of the Local Government Act 2002 and result in the removal of the member from office.

4. Crimes Act 1961

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

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

These offences are punishable by a term of imprisonment of 7 years or more. Elected members convicted of these offences will also be automatically ousted from office.

5. Securities Act 1978

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

(Name of City, District, Regional Council)

Code of Conduct

Adopted on the

1. Introduction

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

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

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

2. Scope

The Code has been adopted in accordance with clause 16 of Schedule 7 of the Local Government Act 2002 (LGA 2002) and applies to all members, including the members of any local boards as well as the members of any community boards that have agreed to adopt it. The Code is designed to deal with the behaviour of members towards:

- each other;
- the chief executive and staff;
- the media; and
- the general public.

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

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

3. Values

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

1. **Public interest:** members will serve the best interests of the people within their community, district or region and discharge their duties conscientiously, to the best of their ability.
2. **Public trust:** members, in order to foster community confidence and trust in their Council, will work together constructively and uphold the values of honesty, integrity, accountability and transparency.
3. **Ethical behaviour:** members will not place themselves in situations where their honesty and integrity may be questioned, will not behave improperly and will avoid the appearance of any such behavior.
4. **Objectivity:** members will make decisions on merit; including appointments, awarding contracts, and recommending individuals for rewards or benefits.
5. **Respect for others:** will treat people, including other members, with respect and courtesy, regardless of their race, age, religion, gender, sexual orientation, or disability. Members will respect the impartiality and integrity of officials.
6. **Duty to uphold the law:** members will comply with all legislative requirements applying to their role, abide by this Code of Conduct, and act in accordance with the trust placed in them by the public.
7. **Equitable contribution:** members will take all reasonable steps to ensure they fulfil the duties and responsibilities of office, including attending meetings and workshops, preparing for meetings, attending civic events, and participating in relevant training seminars.
8. **Leadership:** members will actively promote and support these principles and ensure they are reflected in the way in which the Council operates, including a regular review and assessment of the Council's collective performance.

These values complement, and work in conjunction with, the principles of s.14 of the LGA 2002 and the governance principles of s.39 of the LGA 2002.

4. Role and responsibilities

Good governance requires clarity of roles and respect between those charged with responsibility for the leadership of the council and those responsible for advice and the implementation of council decisions. The key roles are:

4.1 Members

The role of the governing body includes:

- representing the interests of the people of the city, district or region;
- developing and adopting plans, policies and budgets;
- monitoring the performance of the council against stated goals and objectives set out in its long term plan;
- providing prudent stewardship of the council's resources;
- employing and monitoring the performance of the chief executive; and
- ensuring the council fulfils its responsibilities to be a 'good employer' and meets the requirements of the Health and Safety at Work Act 2015.

4.2 Chief executive

The role of the chief executive includes:

- implementing the decisions of the council;
- ensuring that all responsibilities delegated to the chief executive are properly performed or exercised;
- ensuring the effective and efficient management of the activities of the local authority;
- maintaining systems to enable effective planning and accurate reporting of the financial and service performance of the local authority;
- providing leadership for the staff of the council; and
- employing staff on behalf of the council (including negotiation of the terms of employment for those staff).

Under s.42 of the LGA 2002 the chief executive is the only person *directly* employed by the council itself. All concerns about the performance of an individual member of staff must, in the first instance, be referred to the chief executive.

5. Relationships

This section of the Code sets out agreed standards of behaviour between members; members and staff; and members and the public.

5.1 Relationships between members

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

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

Any failure by members to act in the manner described in s.5.1 represents a breach of this Code.

Please note that nothing in this section of the Code is intended to limit robust debate within the council as long as it is conducted in a respectful and insightful manner.

5.2 Relationships with staff

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

- raise any concerns about employees, officers or contracted officials with the chief executive;
- raise any concerns about the performance or behaviour of the chief executive with the mayor/chair or the chairperson of the chief executive performance review committee (however described);
- make themselves aware of the obligations that the council and the chief executive have as employers and observe those requirements at all times, such as the duty to be a good employer;
- treat all employees with courtesy and respect and avoid publicly criticising any employee;
- observe any protocols put in place by the chief executive concerning contact between members and employees;

- avoid doing anything which might compromise, or could be seen as compromising, the impartiality of an employee.

Any failure by members to act in the manner described above represents a breach of this Code.

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

5.3 Relationship with the public

Given that the performance of the council requires the trust and respect of individual citizens, members will:

- interact with members of the public in a fair, respectful, equitable and honest manner;
- be available to listen and respond openly and honestly to community concerns;
- consider all points of view or interests when participating in debate and making decisions;
- treat members of the public in a courteous manner; and
- act in a way that upholds the reputation of the local authority.

Any failure by members to act in the manner described above represents a breach of this Code.

6. Contact with the media

The media play an important part in the operation and efficacy of local democracy. In order to fulfil this role the media needs access to accurate and timely information about the affairs of council.

From time to time individual members will be approached to comment on a particular issue either on behalf of the council, or as an elected member in their own right. When responding to the media members must be mindful that operational questions should be referred to the chief executive and policy-related questions referred to the mayor or the member with the appropriate delegated authority.

When speaking to the media more generally members will abide by the following provisions:

6.1 Media contact on behalf of the council

- the mayor or chairperson is the first point of contact for an official view on any issue, unless delegations state otherwise. Where the mayor/chair is absent requests for comment will be referred to the deputy mayor/chair or relevant committee chairperson or portfolio holder;
- the mayor/chair may refer any matter to the relevant committee chairperson or to the chief executive for their comment; and
- no other member may comment *on behalf of the council* without having first obtained the approval of the mayor/chair.

6.2 Media comment on a member's own behalf

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

- media comments must not state or imply that they represent the views of the council;
- media comments which are contrary to a council decision or policy must clearly state that they do not represent the views of the majority of members;
- media comments must observe the other requirements of the Code; for example, comments should not disclose confidential information, criticize, or compromise the impartiality or integrity of staff; and
- media comments must not be misleading and should be accurate within the bounds of reasonableness.

Any failure by members to meet the standards set out above represents a breach of this Code.

7. Information

Access to information is critical to the effective performance of a local authority and the level of public trust felt by the public.

7.1 Confidential information

In the course of their duties members will occasionally receive information that is confidential. This will generally be information that is either commercially sensitive or is personal to a particular individual or organisation. Accordingly, members agree not to use or disclose confidential information for any purpose other than the purpose for which the information was supplied to the member.

7.2 Information received in capacity as an elected member

Members will disclose to other members and, where appropriate the chief executive, any information received in their capacity as an elected member that concerns the council's ability to give effect to its responsibilities.

Members who are offered information on the condition that it remains confidential will inform the provider of the information that it is their duty to disclose the information and will decline the offer if that duty is likely to be compromised.

Any failure by members to act in the manner described above represents a breach of this Code.

Please note: failure to observe these provisions may impede the performance of the council by inhibiting information flows and undermining public confidence. It may also expose the council to prosecution under the Privacy Act and/or civil litigation.

8. Conflicts of Interest

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

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

If a member is in any doubt as to whether or not a particular course of action (including a decision to take no action) raises a conflict of interest, then the member should seek guidance from the chief executive *immediately*. Members may also contact the Office of the Auditor General for guidance as to whether they have a pecuniary interest, and if so, may seek an exemption to allow that member to participate or vote on a particular issue in which they may have a pecuniary interest. The latter must be done before the discussion or vote.

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

9. Register of Interests

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

- a) any employment, trade or profession carried on by the member or the members' spouse for profit or gain;
- b) any company, trust, partnership etc for which the member or their spouse is a director, partner or trustee;
- c) the address of any land in which the member has a beneficial interest within the jurisdiction of the local authority; and
- d) the address of any land owned by the local authority in which the member or their spouse is:
 - a tenant; or
 - the land is tenanted by a firm in which the member or spouse is a partner, a company of which the member or spouse is a director, or a trust of which the member or spouse is a trustee;
- e) any other matters which the public might reasonably regard as likely to influence the member's actions during the course of their duties as a member (if the member is in any doubt on this, the member should seek guidance from the chief executive)

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

10. Ethical behaviour

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

- claim only for legitimate expenses as determined by the Remuneration Authority and any lawful policy of the council developed in accordance with that determination;
- not influence, or attempt to influence, any council employee, officer or member in order to benefit their own, or families personal or business interests;
- only use the Council resources (such as facilities, staff, equipment and supplies) in the course of their duties and not in connection with any election campaign or personal interests; and

- not solicit, demand, or request any gift, reward or benefit by virtue of their position and notify the chief executive if any such gifts are accepted. Where a gift to the value of \$50 or more is accepted by a member, that member must immediately disclose this to the chief executive for inclusion in the publicly available register of interests.

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

10.1 Undischarged bankrupt

In accordance with clause 15(5) of Schedule 7 (LGA 2002) any member who is an “undischarged bankrupt” will notify the chief executive prior to the inaugural meeting or as soon as practicable after being declared bankrupt. The member will also provide the chief executive with a brief explanatory statement of the circumstances surrounding the member’s adjudication and the likely outcome of the bankruptcy.

11. Creating a supportive and inclusive environment

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

- Attending post-election induction programmes organised by the council for the purpose of facilitating agreement on the council’s vision, goals and objectives and the manner and operating style by which members will work.
- Taking part in any assessment of the Council’s overall performance and operating style during the triennium.¹
- Taking all reasonable steps to ensure they possess the skills and knowledge to effectively fulfill their Declaration of Office and contribute to the good governance of the city, district or region.

¹ A self assessment template is provided in the Guidance to this Code.

12. Breaches of the Code

Members must comply with the provisions of this Code (LGA 2002, schedule 5, s. 14(4)). Any member, or the chief executive, who believes that the Code has been breached by the behaviour of a member, may make a complaint to that effect. All complaints will be considered in a manner that is consistent with the following principles.

12.1 Principles:

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

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

12.2 Complaints

All complaints made under this Code must be made in writing and forwarded to the chief executive. On receipt of a complaint the chief executive must forward that complaint to an independent investigator for a preliminary assessment to determine whether the issue is sufficiently serious to warrant a full investigation.²

Only members and the chief executive may make a complaint under this Code.

12.3 Investigation, advice and decision

The process, following receipt of a complaint, will follow the steps outlined in Appendix B.

² On behalf of the Council the Chief Executive will, shortly after the start of a triennium, prepare, in consultation with the Mayor or Chairperson, a list of investigators for this purpose of undertaking a preliminary assessment. The Chief Executive may prepare a list specifically for his or her council, prepare a list jointly with neighbouring councils or contract with an agency capable of providing appropriate investigators, such as Equip.

12.4 Materiality

An alleged breach under this Code is material if, in the opinion of the independent investigator, it would, if proven, bring a member or the council into disrepute or, if not addressed, reflect adversely on another member of the council.

13. Penalties and actions

Where a complaint is determined to be material and referred to the council the nature of any penalty or action will depend on the seriousness of the breach.

13.1 Material breaches

In the case of material breaches of this Code the council, or a committee with delegated authority, may require one of the following:

1. a letter of censure to the member;
2. a request (made either privately or publicly) for an apology;
3. a vote of no confidence in the member;
4. removal of certain council-funded privileges (such as attendance at conferences);
5. restricted entry to council offices, such as no access to staff areas (where restrictions may not previously have existed);
6. limitation on any dealings with council staff so that they are confined to the chief executive only;
7. suspension from committees or other bodies; or
8. an invitation for the member to consider resigning from the council.

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

- attend a relevant training course; and/or
- work with a mentor for a period of time; and/or
- participate in voluntary mediation (if the complaint involves a conflict between two members); and/or
- tender an apology.

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

13.2 Statutory breaches

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

- breaches relating to members' interests (where members may be liable for prosecution by the Auditor-General under the LAMIA);
- breaches which result in the council suffering financial loss or damage (where the Auditor-General may make a report on the loss or damage under s.30 of the LGA 2002 which may result in the member having to make good the loss or damage); or
- breaches relating to the commission of a criminal offence which will be referred to the Police (which may leave the elected member liable for criminal prosecution).

14. Review

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

Council may formally review the Code as soon as practicable after the beginning of each triennium. The results of that review will be considered by the council in regard to potential changes for improving the Code.

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

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

The Local Authorities (Members' Interests) Act 1968

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

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

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

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

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

Determining whether a pecuniary interest exists

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

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

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

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

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

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

The contracting rule

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

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

Non-pecuniary conflicts of interest

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

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

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

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

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

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

Local Government Official Information and Meetings Act 1987

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

- create a disturbance or a distraction while another councillor is speaking;
- be disrespectful when they refer to each other or other people; or
- use offensive language about the council, other members, any employee of the council or any member of the public.

