

# Report



**DATE:** 28 November 2013  
**TO:** Mayor and Councillors  
**FROM:** Acting Group Manager - Corporate Services

---

## **TERMS OF REFERENCE – EXECUTIVE COMMITTEE**

### **1.0 SUMMARY**

- 1.1 The purpose of this report is to establish the terms of reference for the Executive Committee.
- 1.2 This issue arises from the establishment of the Executive Committee by the Mayor and the requirement to be clear as to the membership and the role of this Committee.
- 1.3 The Council is required to give effect to the purpose of local government as prescribed by section 10 of the Local Government Act 2002 (LGA). That purpose is:
- (a) To enable democratic local decision-making and action, by and on behalf of, communities; and
  - (b) To meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses.
- 1.4 Council seeks to meet this obligation and the achievement of the District vision set out in the Long Term Plan 2012-22. The matters raised in this report relate to those elements of the vision identified in the following table.

<b>Vision's Objectives</b>	<b>Achieved By</b>
Having inspirational leadership	An appropriate structure assists Council in efficient and effective decision making.

- 1.5 This report concludes by recommending that Council adopts the Terms of Reference for the Executive Committee.

## **2.0 BACKGROUND**

- 2.1 The Mayor established the committee structure of Council and appointed Cr Dawson as the Chairperson of the Executive Committee under [s.41A](#) of the LGA. Under that same section the Mayor is a member of that Committee.
- 2.2 Additional relevant provisions from [Schedule 7](#) of the LGA are:
- a) Cl. 23(3) At least 3 elected members are needed for a quorum.
  - b) Cl. 30(2) A Committee can appoint subcommittees.
  - c) Cl. 31 Membership of Committees. Must have a minimum of 3 members and at least 1 must be an elected member. Note: employees cannot be a member of a committee.
  - d) Cl. 32 Delegations. Certain matters cannot be delegated to a Committee.
- 2.3 It should be noted that under Clause 19(2) of Schedule 7 “*A member of a local authority, or of a committee of a local authority, has, unless lawfully excluded, the right to attend any meeting of the local authority or committee.*”

## **3.0 CURRENT SITUATION**

- 3.1 Today we have a Committee by name and a Chairperson. To give effect to the Mayors declaration it is necessary for the Council to agree a terms of reference and membership of that Committee.
- 3.2 The Mayor has indicated that he wished the committee to be responsible for the following:
- a) Matters normally dealt with by an audit and risk committee.
  - b) Council Controlled Organisations and Council Organisation appointments.
  - c) Council Controlled Organisation liaison as shareholder.
  - d) Chief Executive employment matters.
  - e) Emergency powers.
  - f) Audit and Risk Committee functions are to be responsible for:

- The robustness of the internal control framework and financial management practices.
  - The integrity and appropriateness of internal and external reporting and accountability arrangements.
  - The robustness of risk management systems, processes and practices.
  - The independence and adequacy of internal and external audit functions.
  - Compliance with applicable laws, regulations, standards and best practice guidelines; and
  - The establishment and maintenance of controls to safeguard the Council's financial and non-financial assets.
- g) Council Controlled Organisation and Council Organisation appointments functions.
- To follow Council policy on Director Appointments and Remuneration.
  - To review and recommend improvements to the Council policy on Director Appointments and Remuneration.
  - To recommend appointees to Council with the appropriate skills, knowledge and experience as required by s.57(2) of the LGA.
- h) Council Controlled Organisation liaising as shareholder functions.
- To review draft Statements of Intent and consider these against:
    - ❖ Council's Long Term Plan Financial Strategy.
    - ❖ Long Term Plan significant policies and objectives in relation to ownership and the nature and scope of activities and Councils key performance targets under C17 Sch10.
    - ❖ Council's Investment Policy.

- Following that review, to recommend to Council comments as provided for under s.64 and Sch.8 of the LGA.
- Consider the six monthly and annual report against the Statement of Intent performance targets.
- Consider other matters including, major transactions; new acquisitions or disposals.
- To meet regularly with Directors.

i) Chief Executive employment functions.

- The terms of reference is clear as to the matters that the Committee will consider, act on and recommend. This includes the power to resolve the outcomes of performance and remuneration reviews.
- The LGA is clear that only Council can employ the Chief Executive.
- The Committee must act as a good employee (Cl. 36 Sch. 7) on behalf of Council in dealing with employment matters.

3.3 Appoint Members to Executive Committee.

- a) The Mayor has appointed Cr Dawson as Chairperson.
- b) The Mayor is a member of the Committee s.41A(5) of the LGA.
- c) One other appointment must be made, by Council.
- d) Only Council can appoint or remove a member of a Committee.

#### **4.0 OPTIONS**

- 4.1 Adopt the Terms of Reference and confirm appointments as drafted.
- 4.2 Amend then adopt the Terms of Reference and/or appointments.
- 4.3 Don't adopt the Terms of Reference.

## **5.0 SIGNIFICANCE AND CONSULTATION**

- 5.1 The establishment of an Executive Committee is for the purpose of creating an efficient governance structure. The LGA has determined which matters are of such importance that they must be dealt with by Council. All other decisions of this Committee will be measured against the Significance Policy. Therefore the adoption of the Terms of Reference and Appointment of Committee Members is administrative and of low significance.
- 5.2 No consultation is required for this decision.

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

- 6.1 The Mayor has proposed the establishment of one committee. This ensures the majority of matters are dealt with by the whole council. The Executive Committee has been established to allow for the efficient and effective decision making for some of the more complex governance processes.
- 6.2 For the matters delegated to the Committee good process can be just as important, if not more so, than the final decision.
- 6.3 The content of the terms of reference has largely been lifted from terms of reference of committees or sub committees of other councils. This demonstrates that it is considered good practice to deal with these matters in a Committee.
- 6.4 Council has the choice to amend this proposed Terms of Reference to best suit its needs.
- 6.5 The direct financial implications of establishing a Committee are limited to a potentially higher remuneration for the Chairperson. This is to be determined by the Remuneration Authority but could be as much as \$7,500. The indirect cost of servicing Committees is high by comparison to the additional direct costs. Preparing reports, agendas and attending meetings (largely by senior staff) for meetings is estimated to cost up to \$1,000 an hour.

## **7.0 PREFERRED OPTION AND REASONS**

- 7.1 Option 1 is the preferred option.

## **8.0 RECOMMENDATIONS**

- A) **THAT** Council adopts the Terms of Reference for the Executive Committee.
- B) **THAT** Council appoints the Deputy Mayor to the Executive Committee.
- C) **THAT** the Executive Committee Terms of Reference be added to Part III of the Delegations Manual – “Delegations to Standing Committees” and that the delegations for and references to the Performance Management, Strategy, Operations, Risk Management and Conduct Review Committees be removed from the Delegations Manual.

**Stephen Halliwell**  
**Acting Group Manager – Corporate Services**

**Appendix 1:** Terms of Reference for the Executive Committee

## **TERMS OF REFERENCE FOR THE EXECUTIVE COMMITTEE**

**REPORTING TO:** Council

**CONSTITUTION:** Mayor, Deputy Mayor and One member appointed by the Mayor as Chairperson(Cr Dawson)

**MEETING FREQUENCY:** As required.

**QUORUM:** Two.

### **OBJECTIVE:**

1. To enable Council to carry out its statutory and contractual responsibilities as employer of the Chief Executive.
2. To implement Council policies and processes for the selection, appointment and remuneration of directors to Council Controlled Organisations and trustees to Council Organisations.
3. To maintain an on-going liaison with Boards of Directors of Council-Controlled Organisations in regard to Council's interest as a shareholder.
4. To undertake the role of Audit Committee.
5. To undertake the role of Risk Management Committee.
6. To determine matters within the authority of Council where the urgency of those matters precludes an Extraordinary Meeting of the full Council.

### **SCOPE OF ACTIVITY:**

#### **Employment of Chief Executive**

1. All matters arising under Section 42 and Clauses 33, 34, 35 and 36 of Schedule 7 of the Local Government Act 2002.
2. All matters arising from Council's employment agreement with the Chief Executive, including but not limited to the conduct of performance reviews and remuneration reviews.

#### **Appointment of Directors and Trustees**

3. All matters pertaining to the selection, appointment and remuneration of directors to Council-controlled organisations and trustees to Council organisations, in accordance with Council's Policy on Appointment and Remuneration of Directors.

## **Audit and Risk Committee**

4. All matters pertaining to good practice for 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.

**Emergency Powers**

5. All matters within the authority of Council, other than those reserved to Council under s.48 and Sch. 7 of the Local Government Act 2002.

**POWER TO ACT:**

**Employment of Chief Executive**

- (a) To decide all matters arising under s.42 and Cl. 33, 34, 35 and 36 of Sch. 7 of the Local Government Act 2002 and all matters arising from Council's employment agreement with the Chief Executive, except for:
  - (i) The appointment of a Chief Executive; and
  - (ii) The re-appointment of a Chief Executive for a second term under Cl. 34 Sch. 7 of the Local Government Act 2002; and
  - (iii) The termination of employment of the Chief Executive.
- (b) In undertaking performance reviews, whilst the process for undertaking the review is at the Committees discretion; the Committee must:
  - (i) Seek the views of all Councillors, prior to assessing the Chief Executives performance review.
  - (ii) Seek the advice of an independent employment advisor, at least annually, on good practice, in undertaking a review.
- (c) In undertaking a remuneration review the Committee must seek the advice of an independent employment advisor, on good practice, in undertaking a review.

**Appointment of Directors and Trustees**

- (d) All matters pertaining to the selection, appointment and remuneration of directors to Council Controlled Organisations and trustees to Council Organisations, except for the appointments of directors and trustees.
- (e) All matters are to be in accordance with Council adopted policy on Appointment and Remuneration of Directors.

## **Emergency Powers**

- (f) To decide all matters within the authority of Council where urgency precludes convening an Extraordinary meeting of the full Council, except for those matters reserved to Council under s.48 and Sch. 7 of the Local Government Act 2002.

## **Other**

- (g) Approve Executive Committee meeting minutes.
- (h) Appoint sub committees with written terms of reference, resolved by the Committee.

## **POWER TO RECOMMEND**

### **Employment of Chief Executive**

- (a) The appointment of the Chief Executive;
- (b) The re-appointment of a Chief Executive for a second term under Cl. 34 Sch. 7 of the Local Government Act 2002.
- (c) The termination of employment of the Chief Executive.

### **Appointment of Directors and Trustees**

- (d) Appointees for directors to Council Controlled organisations and trustees to Council organisations that meet the requirements of s.57 of the Local Government Act 2002.

### **Council Controlled Organisations**

- (e) Any matters pertaining to Council's interest as a shareholder in Council Controlled Organisations, including:
  - i. Consideration of Statements of Intent
  - ii. Review of six monthly and annual performance against the statements of intent.
  - iii. Consideration of major transactions.
  - iv. Consideration of major transactions, acquisitions and disposals.

# Report



**DATE:** 28 November 2013  
**TO:** Mayor and Councillors  
**FROM:** Acting Group Manager - Corporate Services

---

## **ELECTED MEMBERS REMUNERATION - HIGHER DUTIES**

### **1.0 SUMMARY**

- 1.1 The purpose of this report is to ensure the Deputy Mayor and Executive Committee Chairperson are fairly remunerated for their workload.
- 1.2 This issue arises from an omission in the information supplied to the NZ Remuneration Authority regarding the position of the Deputy Mayor and the establishment of the Executive Committee.
- 1.3 The Council is required to give effect to the purpose of local government as prescribed by section 10 of the Local Government Act 2002. That purpose is:
  - (a) To enable democratic local decision-making and action, by and on behalf of, communities; and
  - (b) To meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses.
- 1.4 Council seeks to meet this obligation and the achievement of the district vision set out in the Long Term Plan 2012-22. The matters raised in this report relate to those elements of the vision identified in the following table.

<b>Vision's Objectives</b>	<b>Achieved By</b>
Having inspirational leadership	Remunerating Councillors fairly assists good governance.

- 1.5 This report concludes by recommending to the Remuneration Authority the salaries of the Deputy Mayor and Executive Committee Chairperson.

## 2.0 BACKGROUND

- 2.1 Elected Members Remuneration is set by the [NZ Remuneration Authority](#). They do this by statute, known as a determination.
- 2.2 The current [determination](#) commenced on 13 October 2013 and provides for a Mayor's salary and Councillors' salaries.
- 2.3 The Authority in setting salaries provides that *“a pool will be available to each Council to provide additional pay for members who take on additional responsibilities, such as chairing a committee. This fund will be capped at the equivalent of 1.5 times the base Councillor salary.”*
- 2.4 Elected members salaries are \$15,300, so the available pool is \$22,950.
- 2.5 The Authority policy also states *“Salaries for Councillors with additional responsibilities are set based on representations from Councils, with a cap on total additional salary cost per Council expressed as a multiple of the Council's base Councillor Salary.”* And that they *“Invite representations from Councils concerning additional payment for additional responsibilities and set salaries for positions of additional responsibility.”*
- 2.6 *“Representation concerning additional levels of responsibility will need to address:*
- a) *the role title*
  - b) *the role description, specifying additional responsibilities over and above the basic Councillor role covering duties, delegations, deputising, and reporting obligations*
  - c) *documentation (Council minutes and formal resolutions) of the setting of those responsibilities*
  - d) *the extent to which the duties can be varied*
  - e) *the benefit to ratepayers*
  - f) *estimation of extra time involved in carrying out the duties*
  - g) *recommended additional remuneration.”*
- 2.7 *“It is expected that additional remuneration for committee chairpersons or leaders will be between 5% and 25% of the base Councillor salary.”*
- 2.8 *“It is expected that deputy mayors' additional remuneration will not exceed 40% of the base Councillor salary.”*

### **3.0 CURRENT SITUATION**

- 3.1 Elected Members base salary is \$15,300.
- 3.2 Deputy Mayor's salary range is \$15,300 - \$21,420.
- 3.3 Executive Committee Chairperson's salary range \$15,300 – \$19,125.
- 3.4 To support the recommendation the table in Appendix 1 must be completed and sent to the Remuneration Authority.

### **4.0 OPTIONS**

- 4.1 Support the Mayor's recommendation.
- 4.2 Do not support the Mayor's recommendation and adopt another remuneration level.

### **5.0 SIGNIFICANCE AND CONSULTATION**

- 5.1 The setting of additional remuneration for additional responsibilities is administrative and therefore of low significance.
- 5.2 No local consultation is required. The Authority has recently consulted on Elected Members Remuneration.

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

- 6.1 With the Mayor living out of Hokitika it is anticipated the Deputy Mayor's duties will be at the higher end of responsibility for the position.
- 6.2 The Chairperson for the Executive Committee is responsible for Council's only Committee. The responsibilities of that Committee are also considered to be senior responsibilities (CE performance assessment, remuneration, Audit and Risk Committee and CCO director appointments and monitoring, emergency powers).

### 6.3 Financial Considerations

<b>Position</b>	<b>Remuneration</b>	<b>Budget</b>
Mayor	66,100	
Deputy Mayor	21,420	
Exec. Committee Chairperson	19,125	
Councillors (\$15,300* 6)	91,800	
Allowances (\$1,050 * 9)	9,450	
<b>Total</b>	<b>\$207,895</b>	<b>\$225,000</b>

6.4 Unspent salary pool (\$22,950- \$9,945 = \$13,005)

6.5 Conclusion: proposal within budget.

### 7.0 PREFERRED OPTION AND REASONS

7.1 The preferred option would be to remunerate the Deputy Mayor and Executive Committee Chairperson at the maximum remuneration.

### 8.0 MAYOR'S RECOMMENDATIONS

- A) **THAT** the Deputy Mayor's salary be submitted to the New Zealand Remuneration Authority at \$21,420.
- B) **THAT** the Executive Committee Chairperson's salary be submitted to the New Zealand Remuneration Authority at \$19,125.
- C) **THAT** approve the Assessment of Deputy Mayor's and Executive Committee Chairperson's Additional Responsibilities and submits it to the New Zealand Remuneration Authority.