See Standing Orders for more detail.

Secret Commissions Act 1910

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

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

Crimes Act 1961

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

- accept or solicit for themselves (or anyone else) any gift or reward for acting or not acting in relation to the business of council; and
- use information gained in the course of their duties for their, or another persons, monetary gain or advantage.

These offences are punishable by a term of imprisonment of seven years or more. Elected members convicted of these offences will automatically cease to be members.

Financial Markets Conduct Act 2013

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

The Local Government Act 2002

The Local Government Act 2002 (LGA 2002) sets out the general powers of local government, its purpose and operating principles. Provisions directly relevant to this Code include:

Personal liability of members

Although having qualified privilege, elected members can be held personally accountable for losses incurred by a local authority where, following a report from the Auditor General under s.44 LGA 2002, it is found that one of the following applies:

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

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

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

In certain situation members will also be responsible for paying the costs of proceedings (s.47 LGA 2002).

Appendix B: Process for the determination and investigation of complaints

Step 1: Chief executive receives complaint

On receipt of a complaint under this Code the chief executive will refer the complaint to an investigator selected from a panel agreed at the start of the triennium. The chief executive will also:

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

Step 2: Investigator makes preliminary assessment

On receipt of a complaint the investigator will assess whether:

1. the complaint is frivolous or without substance and should be dismissed;
2. the complaint is outside the scope of the Code and should be redirected to another agency or process;
3. the complaint is non-material; and
4. the complaint is material and a full investigation is required.

In making the assessment the investigator may make whatever initial inquiry is necessary to determine the appropriate course of action. The investigator has full discretion to dismiss any complaint which, in their view, fails to meet the test of materiality.

On receiving the investigator's preliminary assessment the chief executive will:

1. where an investigator determines that a complaint is frivolous or without substance, inform the complainant and respondent directly and inform other members (if there are no grounds for confidentiality) of the investigator's decision;
2. in cases where the investigator finds that the complaint involves a potential legislative breach and outside the scope of the Code, forward the complaint to the relevant agency and inform both the complainant and respondent of the action.

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

If the subject of a complaint is found to be non-material the investigator will inform the chief executive and, if they choose, recommend a course of action appropriate to the breach, such as;

- that the respondent seek guidance from the Chairperson or Mayor;
- that the respondent attend appropriate courses or programmes to increase their knowledge and understanding of the matters leading to the complaint.

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

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

If the subject of a complaint is found to be material the investigator will inform the chief executive, who will inform the complainant and respondent. The investigator will then prepare a report for the council on the seriousness of the breach.

In preparing that report the investigator may:

- consult with the complainant, respondent and any affected parties;
- undertake a hearing with relevant parties; and/or
- refer to any relevant documents or information.

On receipt of the investigator's report the chief executive will prepare a report for the council or committee with delegated authority, which will meet to consider the findings and determine whether or not a penalty, or some other form of action, will be imposed. The chief executive's report will include the full report prepared by the investigator.

Step 5: Process for considering the investigator's report

Depending upon the nature of the complaint and alleged breach the investigator's report may be considered by the full council, excluding the complainant, respondent and any other 'interested' members, or a committee established for that purpose.

In order to avoid any suggestion of bias, a Code of Conduct Committee may often be the best mechanism for considering and ruling on complaints. Committees should be established at the start of a triennium with a majority of members selected from the community through either an application process or by invitation.

The council or committee will consider the chief executive's report in open meeting, except where the alleged breach concerns matters that justify the exclusion of the public, such as the misuse of confidential information or a matter that would otherwise be exempt from public disclosure under s.48 of the LGOIMA, in which case it will be a closed meeting.

Before making any decision in respect of the investigator's report the council or committee will give the member against whom the complaint has been made an opportunity to appear and speak in their own defense. Members with an interest in the proceedings, including the complainant and the respondent, may not take part in these proceedings.

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

In accordance with this Code councils will agree to implement the recommendations of a Code of Conduct Committee without debate.

Who's
putting local
issues on
the national
agenda?

**We are.
LGNZ.**

LGNZ Code of Conduct template

Guidelines

October 2016

Preface

Our effectiveness as members of public bodies charged with providing leadership to our regions, cities and districts is strongly related to the quality of our community mandate and how we are perceived by our communities. This is the case whether that mandate comes from the number of people who voted at the previous election or the level of trust the public has in our performance. Both are closely related.

This is one of the reasons that Councils in New Zealand, like public bodies throughout much of the world, are required to adopt a Code of Conduct. Codes of Conduct are designed to build the respect and trust which creates our mandate to lead. There is nothing like dysfunction at the governance level to “turn off” citizens, feed negative journalism and undermine the morale and the good will of staff, let alone elected members themselves.

This new Code of Conduct template has been designed to incorporate recent legislative change, new approaches to good governance and provide better advice for councils having to deal with alleged breaches. Just as importantly its focus has been widened from controlling poor behaviour to promoting an inclusive and positive governance culture, thereby removing some of the factors that can result in behavioral issues.

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

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

Lawrence Yule
President
LGNZ

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Introduction

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

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

Why a Code of Conduct?

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

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

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

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

Content

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

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

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

Considerations when designing a Code

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

Codes of conduct are not a means of preventing elected members from expressing their views

Codes of conduct should promote effective working relationships within a local authority and between the local authority and its community. Among other things, a Code should promote free and frank debate which should in turn result in good decision making. Codes of conduct should not be used in such a way as to stifle robust debate.

Provided that an elected member does not attempt to present a personal view as anything other than their own view (and does not contravene other parts of the Code) they should be able to do so. Codes of Conduct are ideally designed to provide rules of conduct that promote debate and make it clear that personal views, and the rights of *all* members to express personal views, are to be respected.

What a Code of Conduct does is set boundaries on standards of behaviour in expressing and promoting those views, and means of resolving situations when elected members breach those standards.

Elected members should “own” the Code

Nothing is more likely to promote non-compliance with a Code than elected members being invited to “rubber stamp” a Code that others have prepared.

It may be useful for elected members to “workshop” the Code template as soon as practicable after each triennial election, for example, at the council’s induction workshop. Given that the Code deals with the relationship between elected members, the chief executive, and staff, it may be desirable to have the workshop facilitated by an independent person.¹

Processes need to be put in place for investigating and resolving breaches of the code

Applying a penalty or sanction under the Code should ideally be the last, rather than the first response – most situations can be resolved without the need for sanctions. Often something as simple as an apology will resolve the issue. The original code of conduct template created difficulties for some councils as it provided little guidance on how to distinguish between minor and material breaches. This template has been specifically designed to enable non-material breaches to be dealt with outside the formal process of a full investigation by the council or committee.

Most of all, the principles of natural justice must apply to the investigation, assessment and resolution of complaints made under the Code.

Codes of conduct cannot stand alone

Codes of conduct work best when they are supported by other mechanisms.

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

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

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

The media

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

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

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

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

Register of Interests

The Code requires that members maintain a register of interests. A template register is set out in **Appendix 4** of this guide. The register is limited to disclosures affecting members and their spouses or partners. It is important that members update their details when circumstances change. We recommend that staff regularly remind members to check that the register is up to date and relevant.

Promoting a supportive governance culture

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

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

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

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

Creating an inclusive council

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

- take part in council induction workshops;
- contribute to activities designed to seek agreement on vision, goals, objectives and operating values;
- participate in processes for assessing the governing body’s performance (see **Appendix 3** for a self assessment survey form for consideration); and
- undertake, where necessary, training to improve their knowledge of how the council works and being an effective elected member.

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

Breaches of the Code

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

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

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

Who can make a complaint?

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

Decision-making options

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

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

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

Investigating complaints

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

In order to address these concerns the new Code requires that all complaints are forwarded to an independent investigator for a preliminary assessment and that the council abide by the investigator's assessment whether or not an alleged breach is material or not.

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

Creating a panel of investigators

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

Councils may wish to develop a joint list of investigators.

The role of investigators

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

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

Determining materiality

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

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

The notion of disrepute involves the local authority’s reputation and the risk that specific behaviours will, in the mind of the public, undermine that reputation. Only if there is a real risk that reputation will be undermined should a breach be determined as material (see **Appendix 1** for examples).

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

1. intimidate or harass another member or employee;
2. damage another member’s reputation;
3. obtain a political advantage;
4. influence the council in the exercise of its functions or to prevent or disrupt the exercise of those functions;
5. avoid disciplinary action under this Code; or
6. prevent or disrupt the effective administration of this code.

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

Process upon receiving a complaint

Having received a complaint in writing the chief executive will:

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

Process for non-material breaches

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

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

The investigator will present their findings to the chief executive who will inform the complainant and the respondent at the earliest opportunity.

Process for managing material breaches

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

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

Hearing by council or committee

On receipt of the chief executive's report the council or committee will:

- In considering a report from the chief executive, the council or committee may, if necessary, ask the investigator to provide a briefing on his or her findings and invite the complainant and/or respondent to speak to any submissions that might have been made.
- On consideration of the evidence, the council or committee will decide whether a material breach of the Code has occurred and what, if any, penalty or action should occur in response to the breach.
- The council will inform the respondent and complainant of its decision in writing.

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

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

Possible penalties and actions in response to a material breach

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

- a letter of censure to the member;
- a request (made either privately or publicly) for an apology;
- a vote of no confidence in the member;
- removal of certain council-funded privileges (such as cell phones, or attendance at conferences);
- restricted entry to council offices, such as no access to staff areas (should no restrictions apply);
- limitation on any dealings with council staff so that they are confined to the chief executive only;
- suspension (rather than removal) from committees or other bodies; or
- an invitation for the member to consider resigning from the council.

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

- attend a relevant training course; and/or
- work with a mentor for a period of time; and/or
- participate in voluntary mediation (if the complaint involves a conflict between two members);and/or
- tender an apology.

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

Process to be followed in the case of statutory breaches

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

Possible penalties for statutory breaches

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

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

References

OAG (2006) *Local Authority Codes of Conduct* available from <http://www.oag.govt.nz/2006/conduct/docs/conduct.pdf>