**Stephen Halliwell**  
**Acting Group Manager - Corporate Services**

**Appendix 1:** 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

## 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	<b>Deputy Mayor</b>
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"> <li>• 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)</li> <li>• Keeping abreast of all issues facing Council, to allow for relative ease when deputising for the Mayor, should that need arise</li> <li>• Representing Council to a high standard, recognising that conduct in the role of Deputy Mayor reflects on Council as a whole</li> <li>• Representing Council in a strong, competent and articulate manner in the Council area and to any external agencies or groups</li> <li>• 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.</li> </ul>



<p>Q6 DOCUMENTATION</p> <p><i>Council minutes and formal resolutions that set the additional responsibilities</i></p>	28 November 2013
<p>Q7 VARIATION</p> <p><i>The extent to which the duties can vary</i></p>	Duties will differ a lot.
<p>Q8 BENEFITS TO RATEPAYERS</p> <p><i>List the benefits to ratepayers in having these additional responsibilities</i></p>	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.
<p>Q9 ADDITIONAL TIME</p> <p><i>Estimation of extra time (hours per month) involved in carrying out the additional responsibilities</i></p>	20 hours / month.
<p>Q10 BASE COUNCILLOR SALARY</p> <p><i>The base Councillor salary for your Council</i></p>	\$15,300
<p>Q11 RECOMMENDED ADDITIONAL PAY</p> <p>Amount recommended for additional pay for this role</p>	\$6,120
<p>TOTAL ADDITIONAL COST</p> <p>For number of Councillors holding this role</p>	\$21,420

Q1 NAME OF COUNCIL	Westland District
<p>Q2 IS ANY EXTRA PAY FOR COUNCILLOR POSITIONS OF ADDITIONAL RESPONSIBILITY BEING SOUGHT? YES/NO</p> <p><i>If “no” then no further information is required</i></p>	Yes
Q3 POSITION TITLE	<b>Executive Committee Chairperson</b>
Q4 NUMBER OF POSITIONS WITH THAT TITLE	One
<p>Q5 POSITION DESCRIPTION</p> <p><i>Specify additional responsibilities over and above the basic Councillor role – covering duties, delegations, deputising and reporting obligations</i></p>	<ul style="list-style-type: none"> <li>• Chair meetings of a Standing Committee.</li> <li>• 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</li> <li>• Ensuring any meetings they chair act within the powers delegated by Council as set out in Delegations Manual</li> <li>• 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</li> <li>• Ensuring that all meeting participants have an opportunity to make an appropriate contribution within the bounds of Standing Orders and due process</li> <li>• 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</li> <li>• 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</li> <li>• Promoting and supporting good governance by Council, in the critical areas of financial</li> </ul>

	<p>and risk management, CCO shareholder responsibilities and CE management.</p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• Keeping abreast of all issues concerning Council activity and business within their area of responsibility.</li> <li>• 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.</li> <li>• 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.</li> <li>• Key Councillor contact for staff on Committee matters.</li> <li>• 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.</li> </ul>
<p>Q6 DOCUMENTATION</p> <p><i>Council minutes and formal resolutions that set the additional responsibilities</i></p>	<p>28 November 2013.</p> <p>Terms of Reference for Executive Committee.</p>

<p>Q7 VARIATION</p> <p><i>The extent to which the duties can vary</i></p>	<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>
<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"> <li>• Development of significant knowledge and expertise in holding a committee chair role helps to inform policy formation and undertake critical monitoring of performance.</li> <li>• Having one point of contact for staff and elected members facilitates more efficient dissemination of information/viewpoints.</li> </ul>
<p>Q9 ADDITIONAL TIME</p> <p><i>Estimation of extra time (hours per month) involved in carrying out the additional responsibilities</i></p>	<p>16 hours / month</p>
<p>Q10 BASE COUNCILLOR SALARY</p> <p><i>The base Councillor salary for your Council</i></p>	<p>\$15,300</p>
<p>Q11 RECOMMENDED ADDITIONAL PAY</p> <p>Amount recommended for additional pay for this role</p>	<p>\$3,825</p>
<p>TOTAL ADDITIONAL COST</p> <p>For number of Councillors holding this role</p>	<p>\$19,125</p>

## 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 his/her role and deputising for him/her in his/her 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 meeting participants 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.
- Working closely with other elected members of Council to ensure smooth Council decision-making.
- Keeping abreast of all issues concerning Council activity and business within their area of responsibility.
- 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 Council Community Plan (LTCCP), 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 LTCCP 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:** 28 November 2013  
**TO:** Mayor and Councillors  
**FROM:** Acting Group Manager - Corporate Services

---

## **ELECTED MEMBERS' ALLOWANCES AND RECOVERY OF EXPENSES POLICY**

### **1.0 SUMMARY**

- 1.1 The purpose of this report is to adopt a new policy on Elected Members' Allowances and Recovery of Expenses.
- 1.2 This issue arises from good practice recommended by the NZ Remuneration Authority.
- 1.3 The Council is required to give effect to the purpose of local government as prescribed by section 10 of the Local Government Act 2002. That purpose is:
  - (a) To enable democratic local decision-making and action, by and on behalf of, communities; and
  - (b) To meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses.
- 1.4 Council seeks to meet this obligation and the achievement of the district vision set out in the Long Term Plan 2012-22. The matters raised in this report relate to those elements of the vision identified in the following table.

<b>Vision's Objectives</b>	<b>Achieved By</b>
Having inspirational leadership	Although a very small part of the budget Elected Members' Remuneration and Allowances has a high profile in the community. Clear policies that allow for efficient and cost

	effective governance contribute to inspirational leadership.
--	--

- 1.5 This report concludes by recommending that Council adopt the policy on Elected Members' Allowances and Recover of Expenses.

## 2.0 BACKGROUND

- 2.1 The Authority sets remuneration for elected positions in local government. It also sets the rules for reimbursement of costs met by members in undertaking their duties. Both are unique to each local authority.
- 2.2 Council is required to establish a policy for the next three years and send it to the Authority for approval.
- 2.3 The following is extracted from the Authority's 2013 review of Elected Members' Remuneration:

*2.3.1 Approval for expenses will be required every three years, in election year, rather than every year. Where new issues arise a Council may seek an amendment during the three-year period. To avoid unnecessary regular amendments Councils might wish to consider wording the mileage, travel and communication allowances in such a way that any change to the maximum amount payable in the determination is automatically adjusted in the policy. The intention with this change, as with others, is to free up administration and Councillor time without reducing the opportunity to raise matters with the Authority.*

## 3.0 CURRENT SITUATION

- 3.1 Officers have prepared a policy for adoption based on the Authority's policy template and adjusted for local practices. See **Appendix 1**.
- 3.2 Key points to note:
- 3.2.1 The policy includes strike outs of matters included in the Authority's template that has not been customary for Westland. These are for information and will be removed from the adopted policy.
- 3.2.2 *"Council business" includes: formal Council meetings, committee meetings, workshops, seminars, hearings, training courses, site visits, meetings with staff, Council arranged meetings with community groups, attendances required by a Council*

*appointment, and Council organised meetings with members of the public. It does not include private meetings with citizens or groups or events where the primary focus is on social activity. This definition is more restrictive than that drafted by the Authority. It is intended that this definition clarifies that the formal business of Council is claimable, whereas the business of being a Councillor is not. While applying to all expenses this has particular application to the claiming of mileage.*

*3.2.3 Transparency is achieved through the quarterly publication on Council's website of all expenses for elected members claimed in that period. This clause derived from the template makes administration of LGOIMA requests easier. In the last 12 months we have received multiple requests for information on elected members' remuneration. It would be more efficient to make the information immediately available. We note that [Parliament](#) has been doing this since at least 2009.*

*3.2.4 Exceptional Circumstances for Council related meetings... Council recognises that this may be a regular occurrence (i.e. not exceptional) for the member from Haast. Councillor Hope enquired about this option and an enquiry was made to the Authority on the possibility of an accommodation allowance. Their response was to include it in the recovery of expenses policy. There are two options for recovery of these expenses, either as an expense recovery or a private accommodation allowance. We note that according to google maps Haast to Hokitika is 278 km and should take 3.25 hours to drive one-way.*

*3.2.5 The policy provides for the Mayor to have a vehicle. This has been at the request of the Mayor. Most Mayors have a vehicle. The Authority will recalculate the Mayors salary, reducing the cash payment to allow for the personal use. The form Appendix 2 will need to be completed and sent to the Authority who will need to make a determination. Council will need to determine a budget*

## **4.0 OPTIONS**

- 4.1 Adopt the Policy.
- 4.2 Amend and adopt the Policy.
- 4.3 Don't adopt a Policy.