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

Appendix 1: Examples

Example One

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

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

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

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

Example Two

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

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

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

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

Example Three

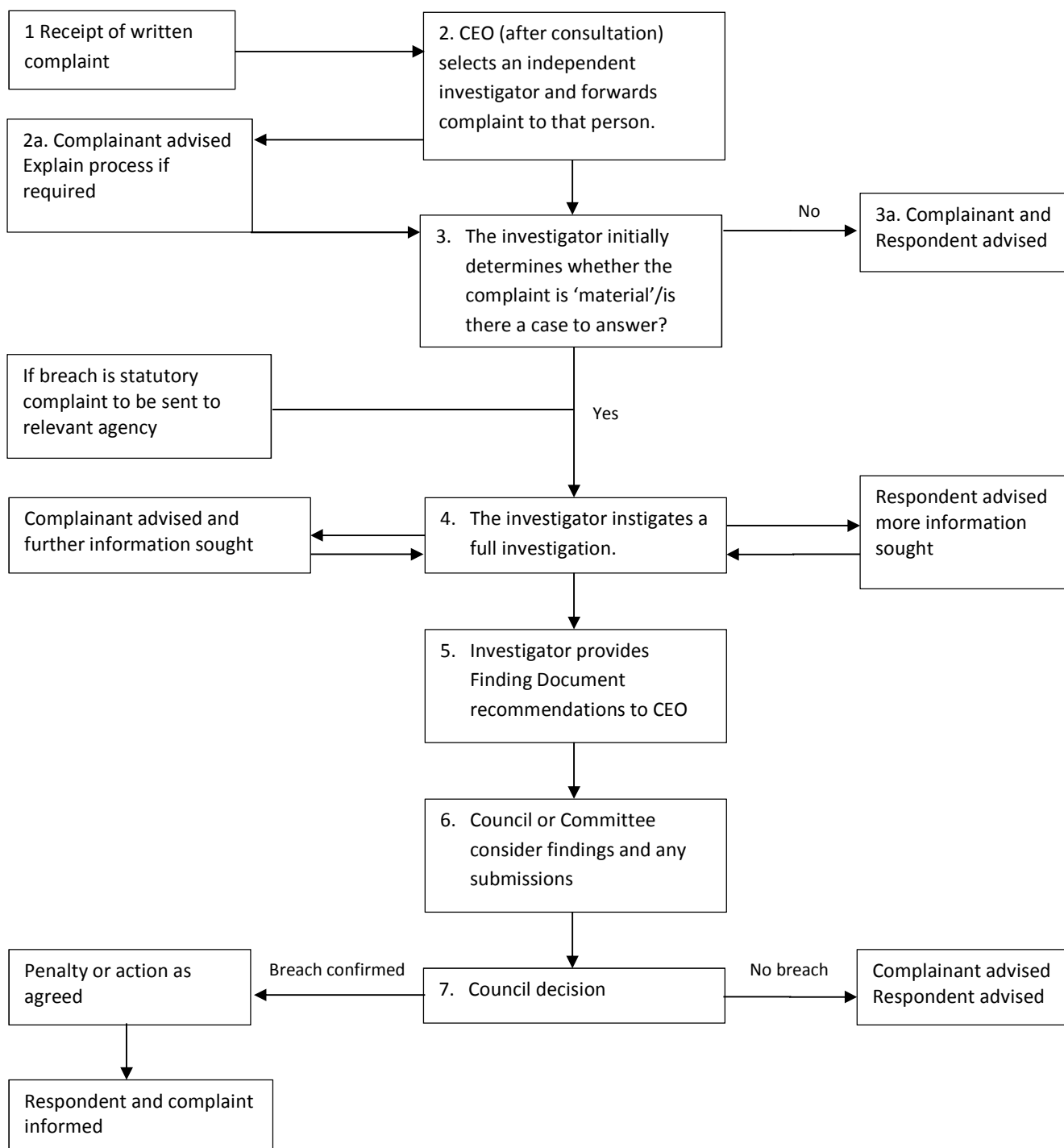
Eastland Regional Council is conducting a performance review of the Chief Executive. It has established a CEO Performance Management Committee to conduct the review. In the course of that review the Committee meets informally with the Chief Executive to review which performance targets were met and which were not. The meeting notes that the CEO has been unable to meet two of his twenty performance targets that were set and resolves to formally report this to the full Council for its consideration. At the conclusion of that meeting Councillor Black leaves to find a local reporter waiting outside and makes the comment that "Jack White won't be getting a pay increase this year because he didn't meet all his targets".

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

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

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

Appendix 2: Complaints Procedure – Flow Diagram



Appendix 3 - Self Assessment Template

Please rate how you view the performance of elected members collectively (acting as the council) in the following areas:

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

1. We act together as a team to deliver value to the people of our district/region.

1	2	3	4	(please circle)
---	---	---	---	------------------------

2. We are effective in being part of a coordinated approach to promote the district/regions.

1	2	3	4	(please circle)
---	---	---	---	------------------------

3. We have effective working relationships with key stakeholder groups.

1	2	3	4	(please circle)
---	---	---	---	------------------------

4. We have an effective working relationship with Council staff through members interactions with the Chief Executive.

1	2	3	4	(please circle)
---	---	---	---	------------------------

5. We engage effectively with the community on issues of importance to them.

1	2	3	4	(please circle)
---	---	---	---	------------------------

6. We are well prepared and well equipped to make informed decisions in our capacity as elected representatives.

1	2	3	4	(please circle)
---	---	---	---	------------------------

7. We participate appropriately in debates and act collectively in the best interests of the Northland region.

1 2 3 4 **(please circle)**

8. Council decisions are made in an open and transparent fashion.

1 2 3 4 **(please circle)**

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

1 2 3 4 **(please circle)**

10. We have a clear sense of direction and understanding

1 2 3 4 **(please circle)**

The objective of this assessment is not necessarily that all members should agree.

Analysis of results may provide a useful starting point for discussions on the overall performance of the governance functions of the council, and provide some insight into areas where improvements may be possible.

Appendix 4: Register of interests template

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

Report



DATE: 24 November 2016

TO: Mayor and Councillors

FROM: Chief Executive

CONFIRMATION OF PORTFOLIOS, AND APPOINTMENTS TO COUNCIL COMMITTEES, CCOS AND OUTSIDE ORGANISATIONS

1 SUMMARY

- 1.1 The purpose of this report is to confirm Council appointments to Committees, Council Controlled Organisations (CCOs) and outside organisations for the 2016-2019 triennium.
- 1.2 This issue arises from either a legislative requirement to appoint elected members to a committee and CCO or requests from community organisations to have a Council representative liaise with their group.
- 1.3 Council seeks to meet its obligations under the Local Government Act 2002 and the achievement of the District Vision adopted by Council as part of the Long Term Plan 2015-25. These are stated on Page 2 of this agenda.
- 1.4 This report concludes by recommending that Council makes the appointments and confirms the liaison roles in **Appendix 1**.

2 BACKGROUND

- 2.1 Council's powers to establish committees and delegate powers comes from s.30(1)(a) of Schedule 7 of the Local Government Act 2002.
- 2.2 In the 2013-16 triennium Council had one standing committee which was the Executive Committee.
- 2.3 Council is party to a number of regional joint committees, and either by legislation or other agreements, has the power to appoint an elected member to these.

- 2.4 Appointments to the CCOs - Westland Holdings Ltd and Tourism West Coast - are outside the triennial appointment process.
- 2.5 There are a number of external organisations that request that Council make an appointment to or have a liaison with. These are not legislatively driven and it is at the sole discretion of Council as to whether a representative is appointed.

3 CURRENT SITUATION

- 3.1 At the inaugural Council meeting held on the 25 October 2016, Council discussed the proposed portfolio listings that had previously been circulated by the Mayor. This is attached as **Appendix 1**.
- 3.2 It is important to understand the difference between “making an appointment to” and “having a liaison role with.” Appointments are usually legislatively or constitutionally driven. In the past Council has “made appointments to outside organisations”, such as community associations. There is nothing in these organisations constitutions that requires Council to do this. For this reason, officers are recommending that the term “has a liaison role with” is used.
- 3.3 At this same meeting the Mayor used his powers under section 41A of the LGA and made the following appointments:
 - 3.3.1 Deputy Mayor – Councillor Latham Martin
 - 3.3.2 Deputy Mayor South – Councillor Helen Lash
- 3.4 The Terms of Reference for the Finance, Audit and Risk Committee and the Planning and Building Service Reform Committee are in a separate report in the agenda.

4 OPTIONS

- 4.1 There are two options available to Council for the appointments:
 - 4.1.1 Confirm the elected member representation on portfolios, committees, CCOs and outside organisations attached as **Appendix 1**.
 - 4.1.2 Amend the list.

5 SIGNIFICANCE AND ENGAGEMENT

- 5.1 This decision is administrative and therefore in accordance with Council's Policy on Significance it is deemed to be of low significance.
- 5.2 This matter is internal to Council and therefore consultation is not required.

6 ASSESSMENT OF OPTIONS (INCLUDING FINANCIAL IMPLICATIONS)

- 6.1 **Appendix 1** is a reflection of a discussion Council has already had. Confirming this list means that the Committees can start operating, and outside organisations can be notified as to who their Council liaison person is.
- 6.2 Amending the list of appointments at the meeting on 24 November 2016 will have little impact. However, if Council wishes to do some significant work on the list, it may mean parts or all of this report is deferred to a future meeting, which will delay confirming appointments.
- 6.3 Elected members are able to claim mileage in accordance with Council's Allowances and Recovery of Expenses Policy, and within budget. The more meetings that are attended where mileage is claimed the higher the cost.

7 PREFERRED OPTION AND REASONS

- 7.1 The preferred option is to confirm the list of appointments to portfolios, Committees, CCOs and liaison roles with outside organisations as recommended in **Appendix 1**. This will mean these organisations and Committees are able to commence their work.

8 RECOMMENDATION

- A) **THAT** Council confirms the recommendations for portfolios, appointments to Committees and CCOs, and liaison roles with outside organisations in **Appendix 1**.

Tanya Winter
Chief Executive

Appendix 1: Appointments to Portfolios, Committees, CCOs and Outside Organisations

APPENDIX 1

COUNCIL PORTFOLIOS

Elected Member	Portfolio	Areas of Responsibility
Mayor Bruce Smith		
• Economic Development		<ul style="list-style-type: none"> - Implementation of Government Findings - Small Business - Airport future direction - Tele communications - CCOs
• Advocacy		<ul style="list-style-type: none"> - Celebrate success promote Westland - Mining
• Events		<ul style="list-style-type: none"> - Wildfoods - New Events and attractions district wide
Cr Latham Martin (Deputy Mayor) (Chair - Audit, Risk and Finance Committee)		
• Finance and Corporate Planning		<ul style="list-style-type: none"> - Annual Report - Budget - Audit - Risk - Annual Plan and LTP - Vision 2030/2050 - Consultation and engagement - Special consultative procedure - Significance and engagement
• Youth Development		<ul style="list-style-type: none"> - Youth issues - Youth Development Strategy - Education - Youth Council
• Sport and Recreation		<ul style="list-style-type: none"> - Swimming Pools - Community Sports and Rec Complex Development - West Coast Wilderness Trail
• Maori Development		<ul style="list-style-type: none"> - Nga Tahu liaison and development
• Town Planning (Hokitika)		<ul style="list-style-type: none"> - Urban design - Reserves - Heritage theme development - Branding development - Parks and Reserves (Hokitika)
Cr Helen Lash (Deputy Mayor - South) (Chair - Planning and Building Service)		

Reform)	
<ul style="list-style-type: none"> Emergency Management 	<ul style="list-style-type: none"> Civil Defence Planning Community Response Plans
<ul style="list-style-type: none"> Primary Industries Regulatory Reform 	<ul style="list-style-type: none"> Forestry Dairy Sustainable logging Wind thrown logging
	<ul style="list-style-type: none"> Planning and District Plan Review RMA functions Animal control Inspections & Compliance
<ul style="list-style-type: none"> Town Planning (Franz Josef) Fox Glacier Community Development Society Franz Inc. Franz Josef / Waiau Community Forum Glacier Country Tourism Group Haast Promotions Group Harihari Community Association Kumara Residents Trust Ōkārito Community Association Ross Community Association Whataroa Community Association 	<ul style="list-style-type: none"> Urban revitalisation planning and design Reserves
Cr David Carruthers	
<ul style="list-style-type: none"> Arts, Culture and Heritage 	<ul style="list-style-type: none"> Arts Funding Museum Heritage Hokitika
<ul style="list-style-type: none"> Environment 	<ul style="list-style-type: none"> Conservation River Protection (WCRC)
<ul style="list-style-type: none"> Review Panel 	<ul style="list-style-type: none"> Policy
Cr Jane Neale	
<ul style="list-style-type: none"> Senior Citizens Development 	<ul style="list-style-type: none"> Pensioner Housing Aged care Retirement village 'Westland - a place to retire'
<ul style="list-style-type: none"> Library 	<ul style="list-style-type: none"> District Library
<ul style="list-style-type: none"> Safer Communities 	<ul style="list-style-type: none"> Safer Community Council Health Disability Education

• Sport NZ Rural Travel Fund -	- Allocation Committee Member
Cr Durham Havill	
• Economic Development	Joint with the Mayor
• Three Waters	<ul style="list-style-type: none"> - Water Supply - Wastewater - Sewerage
• Transportation	<ul style="list-style-type: none"> - Land Transport - Roothing
Cr Gray Eatwell	
<ul style="list-style-type: none"> • Tourism • Advocacy 	<ul style="list-style-type: none"> - Tourism West Coast - Enterprise Hokitika - Tourism Strategy - I-Site <p>Joint with the Mayor</p>
• Community Halls	<ul style="list-style-type: none"> - Funding and maintenance - Rationalisation or future planning - Community plans
<ul style="list-style-type: none"> • Community Development and Assistance • Fox Glacier Community Development Society • Franz Inc. • Franz Josef / Waiau Community Forum • Glacier Country Tourism Group • Haast Promotions Group • Harihari Community Association • Kumara Residents Trust • Ōkārito Community Association • Ross Community Association • Whataroa Community Association 	<ul style="list-style-type: none"> - Community and Voluntary Sector - Townships (The Development Fund & Improvement Projects)
Cr Graeme Olson	
• Liquor Licensing	<ul style="list-style-type: none"> - Consents and hearings - Local Alcohol Policy Development
• Parks and Reserves	- Maintenance
• Property	<ul style="list-style-type: none"> - Earthquake prone buildings - Cemeteries - Land & Buildings - Public Toilets