## 5.0 SIGNIFICANCE AND CONSULTATION

- 5.1 This policy addresses matters that occasionally make the headlines, especially when policies are not complied with or are, in the opinion of the media, too generous. Elected Members' expenses therefore get a higher level of public scrutiny than their value would warrant. The public interest in expenses aside, this policy affects the district in a small way and is therefore considered to be of low significance.
- 5.2 The policy is subject to the approval of the Authority who has undertaken extensive consultation recently on Elected Members' remuneration and expenses. Adoption of this policy requires no further community or stakeholder consultation.

## 6.0 ASSESSMENT OF OPTIONS (INCLUDING FINANCIAL IMPLICATIONS)

- 6.1 Option 1 is a first draft policy based on the Authority's template, past practices with some modification. The policy should mean the employees and elected members attending the same event are operating under similar policies. The policy should reflect the community's values and expectations.
- 6.2 Option 2 firstly will address the removal of the struck out content of the draft. The policy does need to reflect how this Council wishes to operate and as such, in the absence of a workshop on this matter it is likely that some modification will improve the policy.
- 6.3 Option 3 would result in another report coming to Council in December. It is required the Authority is advised of our policy.
- 6.4 Financial Implications

6.4.1 Council has the following budget lines with the Governance activity relevant to this report:

Description	Expenditure to Sept 2013	Annual Budget	%
Honorarium and fees	54,283	225,000	24
Mileage	4,768	22,000	22
Travel	0	11,500	0
Courses and Conference	3,880	6,500	60
Accommodation and meals	112	10,000	1
Printing and Stationery	35	2,000	2

Overall	\$69,250	\$277,000	25%
---------	----------	-----------	-----

6.4.2 Like all other activities Council must manage to its budget. Since the end of the quarter there has been a catch up of expense claims for outgoing Councillors and increased training costs.

6.4.3 The operating costs, including depreciation of a Mayoral Vehicle are unlikely to be met from existing budgets for Mileage and Salaries. Council's Mitsubishi Challenger had operating costs of \$15,800 in 2012/13. This included Diesel, Insurance, Maintenance, Registration and Depreciation. The salary sacrifice (\$5,000) and lower mileage claims (\$6,000) do cover a substantial portion of this budget, including a contribution to depreciation.

6.4.4 Funding for the capital cost of the purchase of the vehicle is not budgeted for. Council has no reserve funds to fund the purchase. Two funding options remain; A lease or internal loan. The finance costs on the internal loan will be lower, although Council has some resale risks that stay with the lease company. The purchase of a vehicle will result in an increase in the 2014/15 budget.

## 7.0 PREFERRED OPTIONS AND REASONS

7.1 Option 2 is preferred for the reasons above.

## 8.0 RECOMMENDATIONS

- A) **THAT** Council adopt the Elected Members Allowances and Recovery of Expenses Policy with amendments.
- B) **THAT** the Elected Members Allowances and Recovery of Expenses Policy be sent to the NZ Remuneration Authority for their approval.
- C) **THAT** Council approve the purchase of a Vehicle of the Mayor's choice up to \$50,000 including on-road-costs plus GST, funded from internal loans.

- D) **THAT** the form required by the NZ Remuneration Authority is completed and sent, as soon as all the facts are known, for the Authority to issue a new determination.

**Stephen Halliwell**  
**Acting Group Manager – Corporate Services**

**Appendix 1:** Elected Members Allowances and Recovery of Expenses Policy.

## **Elected Members' Allowances and Recovery of Expenses**

### **Policy on Elected Members' Allowances and Recovery of Expenses for the Electoral Tenure commencing 12 October 2013**

#### **1. INTRODUCTION**

This policy sets out rules on the claiming of expenses by elected members and the resources that will be available to them during their term of office.

Contact person for queries: Diane Maitland  
Email: [diane.maitland@westlanddc.govt.nz](mailto:diane.maitland@westlanddc.govt.nz)  
Phone: 03 755 9010

#### **2. DOCUMENTATION OF POLICIES**

In addition to this document, the following documents set out the policies, rules and procedures relating to the expenses and allowances payable to elected members:

- Delegations Manual *Updated regularly*

#### **3. AUTHENTICATION OF EXPENSE REIMBURSEMENTS AND ALLOWANCES**

From time to time elected members incur expenses on Council's behalf, which need to be reimbursed. This reimbursement and the use of Council supplied resources apply only to elected members personally, and only while they are acting in their official capacity as elected members.

Costs for expenses must have a justifiable business purpose, be moderate and conservative having regard to the circumstances, and be appropriate in all respects. Transparency is achieved through the quarterly publication on Council's website of all expenses for elected members claimed in that period.

The process for reimbursement of claims includes the following principles:

- Any expenses to be reimbursed must be on an actual and reasonable basis and in line with Council policy.
- Expense claims for Councillors are approved by Diane Maitland, and full original receipts are required.
- Expense claims for the Mayor are approved as documented in the delegations register, prior to officer authorisation of the payment by Diane Maitland.



- Remuneration Authority approved Allowances and mileage reimbursements will be made via the payroll system.

In the case of one-off expenditure such as travel to conferences, the process and prior approvals required are detailed in this policy.

In the case of vehicle mileage, travel time and communications, all limits set in this document do not exceed the Remuneration Authority's Determination.

Council's audit work programme includes sampling expense claims and allowances paid to elected members and staff.

No allowances are paid without deduction of withholding tax.

All expenditure that falls under this policy is approved on the condition that it can be met within relevant budget provisions.

#### **4. DEFINITIONS**

**"Actual"** means as evidenced by the original receipt attached to the claim form.

**"Reasonable"** means that it is within the amount specified by this policy or as deemed reasonable by the Mayor and Chief Executive.

**"Council Business"** includes: formal Council meetings, committee meetings, workshops, seminars, hearings, training courses, site visits, meetings with staff, formal meetings with community groups, attendances required by a Council appointment, Council organised meetings with members of the public. It does not include events where the primary focus is on social activity or private meetings with citizens or groups.

**"Remuneration Authority"** is an independent body established by the Remuneration Authority Act 1977, with responsibilities under the Local Government Act 2002 to determine remuneration and expense/allowance rules for local authority members.

## ALLOWANCES AND EXPENSES BY GROUP OF MEMBERS

Position	Expense/Allowance	Description
All elected members	Taxis	<p>Taxis may be used for Council business, instead of private vehicles or public transport, for the following reasons:</p> <ul style="list-style-type: none"> <li>a) safety/security reasons, and</li> <li>b) when travelling outside of the District if a taxi is the most appropriate form of transport.</li> </ul> <p>Taxis may not be used if significant travel distances mean that use of a taxi is not the most cost effective option. Rental cars booked by Council support staff should be considered as an option in such circumstances.</p> <p>Costs paid for directly by the individual for unanticipated travel within in New Zealand or for international travel will be reimbursed on presentation of actual receipts.</p>
	Travel and attendance at conferences/ seminars/training programmes	<p>All elected members are entitled to payment of actual and reasonable registration, travel, accommodation, meal and related incidental expenses (including travel insurance) incurred in attendance at these events, held both within New Zealand and overseas, subject to:</p> <ul style="list-style-type: none"> <li>a) related expenditure being accommodated within existing budgets, and</li> <li>b) the appropriate approvals as outlined in this policy.</li> </ul> <p>and excluding reimbursement for purchases from hotel mini-bars and charges for in-room video or cable movies.</p> <p>All bookings, travel and accommodation arrangements for elected members are to be made by Council Support staff with Council's preferred travel agents, at the most economic cost available (when possible) at the time of booking, unless all travel costs are being met privately or by an outside party.</p>
	Exceptional circumstances for Council related meetings	<p>Staff may arrange overnight accommodation when travel or business requirements do not allow for the return on the same day, e.g. if it is unreasonable for an elected member to travel to their home after a late meeting.</p> <p>Council recognises that this may be a regular occurrence (i.e. not exceptional) for the member from Haast.</p>
	Domestic air travel	<p>All elected members are entitled to utilise domestic air travel for Council related travel, generally where travel by air is the most cost effective travel option.</p>