	- Establishment of an Industrial zone and plan
Cr Des Routhan	
• Farming and Dairy	- Farming and Dairy Advocacy
• Solid Waste	- Waste Management - Education
• Stormwater Infrastructure	- Stormwater

APPOINTMENTS TO COUNCIL COMMITTEES AND CCOS

Name of Organisation	Appointment Recommendation
<p>Resource Management Hearings Commissioners</p> <p>Options are to:</p> <ul style="list-style-type: none"> -Train a couple of Councillors to hear resource consents - Engage independent commissioners for all consent hearings -Identify specified Councillors to sit with independent commissioners. 	<p>Recommendation:</p> <p>That Crs. XX, XX and XX are appointed to sit with independent Commissioners in Hearings.</p>
<p>Westland Wilderness Trust</p> <p>This is a CCO and is the governance body for the West Coast Wilderness Trail. As required in the constitution two Council reps are required for this Trust. Other trustees are:</p> <p>Francois Tumahai (Chairperson), Chairman, Te Rūnanga O Ngāti Waewae Cr XX Cr XX Chris Auchinvole JP Mark Davies, Department of Conservation Cr Anton Becker, Grey District Council Natalie Win, Chair, Mawhera Incorporation</p>	<p>Recommendation:</p> <p>That Crs. XX and XX are appointed to the Westland Wilderness Trust.</p>
<p>Alcohol Working Group</p> <p>This group is established by Council to work with staff to implement the requirements of the new Sale and Supply of Alcohol Act 2012.</p>	<p>Recommendation:</p> <p>That Crs. XX, XX and XX are appointed to the Alcohol Working Group.</p>
<p>West Coast Regional Transport Committee</p> <p>This Joint Committee is a Committee of Council that is required under section 105 of the Land Transport Management Act. Council is required to appoint one elected</p>	<p>Recommendation:</p> <p>That Cr Havill is appointed to the West Coast Regional Transport Committee.</p>

Name of Organisation	Appointment Recommendation
member as representative on this Committee.	
<p><u>Membership of Civil Defence Emergency Management Groups -</u></p> <p>West Coast Emergency Management Group</p> <p>Section 13 of the Civil Defence and Emergency Management Act 2002 states that “Each local authority that is a member of a Group with other local authorities must be represented on the Group by 1, and only 1, person, being the mayor or chairperson of that local authority or an elected person from that local authority who has delegated authority to act for the mayor or chairperson.”</p>	<p>Recommendation:</p> <p>That Deputy Mayor Lash is appointed to the West Coast Emergency Management Group.</p>
<p>Hokitika Seawall Joint Committee</p> <p>This Joint Committee with the West Coast Regional Council is established to oversee the management of the Hokitika Seawall. Three elected members are required.</p>	<p>Recommendation:</p> <p>That Crs. XX, XX and XX are appointed to the Hokitika Seawall Joint Committee.</p>

LIAISON ROLES WITH COMMUNITY ORGANISATIONS

Organisation	Recommendation
Enterprise Hokitika	Recommendation: That Cr Eatwell has a liaison role with Enterprise Hokitika.
Fox Glacier Community Association	Recommendation: That Deputy Mayor Lash and Cr Eatwell have a liaison role with the Fox Glacier Community Association.
Franz Inc.	Recommendation: That Deputy Mayor Lash and Cr Eatwell have a liaison role with Franz Inc.
Franz Josef/Waiau Community Forum	Recommendation: That Deputy Mayor Lash and Cr Eatwell have a liaison role with the Franz Josef/Waiau Community Forum.
Glacier Country Tourism Group	Recommendation: That Deputy Mayor Lash and Cr Eatwell have a liaison role with the Glacier Country Tourism Group.
Haast Promotions Group	Recommendation: That Deputy Mayor Lash and Cr Eatwell have a liaison role with the Haast Promotions Group.
Harihari Community Association	Recommendation: That Deputy Mayor Lash and Cr Eatwell have a liaison role with the Harihari Community Association.
Heritage Hokitika	Recommendation: That Cr Carruthers has a liaison role with Heritage Hokitika.

Organisation	Recommendation
Heritage West Coast	Recommendation: That Cr Carruthers has a liaison role with Heritage West Coast.
Kokatahi/Kowhitirangi Community Association	Recommendation: That Deputy Mayor Lash and Cr Eatwell have a liaison role with the Kokatahi/Kowhitirangi Community Association.
Kumara Residents Association	Recommendation: That Deputy Mayor Lash and Cr Eatwell have a liaison role with the Kumara Residents Association.
Ōkārīto Community Association	Recommendation: That Deputy Mayor Lash and Cr Eatwell have a liaison role with the Ōkārīto Community Association.
Ross Community Society	Recommendation: That Deputy Mayor Lash and Cr Eatwell have a liaison role with the Ross Community Association.
Safe Community Coalition The Safe Community Coalition terms of reference do not stipulate membership, however elected members have attended meetings in the past.	Recommendation: That Cr Neale has a liaison role with the Safe Community Coalition.
Whataroa Community Association	Recommendation: That Deputy Mayor Lash and Cr Eatwell have a liaison role with the Whataroa Community Association.

OTHER APPOINTMENTS

Group	Name
Creative Communities Local Assessment Committee	<ul style="list-style-type: none"> Deputy Mayor Lash
Development West Coast – Appointment Panel	<ul style="list-style-type: none"> Mayor Smith
District Licensing Committee Appointment of Deputy Chair	<ul style="list-style-type: none"> Cr Olson
Sport NZ Rural Travel Fund – Allocation Committee	<ul style="list-style-type: none"> Deputy Mayor Lash
Trustpower Community Awards – Judging Panel	<ul style="list-style-type: none"> Mayor Smith Deputy Mayor Martin Cr Eatwell
Tourism West Coast	<ul style="list-style-type: none"> Melissa Alexander (appointed on 1 May 2016 for a term of 3 years)

Report



DATE: 24 November 2016

TO: Mayor and Councillors

FROM: Group Manager: Corporate Services

COMMITTEE TERMS OF REFERENCE

1 SUMMARY

- 1.1 The purpose of this report is to establish the terms of reference for the Finance, Audit and Risk Committee.
- 1.2 This issue arises from the establishment of this committee by the Mayor and the requirement to clarify its membership, function and purpose.
- 1.3 Council seeks to meet its obligations under the Local Government Act 2002 and the achievement of the District Vision adopted by Council as part of the Long Term Plan 2015-25. These are stated on Page 2 of this agenda.
- 1.4 This report concludes by recommending that Council adopts the terms of reference for the Finance, Audit and Risk Committee, attached as **Appendix 1**.

2 BACKGROUND

- 2.1 Committees of Council are automatically disestablished at the end of each triennium.
- 2.2 Following the local body elections in October 2016, the Mayor, exercising the powers vested by s.41A of the LGA, established the committee structure of Council and appointed Deputy Mayor Martin as the Chair of the Finance, Audit and Risk Committee.
- 2.3 The Mayor, who is automatically a member of all committees of Council, has determined that all elected members shall also be members of the Committee.

- 2.4 Schedule 7 of the LGA details the legislative framework under which committees of Council must operate, including the limitations to authority that can be delegated to a committee.

3 CURRENT SITUATION

- 3.1 In order to enable a committee to be effective in its role Council must formally delegate the relevant authorities and responsibilities. This is conventionally achieved through the adoption of terms of reference.
- 3.2 The terms of reference for the Finance, Audit and Risk Committee prescribe its scope and remit. It has been reviewed by the Chair.

4 OPTIONS

- 4.1 Option 1: Adopt the terms of reference as attached.
- 4.2 Option 2: Adopt a modified terms of reference.
- 4.3 Option 3: Do nothing, do not adopt terms of reference.

5 SIGNIFICANCE AND ENGAGEMENT

- 5.1 In accordance with Council's policy on Significance and Engagement the adoption of terms of reference is administrative and of low significance. The purpose of a committee is to provide efficient and effective governance in a focus area. The terms of reference enable Committee to carry out its responsibilities as intended by Council and within the framework of the LGA.
- 5.2 The Committee has been established to carry out duties that would otherwise be performed by Council. Therefore no consultation is required.

6 ASSESSMENT OF OPTIONS (INCLUDING FINANCIAL IMPLICATIONS)

- 6.1 Option 1 reflects the intent of the Mayor and Council and the terms of reference presented has been reviewed by the Chair.
- 6.2 Option 2 enables the entire Council to have an input to the functions that this Committee should perform. Any amendments must be compliant with the provisions of Schedule 7 of the LGA.

- 6.3 Establishing terms of reference for committees does not in itself illicit any financial consequences. It should be noted that the appointment of elected members as chairs of committees is likely to have implications for their remuneration and in particular the distribution of the pool for compensation for additional duties. This matter is dealt with in a separate report.
- 6.4 The operation of formal committees does bring additional administrative burden, due to the LGA requirements for public notification, meeting protocols and the preparation of agendas and recording of minutes.
- 6.5 The Mayor has indicated that the Committee should meet on the same days as Ordinary Council Meetings. This would mitigate travel costs.
- 6.6 Under Option 3 the Committee would have no delegations and would exist in name only. It would be unable to fulfil its mandate.

7 PREFERRED OPTIONS AND REASONS

- 7.1 The preferred option is 1: Adopt the terms of reference as attached. This reflects the intentions of Council to delegate specific responsibilities to the Committee.

8 RECOMMENDATIONS

- A) **THAT** Council adopts the terms of reference for the Finance, Audit and Risk Committee, attached as **Appendix 1**.
- B) **THAT** Council instructs the Chief Executive to update Part III of the Delegations Manual – “Delegations to Standing Committees” to reflect these terms of reference.

Gary Borg
Group Manager: Corporate Planning

Appendix 1: Terms of Reference for the Finance, Audit and Risk Committee

APPENDIX 1

TERMS OF REFERENCE FOR THE FINANCE, AUDIT AND RISK COMMITTEE

REPORTING TO:	Council
CONSTITUTION:	Deputy Mayor Martin (Chairperson) All other elected members
MEETING FREQUENCY:	As required.
QUORUM:	Chairperson and any three members
OBJECTIVE:	

To assist the Council to discharge its responsibilities for:

1. the robustness of the internal control framework and governance practices;
2. the integrity and appropriateness of internal and external reporting and accountability arrangements;
3. the robustness of risk management systems, processes and practices;
4. the independence and adequacy of internal and external audit functions;
5. compliance with applicable laws, regulations, standards and best practice guidelines; and
6. the establishment and maintenance of controls to safeguard the Council's financial and non-financial assets.

SCOPE OF ACTIVITY:

All matters pertaining to good practice for Finance, Audit and Risk committees, including consideration of the following matters.

(a) Internal Control Framework

- i. Review whether management's approach to maintaining an effective internal control framework is sound and effective.
- ii. Review whether management has taken steps to embed a culture that is committed to probity and ethical behaviour.
- iii. Review whether there are appropriate systems, processes and controls in place prevent, detect and effectively investigate fraud.

(b) Internal Reporting

- i. Consider the processes for ensuring the completeness and quality of financial and operational information being provided to the Council.
- ii. Seek advice periodically from internal and external auditors regarding the completeness and quality of financial and operational information that is provided to the Council.

(c) External Reporting and Accountability

- i. Agree the appropriateness of the Council's existing accounting policies and principles and any proposed change.
- ii. Enquire of internal and external auditors for any information that affects the quality and clarity of the Council's financial statements and statements of service performance, and assess whether appropriate action has been taken by management in response to the above.
- iii. Satisfy itself that the financial statements and statements of service performance are supported by appropriate management signoff on the statements and on the adequacy of the systems of internal control (i.e. letters of representation), and recommend signing of the financial statements by the Chief Executive/Mayor and adoption of the Annual Report or Long Term Plan.
- iv. Confirm that processes are in place to ensure that financial information included in the entity's Annual Report and Long Term Plan is consistent with the signed financial statements.

(d) Risk Management

- i. Review whether management has in place a current and comprehensive risk management framework and associated procedures for effective identification and management of the Council's significant risks.
- ii. Review Council's annual insurance renewal and ensure the appropriateness of the level of self-insured risk.
- iii. Consider whether appropriate action is being taken by Management to mitigate Council's significant risks.

(e) Internal Audit

- i. Review and approve the internal audit coverage and annual work plans, ensuring these plans are based on the Council's risk profile.

- ii. Review the adequacy of management's implementation of internal audit recommendations.
- iii. Review the internal audit charter to ensure appropriate organisational structures, authority, access, independence, resourcing and reporting arrangements are in place.