<b>Position</b>	<b>Expense/Allowance</b>	<b>Description</b>
	International air travel	As a general policy all elected member international air travel is by way of economy class, where all or part of the costs of the fares are to be met by Council. The approval of Council is required for exceptions, e.g. where Premium Economy or the equivalent air travel is desirable for health or other compelling reasons.
	<del>Air points</del>	<del>No airpoints accumulated while on Council business can be utilised for personal use.</del>
	Private accommodation provided by friends/relatives	Payment of \$50 per night when staying in private accommodation, to cover accommodation, breakfast and dinner. It is intended that at least a portion of this allowance is paid to the accommodation provider.
	Parking expenses	Reimbursement of casual carparking costs related to Council business. This will be on receipt of a signed claim accompanied by a receipt.
Mayor	Car	The Mayor will be provided with a vehicle that will also be available for his private use. A deduction will be made from his salary as determined by the Remuneration Authority. The Mayor will not be able to claim for vehicle mileage.
	Travel and conferences, courses and seminars	<p>The prior approval of the Deputy Mayor and Chief Executive (for confirmation of budget) is required for travel within New Zealand for: Council business; attendance at conferences/courses/training events/seminars; other purposes associated with the position of mayor.</p> <p>The prior approval of Council is required for all international travel, where costs or partial costs are paid for by Council funds.</p> <p>Where the Mayor or the Mayor's authorised representative is accompanied by his/her partner on international travel, Council will meet the cost of their travel, accommodation and incidental costs.</p> <p>Council will authorise such expenditure where the partner's involvement directly contributes to a clear business purpose.</p>
	Telephone costs	Full payment by Council of Council provided cellphone rental, data and all associated business call charges. Private use of the cellphone is permissible in line with Councils Telephone Policy for staff.
	<del>Airline club</del>	<del>Given frequent travel requirements for the role, payment of an Air New Zealand Koru Club subscription.</del>
	Entertainment and hospitality	<p>Full receipts and details of the names of parties entertained and reasons for the entertainment are to be provided.</p> <p>All expenditure is approved by the Deputy Mayor.</p>

<b>Position</b>	<b>Expense/Allowance</b>	<b>Description</b>
Mayor, Councillors	<del>Car parking</del>	<del>Use of an assigned carpark in Civic Offices for use on Council business.</del>
	Rental Cars	Rental cars may be utilised when attending meetings or conferences in other centres, where this is the most cost-effective travel option.
Mayor, Councillors	Communications equipment	Option of either: a) provision of a mobile phone (Mayor only) b) provision of a tablet. Full technical support is provided for Council business, or c) provision of an annual allowance for any or all equipment provided by the elected member, as approved by the remuneration authority.  <del>d) follows:</del> <del>i) — \$110 for a PC</del> <del>ii) — \$30 for a printer</del> <del>iii) — \$45 for a telephone (mobile or handset).</del> <del>iv) — Internet connection \$185</del> <del>v) — Phone charges \$295</del>
	Stationery and consumables	Supply of reasonable amounts of paper and printer consumables for Council business.
Councillors	Conferences, courses, seminars and training	The conference, course, seminar or training event must contribute to Councillor's ability to carry out Council business.  Attendance at these events when held in New Zealand must be approved by Council in advance where possible otherwise approved by either the Mayor (or the Deputy Mayor) and the Chief Executive and subsequently ratified by Council.  Attendance at these events when held overseas must be approved by Council.
	Entertainment and hospitality	Reimbursement of costs incurred while hosting official visitors to Council, or while travelling on Council business. These costs can cover a range of items including, but not limited to, tea/coffee, and catering including moderate quantities of reasonably priced alcohol with meals.
Councillors	General community related expenses	From time to time Councillors may have unforeseen costs arise for items relating to community events, e.g. payment of koha, or purchasing a wreath for attendance at a commemorative event. Reimbursement of such expenditure should be previously approved by the Chief Executive. The items should be appropriate to the occasion and expenditure should be moderate and conservative. Where expenses have not been prior approved be prepared to have your expense claim declined.

Position	Expense/Allowance	Description
	Vehicle mileage	<p>Vehicle mileage will be paid for all travel on Council business that exceeds, in any one day, the relevant threshold distance.</p> <p>The threshold distance will be personal to each elected member. It will depend on the distance of a round commuting trip from the elected member's home to their nearest Council office:</p> <p>a) members living more than 15 kilometres away from their nearest office may claim the allowance for round trip distances travelled more than 30 kilometres in any one day.</p> <p>b) members living less than 15 kilometres away from their nearest office may claim mileage for round trip distances travelled more than their round trip from home to their nearest Council office, in any one day.</p> <p>Mileage will be paid up to the maximum rate per kilometre as set out in the current Remuneration Authority Determination.</p> <p>Mileage will be paid to eligible members on receipt of a completed and signed mileage claim, and approved by the Executive Assistant.</p>
	<del>Mobile phone expenses</del>	<p><del>An allowance towards Council generated calls, text and data through mobile phones:</del></p> <p><del>a) \$400 for Councillors and community board chairs</del></p> <p><del>b) \$300 for community board members.</del></p>
	Landline and broadband connection	<p><del>Monthly reimbursement (on production of invoice) of the connection/usage costs that can be identified as relating to Council business.</del></p>

## Appendix 2

### MAYORAL VEHICLE

Councils decide whether or not a car is to be supplied and on what basis. The determinant is what is most cost effective for Council and ratepayers.

Please use this form to confirm or reconfirm car provision details.

Car supplied: YES/NO

If Yes, confirm Make & Model \_\_\_\_\_

Date of Purchase \_\_\_\_\_

Total on the road cost to Council  
on purchase GST inclusive \$ \_\_\_\_\_

Use of car: Chair/Mayoral use only YES / NO

Private use YES / NO

If yes, confirm % private use \_\_\_\_\_ %

**N.B. Chair/Mayoral use only** means that the car can be used by other officers, can be driven home and garaged by the Chair/Mayor but does not permit any private use.

**Full Private Use** is normally assessed by the Authority at 20%. Where a larger or smaller usage is claimed supporting information is required (such as log books).

#### **Car value deduction calculation:**

If value of car = \$38,000 incl. GST  
% of private use = 20%

$\$38,000 \times 41\% \times 20\% = \$3116$

This is the amount to be deducted from the Mayoral Salary.

# Report



**DATE:** 28 November 2013  
**TO:** Mayor and Councillors  
**FROM:** Acting Group Manager Corporate Services

---

## **INTEREST RATE RISK MANAGEMENT - DELEGATIONS**

### **1.0 SUMMARY**

- 1.1 The purpose of this report is to improve interest rate risk management on Council's debt portfolio by implementing better procedures for decision making.
- 1.2 This issue arises from a review by our Treasury Advisor, PwC (ex Asia-Pacific Risk Management), and an assessment that interest rates will rise and unclear delegations.
- 1.3 The Council is required to give effect to the purpose of local government as prescribed by section 10 of the Local Government Act 2002. That purpose is:
  - (a) To enable democratic local decision-making and action, by and on behalf of, communities; and
  - (b) To meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses.
- 1.4 Council seeks to meet this obligation and the achievement of the district vision set out in the Long Term Plan 2012-22. The matters raised in this report relate to those elements of the vision identified in the following table.