(f) External Audit

- i. At the start of each audit, confirm the terms of the engagement, including the nature and scope of the audit, timetable and fees, with the external auditor.
- ii. Receive the external audit report(s) and review action to be taken by management on significant issues and audit recommendations raised within.
- iii. Conduct a members-only session (i.e. without any management present) with external audit to discuss any matters that the auditors wish to bring to the Committee's attention and/or any issues of independence.
- iv. Consider any recommendation by management that the Office of the Auditor-General replace the external auditor.

(g) Compliance with Legislation, Standards and Good Practice Guidelines

- i. Review the effectiveness of the system for monitoring the Council's compliance with laws (including governance legislation, regulations and associated government policies), with Council's own standards, and Good Practice Guidelines as applicable.

POWER TO ACT:

Council conveys the following delegations upon the Committee:

- a) Approve meeting minutes of the Committee.
- b) Approve insurance arrangements
- c) Approve Revisions to Risk Management and Fraud Prevention Policies
- d) Approve contractual arrangements within the framework of the Liability Management Policy, including swaps, and the Investment Policy.

Adopted by Council: DATE

Report



DATE: 24 November 2016

TO: Mayor and Councillors

FROM: Chief Executive

FINANCIAL DELEGATIONS TO THE CHIEF EXECUTIVE

1 SUMMARY

- 1.1 The purpose of this report is to provide elected members with information to enable a decision to be made about the financial delegations to the Chief Executive in relation to engaging consultants.
- 1.2 This issue arises from direction provided by elected members at the Council meeting on 31 October 2016 that a report be brought to the November meeting to enable Council to make a decision on this matter.
- 1.3 Council seeks to meet its obligations under the Local Government Act 2002 and the achievement of the District Vision adopted by Council as part of the Long Term Plan 2015-25. These are stated on Page 2 of this agenda.
- 1.4 This report concludes by recommending that Council retains the current financial delegations to the Chief Executive in relation to engaging consultants.

2 BACKGROUND

- 2.1 At the meeting on 31 October, elected members expressed their concerns at the costs associated with engaging consultants. Specific attention was drawn to the spend in 2015-16 in this area, which was \$889,000.
- 2.2 Elected members indicated they wish to lower the financial delegations to the Chief Executive so that any spend on consultants over a certain threshold would require elected members' approval.

- 2.3 Delegations to the Chief Executive are approved by Council and recorded in the Delegations Manual. The Chief Executive then passes on delegations to various staff to enable them to do their jobs. The financial delegations to the Chief Executive that relate to the use of consultants, is the contractual authority for non-capital items of up to \$100,000 each. This delegation is \$250,000 for the Executive Team acting together.

3 CURRENT SITUATION

- 3.1 The use of consultants is common in local government to support operational requirements. It is worth noting that both Contractors and Consultants are used by Council and while the definitions of these is different, the terms are sometimes used interchangeably and the spend on them can be allocated to the wrong cost centre. It is useful to define each:
- 3.1.1 **Consultant** – an external party that is engaged by an organisation to **provide advice**, usually on a specialist subject where that capacity or capability is absent, eg. Legal and HR advice which is not provided in-house.
- 3.1.2 **Contractor** – an external party that is engaged to **undertake work** on behalf of the organisation usually where the capability is there but the capacity isn't, eg extra help at peak times to assist staff in Planning and Building Control.
- 3.2 Consultants are engaged by staff across a number of activities and in two main ways:
1. **Capability** – with only 55 staff to deliver 30 different activities across Council it is unrealistic to expect that staff will have knowledge of all aspects of the operation. Often specialists are required to provide Council with advice that is only required once, and then work can proceed from there. For example, while Council employs engineers, a specialist wharf engineer was needed with experience in working underwater to provide Council with a condition assessment on the Jackson Bay Wharf. This was required as part of the development of an Asset Management Plan for the wharf. Another example is while Council employs accountants, advice is needed in relation to Council's investments. Council engages consultants who specialise in providing treasury advice to do this. Legal advice is another good example. Council does not employ an in-house lawyer, and the cost of doing this would be high. Council needs a variety of legal advice that is often specialised, so a number of different legal firms are used to provide advice to Council.
 2. **Capacity** – once again this relates to staff numbers. Consultants are used when a permanent role has not been able to be filled for a variety of reasons. For example, at the moment the position of Asset Management

Planner is vacant. It has been difficult to recruit for this role, so instead a consultant is undertaking the work required. Another aspect is that while some work warrants a full time resource – this may not be an on-going requirement. The need could be for a period of 2 years and then the resource may not be needed. As such specialist areas like Asset Management are mostly outsourced.

3. **Specialist advice and use of consultants on projects:** The current in-house staff are not all design engineers. As explained above the design engineers are very specific to an area and we do not always have a full-time role. For e.g. in District Assets area the portfolio ranges from management of 3 waters, Transportation, Solid Waste, land & buildings, parks, reserves, cemeteries etc. The issues which may come up will include mechanical treatment issues on a Water Treatment Plant. This needs a process engineer who has a qualification and understanding in chemistry or biological science. We do not have to employ a full-time resource with this expertise. These issues are not on-going and are a 1-off matter. The other reason for engaging consultants is to ensure there is no conflict of interest with staff signing off their own work. E.g. Under the NAMS (National Asset Management Steering Group) and OAG (Office of the Auditor General) guidelines on asset management, there is a requirement for the Asset management Plans to be signed off or peer reviewed by an external assessor. In our case while staff may have a formal qualification in Asset Management, they are not able to act in this capacity. Council in past in 2012/13 did undertake valuations in house, this was highlighted as a risk by Audit NZ. Similar is the case to sign off structural components on the capital works. Council staff carried a liability which will be covered if the works are reviewed and signed off by an independent entity. The design work also requires specific tools and software which are expensive for their license costs. As Council will not use these tools on day to day basis, consultants are required for this work. Staff employed within Council have knowledge to critique, direct and identify the needs and outcomes for the work undertaken by consultants. In engineering an overhead of 5-8% is common for these works. The total use for Westland District is below this best practise guideline.

- 3.3 Before making a decision going forward it might be useful for Council to understand how the \$889,000 spent on consultants in 2015-16 is comprised. Items of significance are listed below (please note: this does not add up to \$889,000. There are numerous minor amounts not listed here).

1. **Asset Management Planning** - \$280,000 was spent on consultants in 2015-16 to develop Asset Management Plans. This cost included \$80,000 costs for outsourcing the Asset Management Planner role. This role was

procured on a competitive basis. The balance of Asset Management work involves AMPs' for 3 Waters, Transportation, Land & Buildings, Parks and reserves, Solid Waste. At this stage this work is a legal requirement and it is anticipated that this will be more or less self-sufficient towards the completion of next Long-term Plan 2018-28.

2. **Design work** – The works related to MWH, OPUS and BECA are items which could not be completed in-house. Staff does it best to ensure the design and expert opinions required are distributed evenly amongst various external resources. It is not common to advertise the consultants work in specific. For e.g. BECA assisted Council to analyse the direct appointment of Westroads for the 5 year roading maintenance contract. OPUS usually help WDC with wastewater works and MWH in the past year have assisted with Stormwater and Water works. The Stormwater assessments were unbudgeted and the scope of works was unknown. The extent of review was extended 3 times at the direction of elected members and community feedback. The expenditure on Stormwater alone was close to \$100,000. MWH reviewed the LIDAR surveys and developed high level profiles for various catchments. This capability is not available in-house. OPUS assisted with wastewater design and build contracts as well. For past year the costs were approximately \$150,000. The costs sometimes will include other sub-contractors as well. For e.g. approximately \$25,000 was included for flow-metering at Franz WWTP which was lost in the flood event.
3. **Staff training** – in 2015-16 a development programme was implemented across Council. This cost was centralised to the consultants budget rather than spread across departments. This cost \$67,000 for 32 staff to attend
4. **HR Advice** – with no in-house HR Advisor employed until recently, \$52,000 was spent on this
5. **Recruitment** – when Council is recruiting into the more specialised roles often recruitment consultants are used. The cost of this service in 2015-16 was approximately \$30,000
6. **Planning and Building** – work in the Planning and Building Control departments fluctuates. In peak times contractors are used to process consents so that Council adheres to legislative deadlines. Fees and charges are collected from applicants to offset these costs, but these show up in the revenue lines for that cost centre. The total amount in 2015-16 was approximately \$30,000.
7. **One-off projects** – several one-off projects were commissioned by Council in 2015-16 that required the use of consultants. One of these was a condition assessment on the Hokitika Swimming Pool. This cost \$12,000. The report on the Hokitika statues and work on the Seddon statue cost Council just under \$5,000 last year. The review of Council's resource consents process cost \$20,000.

8. **Treasury advice** – as mentioned previously this advice is specialised and therefore undertaken by consultants. It costs Council \$27,000 per annum.
9. **Aerial photography** – the most visited pages on the Council website is the GIS maps. It costs \$10,000 per annum to undertake aerial surveys and this comes from the consultants budget.
10. **Legal fees** – while there are separate budgets for legal costs \$9,000 has been included in the consultants budget.
11. **Payroll** – in late 2015 Council decided to outsource the Payroll function rather than managing this in-house. This costs \$7,500 per annum and is included in the consultants budget.
12. **Elections** – similar to Payroll, in 2016 Council decided to outsource the management of the 2016 election. The first payment to the contractor was made in 2015-16 year and amounted to \$5,000.

3.4 As can be seen by the above analysis, not all the spend in 2015-16 can fairly be defined as consultants. Some fall into the category of contractors.

3.5 Before Council proceeds to make a decision on this matter, it might be useful if elected members were able to define the “problem” or concern that they would like to address. If it is a more detailed understanding of how the consultants budget is used (beyond this report) that can be provided. If it is one particular activity that Council would like more control over, then it may be useful to identify this.

3.6 Elected members have suggested that a \$5,000 delegation be set for expenditure on consultants. If this is agreed to, it would be useful to know whether this is per transaction or per annum. For example, the total spend on Payroll per annum is \$7,500. It would be difficult to break this down to transaction level.

4 OPTIONS

4.1 There is a range of options available to Council, but based on the concerns raised three are put forward to consider.

Option 1: status quo – the existing delegations remain in place.

Option 2: a \$5,000 financial cap is put in place for any spend on consultants

Option 3: a \$5,000 financial cap is put in place for spend on consultants in the activity areas elected members are most concerned about.

5 SIGNIFICANCE AND ENGAGEMENT

- 5.1 Delegations to the Chief Executive from Council is administrative and therefore in accordance with Council's Policy on Significance and Engagement this decision is assessed as having a low level of significance.
- 5.2 Community engagement and consultation are not required for this decision.

6 ASSESSMENT OF OPTIONS (INCLUDING FINANCIAL IMPLICATIONS)

- 6.1 Option 1 would see the current financial delegations to the Chief Executive retained with the advantage of this being business as usual would continue. The disadvantage of this is if Council does not believe the current business as usual model is working, and retaining this model therefore does not give elected members trust and confidence in the delegations.
- 6.2 Option 2 has the advantage of giving elected members greater control over the use of consultants. The \$5,000 threshold would mean that use of consultants for minor pieces of work could proceed as normal. Elected members would have to decide whether this threshold is per transaction, or the annual amount. If it is the latter, this would be difficult to estimate in some instances. For example while staff know Payroll services will cost \$7,500 this year, annual spend on legal fees is harder to estimate. A disadvantage of this option, and Option 3 is that if seeking approval takes considerable time, projects could be delayed. This could be overcome by instead of having all elected members give approval, it is delegated to a small sub-committee. As a suggestion, this could be the Mayor, the Chair of Finance, Audit and Risk Committee, and one other Councillor.
- 6.3 Option 3 is similar to Option 2 except it provides for a narrowing down in focus to reduce the delegations only in those areas Council is concerned about.
- 6.4 If Option 2 or 3 is selected, Council may wish to specify a timeframe in which to review the change in delegations.

7 PREFERRED OPTION AND REASONS

- 7.1 The preferred option is Option 1 as this would allow the current delegations to remain in place so that staff are able to get on with their work. However, it is recognised that elected members have concerns with the level of expenditure on consultants, and therefore in order to build trust and confidence Option 2 or 3 might be required. If this is the agreed way forward, ideally elected members would be able to pinpoint exactly where they have concerns so that the focus is only on that area. Staff would prefer

that a timeframe of, say, six months is agreed to and the delegations reviewed after that.

8 RECOMMENDATION

- A)** **THAT** Council retains the current financial delegations to the Chief Executive in relation to engaging consultants.