<b>Vision's Objectives</b>	<b>Achieved By</b>
Involving the community and stakeholders Having inspirational leadership Having expanded development opportunities Having top class infrastructure for all communities Living the '100% Pure NZ' brand	Fixing interest rates assists in balancing the budget and having certainty over finance costs.

- 1.5 This report concludes by recommending that Council support the treasury advice and delegates responsibility for transacting the [derivative](#).

## **2.0 BACKGROUND**

2.1 Council has a Liability Management Policy see LTP page 287.

2.2 The policy states the following on Interest Rate Risk Management:

*2.2.1 Any borrowing done by Council gives rise to exposure to interest rate movements. Council's preference, to avoid adverse impact on interest rates, is to have a preference for a high percentage of long term fixed rates. The Manager Finance will manage the interest rate risk by ensuring a mix of fixed and variable rates are present in its debt portfolio.*

*2.2.2 The following interest rate risk management instruments may be used to manage the core debt of WDC:*

- *Interest rate swaps*
- *Swaptions (options on swaps)*
- *Interest rate options, including collar type structures but only in a ratio 1:1*
- *Forward rate agreements.*

*2.2.3 Minimum fixed rate amount Maximum fixed rate amount*

- *0 – 2 years 50% - 100%*
- *2 – 5 years 30% - 80%*
- *5 – 10 years 0% - 50%.*

*2.2.4 The Manager Finance has the authority to manage the interest rate risks of WDC. Council may retain the services of an independent external consultant to assist in managing the interest rate risks of WDC.”*

2.3 It is unclear whether the Manager Finance has sufficient delegation to purchase new financial instruments. The Delegations Manual makes no specific reference to assist in the meaning of 2.2.4 above.

## **3.0 CURRENT SITUATION**

3.1 Figure1: shows the Interest Repricing Chart, or layman's terms the amount of debt that is fixed and for what term it is fixed. The amount in red is not fixed and covers our current plus projected floating

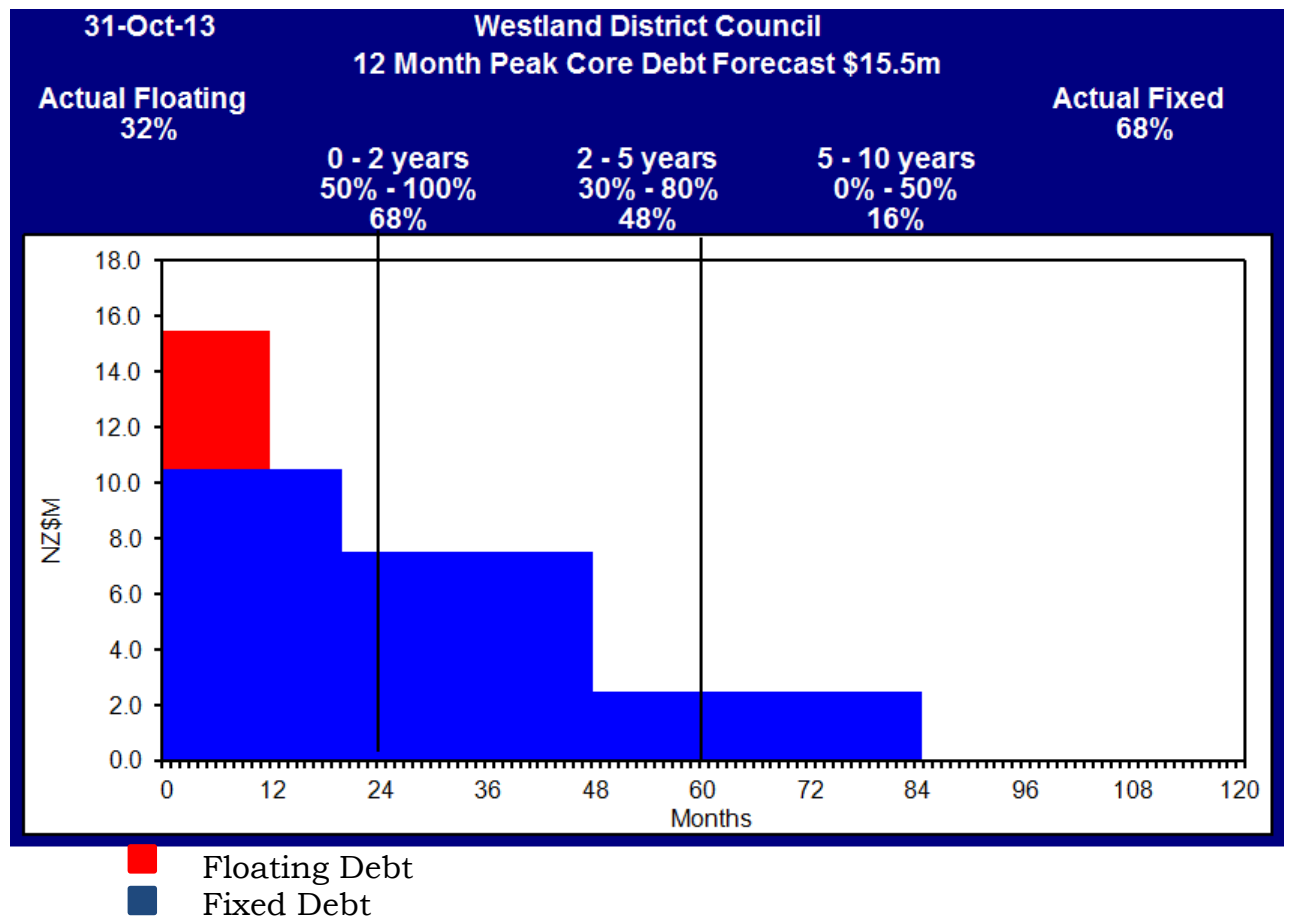


interest rate debt position. The chart also shows our performance against the Liability Management Policy.

a) *Minimum fixed rate amount Maximum fixed rate amount*

- 0 – 2 years 50% -100% Actual 65% **OK**
- 2 – 5 years 30% -80% Actual 46% **OK**
- 5 – 10 years 0% -50% Actual 15% **OK**

**Figure 1: Interest Repricing Chart**



3.2 The actual loans at 31 October are:

Bank	Loan	Amount (NZD \$m)	I/R Repricing Maturity	Drawdown Maturity	Facility Maturity	Interest Rate	Margin	Interest Rate
Westpac	Multi-option credit line (\$9.5m)	2.63	1-Feb-13	1-Mar-13	1-Jul-15	2.710%	1.00%	3.71%
		2.13	1-Feb-13	1-Mar-13	1-Jul-15	2.710%	1.00%	3.71%
		2.72	1-Feb-13	1-Mar-13	1-Jul-15	2.710%	1.00%	3.71%
		1.10	18-Feb-13	18-Mar-13	1-Jul-15	2.709%	1.00%	3.71%
Westpac	Multi-option credit line (\$9.5m)	2.72	1-Feb-13	1-Mar-13	6-Sep-14	2.710%	1.00%	3.71%
		3.35	1-Feb-13	1-Mar-13	6-Sep-14	2.710%	1.00%	3.71%
		0.86	1-Feb-13	1-Mar-13	6-Sep-14	2.710%	1.00%	3.71%