Tanya Winter
Chief Executive

Report



DATE: 24 November 2016

TO: Mayor and Councillors

FROM: Group Manager: Planning, Community & Environment

ANNUAL REPORT ON DOG CONTROL POLICY AND PRACTICES

1 SUMMARY

- 1.1 The purpose of this report is to adopt an Annual Report on Dog Control Policy and Practices for the year ending 30 June 2016.
- 1.2 This issue arises from the statutory duty pursuant to the provisions of Section 10A of the Dog Control Act 1996 to provide an Annual Report.
- 1.3 Council seeks to meet its obligations under the Local Government Act 2002 and the achievement of the District Vision adopted by Council as part of the Long Term Plan 2015-25. These are stated on Page 2 of this agenda.
- 1.4 This report concludes by recommending that Council adopt the annual report for the year ending 30 June 2016 on Dog Control Policy and Practices (attached as **Appendix 1.**).

2 BACKGROUND

- 2.1 It is a requirement of Section 10A of the Dog Control Act 1996 to prepare a report on Dog Control Policy and Practices. It has been a statutory duty to supply such a report for twelve years. After the adoption of the report by Council, a copy is required to be posted on the Council's website and made available to the Secretary for Local Government.

3 CURRENT SITUATION

- 3.1 Council last adopted a report for the year ended 30 June 2015. That report has been available on Council's website and a copy was forwarded to the Secretary for Local Government.

4 OPTIONS

- 4.1 This is a statutory duty and Council is required to adopt a report. The report itself, however, can be in any form within the statutory requirement. The options are therefore about the content of the report.

5 SIGNIFICANCE AND ENGAGEMENT

- 5.1 There is some public interest in dog control generally, but the adoption of the annual report is considered to be administrative and therefore of low significance in accordance with Council's Significance and Engagement Policy.
- 5.2 The report is recommended to be adopted without consultation. It is available to inform and advise the public on Dog Control Policy and Practices in Westland.

6 ASSESSMENT OF OPTIONS (INCLUDING FINANCIAL IMPLICATIONS)

- 6.1 This is a statutory function, so the Council does not have any choice about whether or not to adopt a report.
- 6.2 Council does, however, have a choice on the contents of the report. A draft report is attached for consideration, and recommended for adoption.

7 PREFERRED OPTIONS AND REASONS

- 7.1 The adoption of the draft report is the preferred option so that the legislative requirement can be met. Amendments are permissible for clarity, as long as they are factually correct.

8 RECOMMENDATIONS

- A) **THAT** the attached report on Dog Control Policy and Practices for the year ending 30 June 2016 be adopted, a copy forwarded to the Secretary for Local Government and the report be made available on Council's website.

Jim Ebenhoh

Group Manager: Planning, Community & Environment

Appendix 1: Report on Dog Control Policy and Practices for year ended 30 June 2016.

REPORT ON DOG CONTROL POLICY AND PRACTICES: 2016**Westland District Council**

This report is prepared pursuant to the provisions of Section 10A the Dog Control Act 1996 for the year ended 30 June 2016. This is the twelfth annual report prepared pursuant to the Act.

Statistics:

	08/09	09/10	10/11	11/12	12/13	13/14	14/15	15/16
No of registered dogs	1489	1484	1511	1458	1561	1729	1777	1897
No. of probationary/ disqualified owners	0	0	0	0	0	0	0	0
No. of dogs classified as dangerous	0	0	0	0	0	0	3	3
No. of dogs classified as menacing	0	0	0	2	9	9	9	24
No. of infringement notices issued	18	26	19	16	70	60	53	196
No. of dog complaints received	109	86	110	133	184	212	148	223
No. of prosecutions undertaken	0	0	0	0	0	0	0	0

Staff

The SPCA (Hokitika) successfully retained the contract for the provision of dog control services in the Westland region in April 2015. That contract expires in June 2018.

The new contractual arrangements provided for at least the same level of general service but with an increased number of patrols in key areas, an improved consistency of data collection and greater clarity around roles and processes.

The SPCA appointed an additional staff member in August 2015 whose role is exclusively animal control. The contractor's performance is monitored on a monthly basis.

The Council values the contractual arrangement with the SPCA, as Council believes that a better standard of dog control can be achieved by having an emphasis on education as well as the statutory dog control function.

The level of training of dog control staff improved significantly in the 2015/2016 year. Prior to this time the training had been ad hoc in nature and not extensive.

In addition a set of procedures around dog control have been drafted with the intention of being available to current staff but also any new staff that are employed in the future.

Policy on Dogs

During the 2015/2016 year Council adopted a new policy on dogs after completing the Special Consultative Procedure. Council's objective is to keep dogs as a positive part of people's lives in Westland by adopting measures that minimise the problems caused by dogs while at the same time maintaining dog owner's rights to enjoy recreational opportunities with their dogs.

Council recognises dog owners as users of public places and seeks to integrate (not separate) dogs and their owners with other users of public spaces.

Council will ensure that obligations imposed on dog owners in terms of the care and control of their dogs under the Dog Control Act 1996 and the Westland Dog bylaw are maintained and enforced if necessary.

Council's primary and preferred method of seeking compliance is through encouragement and education of dog owners where possible, in order to ensure public safety and comfort. Enforcement options such as infringement notices, menacing and dangerous dog classifications, probationary dog ownership or disqualification as a dog owner or prosecution will only be used where necessary.

Council supports the use of a graduated enforcement system starting with education of the dog owner, through the issuing of warning notices for a first minor offence, infringement notices for subsequent or more serious offences, to a prosecution in the District Court for a very serious offence.

Council has introduced two new classes of dog ownership in the new dog policy. Selected Dog Ownership will be offered to dog owners who meet certain criteria such as having no justified complaints in the last two years, a property that is fully fenced (or has a fenced portion of the property within which the dog can be secured), no dogs impounded within the last two years, the dog owner has received no infringement notices within the last two years, the dog is currently registered and was registered by 31 July in the previous year and the dog is microchipped. Council now also recognises working dogs as a separate category of dog.

Dog Control

Dog Control is based in the Hokitika area, although increased numbers of patrols have been negotiated with the contractor for Kaniere, Kumara, Ross, and Franz Josef. The sheer size of Westland makes the provision of the same levels of service at the southern extremity of our district very difficult to achieve.

A new set of dog control procedures has been drafted and has become part of the training that the new officer received from Council.

The amount of proactive work across the district has increased tremendously with areas with identified dog issues receiving additional attention, including patrols and follow-up visits from the dog control officer. Council has received

positive feedback from members of the local community where this action has been taken.

In the year ending 30 June 2016 Council focused on ensuring that all known dogs were registered and microchipped and also on implementing and maintaining a graduated enforcement system.

A significant amount of effort went into tracking down those dog owners who had not currently registered their dog or who had never registered their dog. As a result officers identified many new dog owners that have now registered their dogs with Council. This means that the number of newly identified dogs now registered within the district has increased by approximately 7% over the year. This work will be continued in the 2016/2017 dog registration year.

During the 2016/2017 dog year the monitoring plan is to visit those remaining areas not seen this year. It is widely accepted that unregistered dogs cause a disproportionate amount of harm and nuisance in the community than registered dogs.

The number of dog complaints has increased this year from 148 in 2014/2015 to 223 in 2015/2016. In 2015 Council made changes to provide easier access to services for members of the public. Complaints are directed through the Customer Call Centre which ensures that all complaints are recorded and forwarded to the contractor in an appropriate manner.

There is some evidence that people are becoming less tolerant of the damage and nuisance caused by dogs in our community as evidenced by comments made in the annual residents survey and the rise in complaints about dogs causing nuisance by barking or wandering.

Dog Registrations

Dog control fees for the year remained at \$74.00 for dogs registered within the Hokitika area and \$58.50 for dogs registered in other areas. Dog registration fees also included a 50% penalty additional to the registration for late payment. The costs associated with dog registration and dog control are funded entirely by dog registration fees.

New dog ownership categories will be in place for the 2016/2017 dog registration year. These will include urban and rural dogs (current categories) along with two new classes of dog ownership including Selected Dog

Ownership (SDO) with a fee of \$45 and working dog category with fees of \$30 for the first dog and \$20 for any subsequent dog.

External Satisfaction Survey

An external satisfaction survey has generally been undertaken on a biannual basis but was not undertaken in 2014/2015 due to Council's financial constraints. The results of the last biannual external satisfaction survey in 2012 indicated that 35% of residents are 'very satisfied' or 'just satisfied' with the control of dogs within the district, 27% were 'not very satisfied' and 38% did not know.

The latest external satisfaction survey undertaken in 2016 showed that 72% of the public were very satisfied or fairly satisfied with the level of dog control in the district. This level of satisfaction is similar to both peer group local authorities and with the national average for dog control in across in New Zealand.

Over the last few years there has been a steady increase in the levels of customer survey participants being either very or fairly satisfied and a corresponding decrease in the levels of people not very satisfied with dog control services.

While it is pleasing to see that the levels of public satisfaction of dog control services is increasing there is still more work to do in the area, particularly in terms of wandering dogs in the community, ensuring all dogs are registered, and ensuring that dog owners are educated about the adequate care and control of their dog.

Report



DATE: 24 November 2016

TO: Mayor and Councillors

FROM: Group Manager: Corporate Services

ELECTED MEMBERS REMUNERATION

1 SUMMARY

- 1.1 The purpose of this report is to examine options for augmentation and distribution of elected members' remuneration in view of the confirmed Council structure.
- 1.2 This issue arises from an expectation that elected members will be appropriately remunerated for their relative responsibilities.
- 1.3 Council seeks to meet its obligations under the Local Government Act 2002 (LGA) and the achievement of the District Vision adopted by Council as part of the Long Term Plan 2015-25. These are stated on Page 2 of this agenda.
- 1.4 This report concludes by recommending that Council approves a total pool for additional responsibilities that fully utilises but does not exceed the budget for remuneration, to be distributed in a manner that reflects those additional responsibilities.

2 BACKGROUND

- 2.1 The process and framework for the determination of the remuneration of elected members is prescribed by Clause 6, Schedule 7 of the LGA.
- 2.2 The Remuneration Authority (the Authority), as provided by the Remuneration Authority Act 1977 sets the pay for key office holders such as Judges, Members of Parliament, local government representatives and some independent bodies in New Zealand.

- 2.3 Each year the Authority reviews and derives the base remuneration for elected members through a job sizing exercise and Council's place in the overall size index, and applies CPI adjustments. For the year ending 30 June 2017 these have been set for Westland at \$72,100 for the Mayor and \$17,098 for Councillors.
- 2.4 Following local body elections and the inauguration of a Council, all remuneration reverts to the base level.
- 2.5 Council then has the opportunity to apply to the Authority for a determination if any committees are established or additional duties are assigned to councillors. As a minimum a territorial authority is required to appoint a deputy mayor, Cl 17 Sch 7 LGA.
- 2.6 Where additional duties are identified Council must complete and submit an assessment of those responsibilities, including a proposed augmentation to the base remuneration for those roles. For information, samples of the previous assessments undertaken by Council along with guiding descriptions from the Authority of positions of additional responsibility are attached as **Appendices 1 - 3**.
- 2.7 The previous Council identified two roles with additional responsibilities, being the Deputy Mayor and the Chair of the Executive Committee. For the years preceding 30 June 2016 the Authority maintained ceilings on individual remuneration supplements of 40% of base for deputy mayors and 25% for committee chairs. From 1 July 2016 these limits have been abolished and there is an overall limit of 200% of the base remuneration for one councillor. In recognition of the potential for a change in structure the preceding Council retained the total augmentation that had been approved by the Authority, which equated to 32.5% of base and shared this equally between the two elected members with additional responsibilities.

3 CURRENT SITUATION

- 3.1 The Mayor has appointed two deputy mayors, two committee chairs and all elected members have been assigned portfolios. This means that all elected members have additional duties that are specifically referenced in the Authority's guidance for setting remuneration.
- 3.2 For the year ending 30 June 2017 the budget for elected members' remuneration is \$225,000. No CPI adjustment was allowed for in the budget, because the actual remuneration determined for the year ended 30 June 2016 was sufficiently less than budget to allow for any such adjustment.