3.3 The actual swaps at 31 October are:

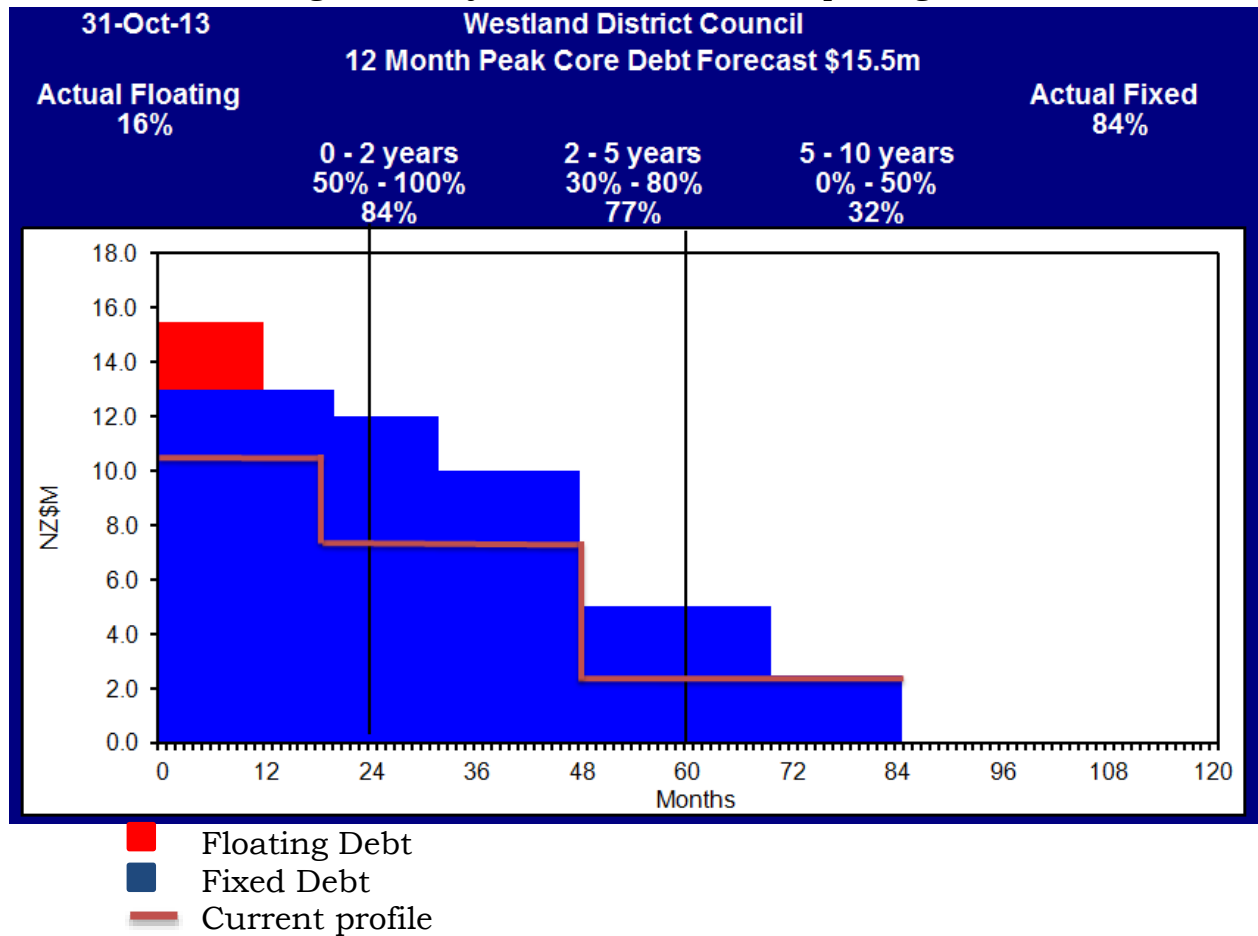
Deal Date	Bank	Amount (\$millions)	Start Date	Maturity Date	Swap Rate
5-Aug-11	Westpac	3.00	17-Mar-12	17-Jun-15	4.350%
3-Aug-11	Westpac	5.00	1-Oct-12	1-Oct-17	4.990%
	Westpac	2.50	17-Oct-12	17-Nov-20	3.550%

3.4 PwC are recommending:

- a) Extend \$2m of existing \$3m Westpac swap maturing 17-Jun-15 at 4.35% to new maturity date of 17-Jun-16 at an indicative rate of 4.53%, (Westpac quote 12 Nov. 4.55%) and
- b) New \$2.5m q/q borrower swap starting 30-Nov-13 and maturing 31-Aug-19 at an indicative rate of 4.76% (Westpac quote 12 Nov. 4.72%).
- c) These swaps are needed from a policy compliance perspective and to lengthen the maturity profile.
- d) New profile as below and compliant through to August 2015.

3.5 Before the strategy is transacted Council should be comfortable with debt continuing to exceed \$13m for the next 24 months.

3.6 Once the swaps are in place the Interest Rate Repricing Chart will be as follows: Figure 2 Projected Interest Rate Repricing Chart



#### 4.0 OPTIONS

4.1 Delegate authority to enter transactions.

4.2 Do nothing, and required Council to make decisions prior to entering transactions.

#### 5.0 SIGNIFICANCE AND CONSULTATION

5.1 The decisions proposed by this report are the administrative implementation of Council policy. The policy itself was consulted on in the LTP 2012-22.

5.2 It is concluded the decisions recommended in this report are of low significance.

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

6.1 A 10 basis points (0.1%) equates to \$13,000 interest on \$13m.

- 6.2 Option 1. Interest rate markets are volatile and there is sufficient evidence to suggest that those that forecast interest rates rarely get it right. Council can only make the best decision it can with the information available at the time the decision is made. These decisions need to take into account a complex range of factors that are relevant at the time the decision is made. A day later those factors may have changed and could result in a different decision.
- 6.2.1 The objective of the exercise is to minimise the risk of cash flow uncertainty that floating rates provide by fixing interest rates. This assists greatly in having predictability of changes in rates.
- 6.2.2 The recommendation therefore proposes that a Treasury Advisory Group be established to advise the Finance Manager immediately prior to the transaction being entered into. This enables the consideration of the latest information, and assessment of compliance against Council policy at that time.
- 6.2.3 The membership of the Treasury Advisory Group to the Finance Manager is proposed to be: PwC (Council's treasury advisors), Corporate Services Group Manager and Councillor Dawson.
- 6.2.4 The Finance Manager will have the delegation to act on receipt of advice from each member of the Treasury Advisory Group.
- 6.2.5 This allows for a response approach to Treasury Risk management.
- 6.3 Option 2. This option is effectively the approach in preparing this report. Council gets to consider the option 3 weeks after the recommendation is first made. In that time the market has changed. Council may give a range in which a transaction can be completed, however if that range cannot be met then it will be another month before an authority to operate beyond that range can be obtained.
- 6.3.1 This option is not responsive to a changing market, and does not support the proactive on-going monitoring and management of interest rate risks.
- 6.4 **Core Debt**
- 6.4.1 Council debt is currently \$15.5m.
- 6.4.2 The Annual Plan 2013/14 provides for a net increase in debt of \$625,000 to \$16.125m.

6.4.3 During the preparation of the Annual Plan 2013/14 a number of debt funded projects were deferred but will still need to be undertaken in the near future.

6.4.4 External debt could be offset by growing reserves and the development of internal borrowing facilities. The Annual Plan 2013/14 provides for a net decrease in reserves of \$188,000. Due to the cycleway and Harihari Hall projects.

6.4.5 Under the current policy decisions of Council it appears most probably that debt will exceed \$13m

## **7.0 PREFERRED OPTION(S) AND REASONS**

7.1 Option 1. Is the preferred option. It allows for decisions to be made quickly within Council's Liability Management Policy parameters but with the cross check of an independent treasury advisor, a senior Councillor and senior employee with knowledge of the nature of the transactions.

## **8.0 RECOMMENDATION(S)**

- A) **THAT** Council agrees with the interest rate fixing strategy; particularly that core debt will exceed \$13m at least the next 24 months.
- B) **THAT** Council create a Treasury Advisory Group.
- C) **THAT** the members of the Treasury Advisory Group are:
  - a. Councillor Dawson
  - b. GM Corporate Services
  - c. PwC Treasury Advisor.
- D) **THAT** Council delegate responsibility to implement interest rate swaps to fix interest rates on debt to the Finance Manager on the proviso that the decision is within Council Policy parameters and that the Finance Manager has taken advice from the Treasury Advisory Group.