- 3.3 At the baseline determination from the Authority (2.3) the cost would be \$208,884. The full allowance available for additional responsibilities is \$34,196.
- 3.4 Councillors can receive a travelling time allowance of \$37.50 per hour for travel on Council business to Council offices that exceeds one hour per day. There is a separate budget for this.
- 3.5 The Authority also makes provisions for allowances to be paid in respect of elected members using their personal equipment and facilities for communicating and engaging with the community. For the current year the maximum allowance is \$1,050 each. However, Council provides elected members with portable devices.
- 3.6 Mileage is paid at prescribed rates, being \$0.74 for the first 5,000 km per year and \$0.37 for the excess on journeys exceeding 30km. A car can be provided for the Mayor as an alternative.
- 3.7 In order for arrangements to be formalised Council must resolve on its preferred combinations.

4 OPTIONS

- 4.1 A) Total pool for additional responsibilities
 - 4.1.1 Option 1: Do nothing
 - 4.1.2 Option 2: Approve an amount equal to the remaining budget for remuneration after deducting the baseline remuneration and communication and equipment allowance.
 - 4.1.3 Option 3: Utilise the full amount allowable by the Authority.
- 4.2 B) Distribution of the pool for additional responsibilities
 - 4.2.1 Option 1: Equally among all elected members
 - 4.2.2 Option 2: Equally by number of additional roles
 - 4.2.3 Option 3: Tiered approach, with weightings for deputy mayors and chairs
 - 4.2.4 Option 4: Deputy mayors and chairs only
- 4.3 C) Communications and equipment allowance
 - 4.3.1 Option 1: Pay as allowance
 - 4.3.2 Option 2: Reimbursement of expenses

- 4.4 D) Mayoral car
 - 4.4.1 Option 1: Purchase car
 - 4.4.2 Option 2: Mileage reimbursement

5 SIGNIFICANCE AND ENGAGEMENT

- 5.1 The setting of augmented remuneration for additional responsibilities is administrative and therefore of low significance.
- 5.2 No engagement or consultation is required.

6 ASSESSMENT OF OPTIONS (INCLUDING FINANCIAL IMPLICATIONS)

- 6.1 A) Total pool for additional responsibilities

Fig A.

Baseline:		\$
Mayor		72,100
Councillors	8 x \$17,098	136,784
Proposed communication and equipment allowance	9 x \$400	3,600
Total		212,484
Budget		225,000
Available within budget		12,516
Maximum per Remuneration Authority		34,196

- 6.1.1 Option 1: Do nothing – under this option only the base remuneration would be paid. The total cost would be \$208,884, a favourable variance of \$16,116 against budget. This would provide no monetary compensation for any additional duties, or use of personal equipment allowances
- 6.1.2 Option 2 would create a pool of \$12,516 for distribution in respect of additional duties. This amount could be adjusted if Council wished to vary or not to claim the communications and equipment allowance whilst utilising the full budget.
- 6.1.3 Option 3 would mean that a total of \$34,196 was available for distribution with an adverse variance of \$21,680.

- 6.2 B) Distribution of the pool for additional responsibilities
- 6.2.1 Option 1: Equally among all elected members. This would mean each elected member receives an additional sum of up to \$1,391 under option A2 and \$3,800 under A3. In practice this may be difficult to apply because applications to the Authority require assessment of the scope of the positions, and two elected members have two additional roles.
- 6.2.2 Option 2: Equally by number of additional roles. There are 2 deputy mayors and 2 committee chairs. Taking portfolios collectively as a single additional duty for each elected member, there are 13 additional roles. This would mean each role attracts an additional sum of up to \$963 under option A2 and \$2,630 under A3. The Deputy Mayor / Chair of the Finance, Audit and Risk Committee and the Deputy Mayor South / Chair of the Planning and Building Service Reform Committee would each receive up to either \$2,888 or \$7,890. Council would need to be able to satisfy itself that the requirements of the different roles are comparable.
- 6.2.3 Option 3: Tiered approach, with weightings for deputy mayors and chairs. This recognises that while all elected members have additional duties, the roles of deputy mayor and committee chair have statutory implications and recognition. Proceedings of a committee are subject to the same LGA requirements as those of Council, while a deputy mayor will, by definition, be required to accommodate a varying and broader remit. With a differential of 1.5 applied to each of these roles the additional remuneration to a portfolio holder would be \$834 under option A2 and \$2,280 under A3. The roles of committee chair and deputy mayor would each receive either \$1,252 (A2) or \$3,420 (A3). Under the current structure the Deputy Mayor / Chair of the Finance, Audit and Risk Committee and the Deputy Mayor South / Chair of the Planning and Building Service Reform Committee would each receive a total of either \$3,338 (A2) or \$9,120 (A3).
- 6.2.4 Option 4: Deputy mayors and chairs only. This option implies that the role of portfolio holder is a focussing of existing councillor duties, rather than separate and additional. This would leave the pool for additional duties to be divided between the Deputy Mayor / Chair of the Finance, Audit and Risk Committee and the Deputy Mayor South / Chair of the Planning and Building Service Reform Committee. Since the current structure assigns one of each role to two elected members, any differentiation would be arbitrary for allocation

purposes. Each role would attract either additional remuneration of up to \$3,129 under option A2 and \$8,549 under option A3. This means that the two affected members would receive up to \$6,258 (A2) or \$17,098 (A3).

6.3 C) Communications and equipment allowance.

At the maximum allowable this would represent a cost to Council of \$9,450. Elected members are provided with Council convertible laptop devices and so utilising the full allowance could be perceived as duplication of between \$150 and \$300 per person. Furthermore, most elected members reside within a comfortable commute of Council headquarters and facilities are available for their use. Nonetheless, the calculation of an apportionment of use for expenses purposes could be burdensome, so a moderate allowance would be a sensible compromise.

6.4 The maximum amount that could be paid in elected members' remuneration is as follows:

Fig B	\$
Baseline remuneration [Fig A]	208,884
Maximum for additional duties	34,196
Communications and equipment	9,450
TOTAL	252,530
Variance to budget	27,530

6.5 E) Mayoral car

Fig C			
Mayoral Car		Annual	3 yrs
<u>Purchase by Council</u>		\$	\$
Cost / Value	35,000		
Assumed trade in after 3 years	17,500		17,500
Annual distance km	20,000		
Insurance	0.0175	613	1,838
Maintenance & Registration		667	2,000
Fuel cost km	0.2	4,000	12,000
Total Cost		5,279	33,338
With full private use		-2,870	-8,610
Net cost			24,728
<u>No Car Provided</u>			
Mileage claims			
First 5,000	0.74	3,700	11,100
Above 5,000	0.37	5,550	16,650
Total		9,250	27,750
Difference			5,588
With full private use			-3,023

- 6.6 Based on estimates provided by the Mayor, over the course of the triennium the total cash outlay for Council would be \$5,588 higher if a mayoral car was provided and there was substantively no private use. With full private use however the Mayor's base remuneration would be reduced by an amount equivalent to 20% of the annual value in use of the vehicle. This would make the provision of a car \$3,023 favourable against reimbursement of mileage claims. The sensitivity inherent in these estimates should be considered alongside the risks of ownership of a depreciating asset. Council already has a small pool of vehicles that, with careful planning, could be available from time to time for use by the Mayor for Council business.

7 PREFERRED OPTIONS AND REASONS

- 7.1 A) Total pool for additional responsibilities. The preferred option is 2: *Approve an amount equal to the remaining budget for remuneration after deducting the baseline remuneration and communication and equipment allowance*. This option compensates elected members for their additional duties whilst exercising fiscal control and operating within approved budgets.
- 7.2 B) Distribution of the pool for additional responsibilities. The preferred option is 3: *Tiered approach, with weightings for deputy mayors and chairs*. That the Authority recognises the position of portfolio lead indicates that this brings responsibilities in excess of the basic remit for a councillor. It is therefore appropriate that some additional remuneration is allocated to these positions. However, it is also appropriate that separate recognition is given to the statutory duties encumbered by the positions of deputy mayor and committee chairs. Council may wish to adopt a different differential to the one proposed.
- 7.3 C) Communications and equipment allowance. The preferred option is 1: *Pay as allowance*. Council already provides and makes available equipment and facilities to councillors. However, it is inevitable that there will be some use of personal equipment, such as mobile phones, and home utilities. A sum of \$400 per person is suggested.
- 7.4 D) Mayoral car. The preferred option is 2: *mileage reimbursement*. In commercial terms capital expenditure is justified when it generates long term economic benefits. Based on the estimates provided the option to purchase a car is only advantageous if there is some recovery from the Mayor's remuneration for private use. For sensitivity analysis, the decision becomes cash neutral if the purchase price of the vehicle is \$25,000, or the annual business mileage is around 33,500.

8 RECOMMENDATIONS

- A) **THAT** Council confirms a total pool of \$12,516 for elected members' additional responsibilities for the year ending 30 June 2017 and an annual communications and equipment allowance of \$400 per person.
- B) **THAT** Council instructs the Chief Executive to submit to the Remuneration Authority for a determination for additional remuneration for the positions of:
- a. Portfolio Holder with additional remuneration of \$834 per annum
 - b. Deputy Mayor with additional remuneration of \$1,252 per annum
 - c. Chair of the Finance, Audit and Risk Committee with additional remuneration of \$1,252 per annum
 - d. Chair of the Planning and Building Service Reform Committee with additional remuneration of \$1,252 per annum
- C) **THAT** Council resolves that a mayoral car will not be purchased.

Gary Borg

Group Manager: Corporate Services

- Appendix 1:** Sample Assessment of Deputy Mayor's and Executive Committee Chairperson's Additional Responsibilities
- Appendix 2:** NZ Remuneration Authority: Descriptions of positions of additional responsibilities
- Appendix 3:** NZ Remuneration Authority: Councillor – Base Role Description

Appendix 1

Sample Assessment of Deputy Mayor's and Executive Committee Chairperson's Additional Responsibilities

Q1 NAME OF COUNCIL	Westland District
Q2 IS ANY EXTRA PAY FOR COUNCILLOR POSITIONS OF ADDITIONAL RESPONSIBILITY BEING SOUGHT? YES/NO <i>If "no" then no further information is required</i>	Yes
Q3 POSITION TITLE	Deputy Mayor
Q4 NUMBER OF POSITIONS WITH THAT TITLE	One
Q5 POSITION DESCRIPTION <i>Specify additional responsibilities over and above the basic Councillor role – covering duties, delegations, deputising and reporting obligations</i>	<ul style="list-style-type: none"> • Supporting the Mayor in his role and deputising for him in his absence (recognising the Deputy Mayor lives and works in Hokitika and the Mayor lives and works over 70km away) • Keeping abreast of all issues facing Council, to allow for relative ease when deputising for the Mayor, should that need arise • Representing Council to a high standard, recognising that conduct in the role of Deputy Mayor reflects on Council as a whole • Representing Council in a strong, competent and articulate manner in the Council area and to any external agencies or groups • Ensuring sufficient familiarity with Council Standing Orders and procedures to be able to deputise competently for the Mayor in chairing Council meetings and other sessions of Council
Q6 DOCUMENTATION <i>Council minutes and formal resolutions that set the additional responsibilities</i>	28 November 2013
Q7 VARIATION <i>The extent to which the duties can vary</i>	Duties will differ a lot.

Q8 BENEFITS TO RATEPAYERS <i>List the benefits to ratepayers in having these additional responsibilities</i>	That in the absence of the Mayor there is a clearly identifiable person who has the lead for the Council's political, policy and community leadership.
Q9 ADDITIONAL TIME <i>Estimation of extra time (hours per month) involved in carrying out the additional responsibilities</i>	20 hours / month.
Q10 BASE COUNCILLOR SALARY <i>The base Councillor salary for your Council</i>	\$17,098
Q11 RECOMMENDED ADDITIONAL PAY Amount recommended for additional pay for this role	\$6,839
TOTAL ADDITIONAL COST For number of Councillors holding this role	\$23,937

Q1 NAME OF COUNCIL	Westland District
Q2 IS ANY EXTRA PAY FOR COUNCILLOR POSITIONS OF ADDITIONAL RESPONSIBILITY BEING SOUGHT? YES/NO <i>If "no" then no further information is required</i>	Yes
Q3 POSITION TITLE	Executive Committee Chairperson
Q4 NUMBER OF POSITIONS WITH THAT TITLE	One
Q5 POSITION DESCRIPTION <i>Specify additional responsibilities over and above the basic Councillor role – covering duties, delegations, deputising and reporting obligations</i>	<ul style="list-style-type: none"> • Chair meetings of a Standing Committee. • Ensuring sufficient familiarity with Council Standing Orders and procedures to be able to chair Executive Committee meetings and any other sessions of Council for which they have responsibility • Ensuring any meetings they chair act within the powers delegated by Council as set out in Delegations Manual

	<ul style="list-style-type: none"> • Managing the progress of business during meetings, including ensuring adherence to the Council Code of Conduct, Standing Orders and any other statutory obligations and requirements • Ensuring that all meeting participants have an opportunity to make an appropriate contribution within the bounds of Standing Orders and due process • Representing Council to a high standard in the areas of Council activity and business within their area of responsibility, recognising that conduct in the role of Committee Chairperson reflects on Council as a whole • Providing political leadership in building a political consensus around Council issues in the areas of Council activity and business that are within their area of responsibility • Promoting and supporting good governance by Council, in the critical areas of financial and risk management, CCO shareholder responsibilities and CE management. • Developing a clear understanding of the terms of reference of the Committee, and of the scope and range of the specific areas of Council activities and business within their area of responsibility to allow them to carry out their role as Committee Chairperson. • Keeping abreast of all issues concerning Council activity and business within their area of responsibility. • Meeting preparation and follow-up: Attend agenda meetings with staff and ensure satisfactory information is under preparation. Ensure media issues have been addressed. After a meeting work with staff to make sure key issues and decisions are clearly communicated to the media and public. • Policy leadership: provide guidance to the Council on own portfolio area and strategic direction, make policy recommendations, exercise good financial stewardship. Advocate for Committee issues, facilitate informal discussions between Councillors and between Councillors and staff on portfolio matters. • Key Councillor contact for staff on Committee matters. • External representation: represent Council at meetings of pan-Council working groups, and other external organisations and groups. Attend official functions within area of responsibility, and represent the Mayor when the Mayor and Deputy Mayor are unable to attend.
<p>Q6 DOCUMENTATION</p> <p><i>Council minutes and formal resolutions that</i></p>	<p>28 November 2013.</p>

<i>set the additional responsibilities</i>	Terms of Reference for Executive Committee.
<p>Q7 VARIATION</p> <p><i>The extent to which the duties can vary</i></p>	The Executive Committee performs a number of different roles including Managing CE's employment processes, reviewing and recommending Director Appointments, performing Audit Committee and Risk Committee duties. These duties vary a lot and occur across the year.
<p>Q8 BENEFITS TO RATEPAYERS</p> <p><i>List the benefits to ratepayers in having these additional responsibilities</i></p>	<ul style="list-style-type: none"> • Development of significant knowledge and expertise in holding a committee chair role helps to inform policy formation and undertake critical monitoring of performance. • Having one point of contact for staff and elected members facilitates more efficient dissemination of information/viewpoints.
<p>Q9 ADDITIONAL TIME</p> <p><i>Estimation of extra time (hours per month) involved in carrying out the additional responsibilities</i></p>	16 hours / month
<p>Q10 BASE COUNCILLOR SALARY</p> <p><i>The base Councillor salary for your Council</i></p>	\$17,098
<p>Q11 RECOMMENDED ADDITIONAL PAY</p> <p>Amount recommended for additional pay for this role</p>	\$4,275
<p>TOTAL ADDITIONAL COST</p> <p>For number of Councillors holding this role</p>	\$21,373

Appendix 2

NZ REMUNERATION AUTHORITY: DESCRIPTIONS OF POSITIONS OF ADDITIONAL RESPONSIBILITIES

Deputy Mayor

Responsibilities in addition to those of a Councillor:

- Supporting the Mayor in their role and deputising for them in their absence.
- Keeping abreast of all issues facing Council, to allow for relative ease when deputising for the Mayor, should that need arise.
- Representing the Council to a high standard, recognising that conduct in the role of Deputy Mayor reflects on Council as a whole.
- Representing the Council in a strong, competent and articulate manner in the Council area and to any external agencies or groups.
- Ensuring sufficient familiarity with Council Standing Orders and procedures to be able to deputise competently for the Mayor in chairing Council meetings and other sessions of Council.

Committee Chair/Portfolio Holder

Responsibilities in addition to those of a Councillor:

- Chairing meetings of the committees in the areas of Council activity and business within their area of responsibility.
- Representing the Council to a high standard in the areas of Council activity and business within their area of responsibility, recognising that conduct in the role of CC/PH reflects on Council as a whole.
- Promoting and supporting good governance by the Council.
- Developing a clear understanding of the terms of reference of their committees, and of the scope and range of the specific areas of Council activities and business within their area of responsibility to allow them to carry out their role as CC/PH.
- Ensuring sufficient familiarity with Council Standing Orders and procedures to be able to chair Council Committee Meetings and any other sessions of Council for which they have responsibility.

- Undertaking sufficient preparation before meetings they are chairing to effectively carry out their role as CC/PH.
- Ensuring any meetings they chair act within the powers delegated by the Council as set out in the Council Delegation Manual.
- Managing the progress of business during meetings, including ensuring adherence to the Council Code of Conduct, Standing Orders and any other statutory obligations and requirements.
- Ensuring that all participants in meetings have an opportunity to make an appropriate contribution within the bounds of Standing Orders and due process.
- Maintaining and ensuring due order and decorum throughout meetings they chair.
- Commenting to the media (or other agencies) as the Council spokesperson on issues arising that pertain to their committee or that are on the agenda in the areas of Council activity and business within their area of responsibility, but only if delegated to do so by Council.
- Liaising with appropriate Council staff in respect of the areas of Council activity and business within the CC/PH area of responsibility.
- Providing political leadership in building a political consensus around Council issues in the areas of Council activity and business that are within their area of responsibility.
- Recognising and contributing to issues that cut across specific areas of Council activity and business within the CC/PH area of responsibility.
- Ensuring sufficient familiarity with Council Standing Orders and procedures to be able to deputise competently for the Mayor in chairing Council Meetings and other sessions of Council.
- Representing the Council in various local, regional and/or national settings, both formal and informal, as appropriate.
- Working closely with other elected members of Council to ensure smooth Council decision-making.
- Ensuring sufficient familiarity with the processes and procedures of various civic functions to be able to correctly follow the obligations of such civic functions in the event of deputising for the Mayor, should that need arise.

Appendix 3

NZ REMUNERATION AUTHORITY: COUNCILLOR – BASE ROLE DESCRIPTION

Collective Duties of the Council

- Representing the interests of the Council.
- Formulating the Council's strategic direction and relative priorities through the Long Term Plan (LTP), which determines the services and activities to be undertaken by Council over a ten-year period.
- Determining the expenditure and funding requirements of Council activities through the LTP and annual planning processes.
- Overseeing, developing and/or approving all Council policies, administrative, legal, financial and strategic, including formal regional, city and/or district planning matters within the Council's geographical area of responsibility.
- Monitoring the ongoing performance of Council against its stated objectives and policies (including formal sign-off of the Annual Report).
- Ensuring prudent use of Council resources.
- Law-making (bylaws).
- Overseeing Council compliance with any relevant Acts of Parliament.
- Employing, setting performance requirements for, and monitoring the ongoing performance of the Council's Chief Executive. (Under the Local Government Act 2002, the local authority employs the Chief Executive who, in turn, employs all other staff on its behalf – elected members of Council have no responsibilities for, and cannot direct, any staff employed by the Council other than the Chief Executive.)

Representation and Advocacy

- Bringing the views of the community into Council decision-making processes.
- Being an advocate for community groups and individuals at Council meetings.
- Balancing the need to advocate for specific interests against the needs of the wider community.

- Listening to the concerns of local residents and ratepayers on issues pertaining to the Council.
- Maintaining contact with community representatives and other local stakeholders.
- Participating in any relevant consultative processes with the local community and/or other organisations.

Governance

- Participating constructively and effectively in the good governance of the Council as a whole.
- Understanding and ensuring that basic principles of good governance are a part of the decision-making approach of the Council.
- Understanding and respecting the differing roles of Mayor (or Chair for a regional Council), Deputy Mayor, committee chairs/portfolio holders and Councillors.
- Recognising that the governance role does not extend to operational matters or to the management of any implementation.
- Having a good understanding of the Council processes set out in the Standing Orders that determine how Council meetings are run.
- Developing and maintaining a working knowledge of Council services, management processes, powers, duties and constraints.
- Participating in the setting and monitoring of Council policies, budgets, strategies and service delivery through annual and long-term planning processes.
- Ensuring familiarity with agendas and other Council reports before Council meetings.
- Being familiar with and complying with the statutory requirements of an elected Councillor.
- Complying with the Code of Conduct adopted by the Council.
- Identifying, being aware of and declaring any potential personal conflicts of interest, whether of a pecuniary or non-pecuniary nature.

Report



DATE: 24 November 2016

TO: Mayor and Councillors

FROM: Information Services Manager

ROAD NAMING – FERGUSON PLACE, FRANZ JOSEF

1.0 SUMMARY

- 1.1 The purpose of this report is to obtain Council approval for the naming of a formed road:
The road created by DP 355773 at Franz Josef see Appendix 1
- 1.2 This issue arises from formed roads in Westland District which have no name. The Australian/New Zealand standard for rural and urban addressing (AS/NZS 4819:2011) states that all formed roads that are generally open to the public, shall be named.
- 1.3 Council seeks to meet its obligations under the Local Government Act 2002 and the achievement of the District Vision adopted by the Council in September 2014, which will be set out in the next Long Term Plan 2015-25. These are stated on Page 2 of this agenda.
- 1.4 This report concludes by recommending that Council agrees to the proposed name – FERGUSON PLACE

2.0 BACKGROUND

- 2.1 Council has the authority under section 319(1)(j) and 319A of the Local Government Act 1974 to name roads.

319 (1) The council shall have power in respect of roads to do the following things:

(j) To name and to alter the name of any road and to place on any building or erection on or abutting on any road a plate bearing the name of the road

319(A) If the council names any road for the first time, or alters the name of a road, the council must as soon as practicable send a copy of the relevant resolution to the Registrar-General of Land and the Surveyor-General.

- 2.2 Road names can promote a sense of place connection for residents of a road, and the local community. The Council acknowledges this connection and understands the importance of choosing the appropriate road name in maintaining and enhancing this relationship.

- 2.3 **FERGUSON PLACE** – see Appendix 2

This road was created on a subdivision done in 2004 and completed in 2005. The road was not named at the time. Normally the road is named at the same time as the subdivision by the developer. There are now property owners wishing to build on this subdivision and requiring services (phone power and Sky) to be connected. Most companies require a street address for this to happen

The subdivision developer has suggested Ferguson Place, regarding the contribution Mack Ferguson Snr made in South Westland.

3.0 CURRENT SITUATION

- 3.1 **FERGUSON PLACE** - The piece of road was vested in the Westland District Council on the 20th November 2006. No name for the road was suggested at the time.

The subdivision developer who still own a lot of the section have suggested Ferguson Place as the name for this road. The reason for suggesting this name is to honour the contribution made by Mack Ferguson senior to South Westland.

- 3.2 The name does not conflict with any other road names in Westland or adjoining TLA's. The name complies with road naming conventions in the Australian/New Zealand standard for rural and urban addressing (AS/NZS 4819:2011).

4.0 OPTIONS

4.1 Option 1: Approve the suggested name of this road.

4.2 Option 2: Reject the proposed name for the road.

5.0 SIGNIFICANCE AND ENGAGEMENT

5.1 In accordance with Council's Policy on Significance and Engagement this matter has been assessed to have low level of significance.

5.2 No public consultation is required for this as Council already has a sound understanding of the views and preferences of the persons likely to be affected by or interested in the matter.

5.3 Council does not currently have a policy on the naming of roads.

6.0 ASSESSMENT OF OPTIONS (INCLUDING FINANCIAL IMPLICATIONS)

6.1 Option 1 – This option would comply with Council's obligation with regard naming of roads within our district. There are no financial implications for Council associated with this option.

6.2 Option 2 – If it was considered that the name provided was inappropriate or that a better name could be provided, Council could reject the name and request or suggest alternate names for consideration.

6.3 Doing nothing is not an option. Under AS/NZS 4819:2011, "All formed roads that are generally open to the public shall be named."

7.0 PREFERRED OPTION AND REASONS

7.1 Option 1 is the preferred options as it complies with all the standards, and does not conflict with other nearby road names.

8.0 RECOMMENDATION

- A) **THAT** Council approve the name for the road vested in the Council on deposit of DP 355773 as FERGUSON PLACE.

Appendix 1: Copy of DP 355773

Appendix 2: Aerial Photo of Ferguson Place

Peter Oliver

Information Services Manager