**Stephen Halliwell**  
**Acting Corporate Service Group Manager**

# Report



**DATE:** 28 November 2013  
**TO:** Mayor and Councillors  
**FROM:** Manager Planning and Regulatory

---

## **THE SALE AND SUPPLY OF ALCOHOL ACT 2012: ESTABLISHMENT OF DISTRICT LICENSING COMMITTEE**

### **1.0 SUMMARY**

- 1.1 The purpose of this report is to provide sufficient information for the Council to be ready for the full implementation of the Sale and Supply of Alcohol Act 2012 (the Act) on 18 December 2013.
- 1.2 This issue arises from the coming in to force of the Act on 19 December 2013.
- 1.3 The Council is required to give effect to the purpose of local government as prescribed by section 10 of the Local Government Act 2002. That purpose is:
- (a) To enable democratic local decision-making and action, by and on behalf of, communities; and
  - (b) To meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses.
- 1.4 Council seeks to meet this obligation and the achievement of the district vision set out in the Long Term Plan 2012-22. The matters raised in this report relate to those elements of the vision identified in the following table.

<b>Vision's Objectives</b>	<b>Achieved By</b>
Involving the community and stakeholders	Consulting on and adopting a Local Alcohol Plan that is particular to Westland communities.
Having inspirational leadership	Having a District Licencing Committee that reflects the aspirations of Westland's communities.

Having expanded development opportunities Living the '100% Pure NZ' brand	Identifying the important issues and addressing them.
--	---

- 1.5 This report concludes with several recommendations that will see the Council compliant with the Act by the deadline of 18 December 2013 and provides a way forward to achieving a higher standard in the future.

## **2.0 BACKGROUND**

- 2.1 Since 1991 the Council has been a District Licensing Agency (DLA) and has operated under the provisions of the Sale of Liquor Act 1989. Over the years several amendments were made to the Act and the Council took on additional responsibilities as a result of changes to the legislation and the devolution of decision making from the Crown to the Council.
- 2.2 The 2012 Act first came into the force on 19 December 2012 with additional components coming into force on 18 June 2013. The Act comes fully into force on 18 December 2013.

## **3.0 CURRENT SITUATION**

- 3.1 The transition from the responsibilities of a District Licencing Agency (DLA) commenced with the passing of the Act.
- 3.2 Assessment criteria changed from 18 June 2013 and processes and procedures adopted by DLA staff reflect those changes.
- 3.3 As of 18 December 2013 the Council must have a District Licensing Committee (DLC) responsible for a wide range of activities relating to various types of licences under the Act.
- 3.4 There are two matters that the Council must now turn its attention to:
1. A Local Alcohol Policy (LAP).
  2. The DLC.
- 3.5 A LAP is discretionary and the DLC is a statutory imperative.
- 3.6 Earlier in 2013 there was an initiative between the three West Coast District Council's Chief Executives and Mayors that there should be a "common" LAP. There was some support for the concept but for various reasons a coordinated approach was not put in place. A training session on the new legislation and new DLC activities held in

Greymouth earlier in the year agreed that a District wide approach could be seen as an advantage. As a consequence, a proposed LAP was formulated. A copy of the proposal is attached as **Appendix 1**.

- 3.7 Buller and Grey District Councils are considering the proposed LAP attached to this report; but with different hours. It does seem that there is some concern that the hours for licenced premises to be opened may not necessarily be a regional advantage. The draft LAP does seem to have some support as to structure and content. The specifics may be negotiable.
- 3.8 It is not mandatory to have a LAP. If a Council chooses not to adopt a LAP then there are default hours within the Act that may not be exceeded. The default hours are 8.00 am – 4.00 am for on licences and 7.00 am – 11.00 pm for off licences.
- 3.9 Council is required to establish a DLC. A DLC must consist of:
- a) A Chairperson who is appointed by the Council, or
  - b) A Commissioner who is appointed by the Chief Executive on the recommendation of the Council,
  - c) A Deputy Chairperson to act in the absence of the Chairperson or Commissioner, who is appointed by the Council, and
  - d) Two members of the public who are appointed from a list of experienced people held by the Council.
- 3.10 The previous Council appointed a “working party” to work in conjunction with staff and others towards bringing recommendations to Council relating to the establishment of a new Sale and Supply of Liquor regime. The elections have intervened but three Councillors have indicated their willingness to be part of a working party. At the time of the preparation of this report Councillors Butzbach, Keenan and Martin had indicated that they were interested in comprising a working party for the future. Because of time constraints and regardless of a formal appointment having been made the Councillors have met with the staff concerned to look at ways forward in meeting the 18 December 2013 deadline. Throughout this report, the term *working party* is the proposed working party, although there is a separate report on the agenda today that recommends these appointments are made.
- 3.11 The three Councillors concerned have met with relevant staff, have considered papers prepared by Local Government New Zealand and other sources and have considered the requirements of the Act.



- 3.12 The working party has looked at the need or otherwise for a LAP and has looked at a proposed structure for a DLC as well as looking at options for the list of potential members of the DLC.
- 3.13 The working party sees merit in the appointment of a Commissioner to chair the DLC. A person has been identified to fit that role and in order to protect the privacy of that individual, the name has been included in a separate report to be considered with the public excluded.
- 3.14 The working party sees merit in appointing a Deputy Chairman to act in the Commissioner's absence.
- 3.15 The working party has identified three people with appropriate experience in the liquor industry and in order to protect the privacy of the individuals concerned, the names have been included in a separate report to be considered with the public excluded.
- 3.16 The Councillors who are on the working party have been associated with the compilation of this report and the recommendations are also the recommendations of the working party.
- 3.17 The working party has identified a role for the future. Notwithstanding the fact the Council has indicated that it does not want to appoint a range of Committees to undertake particular functions a need has been identified to retain a liquor working party so that appropriate consultation can proceed in the future. The recommendations herein are recommendations that will result in the formation of the DLC and will meet the minimum requirements of the Act.
- 3.18 It is an expectation of the Act that communities are going to be enabled to make decisions that reflect the desired outcomes of communities. As an example, local communities are to have more say about where and when alcohol can be sold. The unilateral appointment of members to the list does not necessarily reflect the concept of consultation and giving a community more say. Although there is no provision in the Act for an "interim DLC" the fact remains that timing is such that decisions need to be made now so as to ensure that the Council is in a position to meet its statutory duties by 18 December 2013.
- 3.19 The working party would like to work with the staff, the police, the industry, the health authorities and the community towards the formation of a DLC Committee that truly reflects the community it represents and a LAP that is reflective of the circumstances that need to be addressed in Westland.

- 3.20 The working party is only able to, within the restricted timeframes, establish a system that is statutorily compliant rather than a system that reflects community aspirations and outcomes.
- 3.21 The working party suggests that the Council retain the working party for a 12 month period (until 18 December 2014) to be the “Council link between the DLC (the Regulatory body) and community aspirations and expectations”. It is anticipated by the working party that their membership would be in a good position to effectively liaise with the exterior Council authorities, groups and the public as the Council moves towards more effective implementation of the Act.

#### **4.0 OPTIONS**

- 4.1 Council can choose to have a LAP.
- 4.2 Council may choose not to have a LAP.
- 4.3 Council may choose to have a Commissioner as the DLC Chairperson.
- 4.4 Council may choose to have an elected member as the DLC Chairperson.
- 4.5 Council may appoint a Deputy DLC Chairperson.
- 4.6 Council may have a working party to oversee the transition from the existing DLA and from a minimal statutory compliance to a functioning DLC with, if deemed necessary, an LAP.
- 4.7 Council could accept that the statutory duty in establishing a DLC has been met and that there is no further work required by the working party.

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

- 5.1 The establishment of a DLC is a significant statutory outcome and needs to be done with care.
- 5.2 The promulgation of a LAP is a significant undertaking and the special consultative procedure in the Local Government Act applies.
- 5.3 The Act is not confined to the role of the Council. The wider community together with the Police, Inspectors and Public Health Authorities must be consulted in any statutory process.

## **6.0 ASSESSMENT OF OPTIONS**

- 6.1 Council must have a list of community people who are able to act as members of the DLC.
- 6.2 A DLC member must not be included on the list if the Council believes that person has, directly or by virtue of his or her relationship with another person, such an involvement or appearance of involvement with the alcohol industry that he or she could not perform his or her duties without actual bias or the appearance of bias; or the person is a constable, a Medical Officer of Health, an inspector, or an employee of the Council.
- 6.3 The DLC must be in place by 18 December 2013.
- 6.4 Members of the DLC (with the exception of the Chairperson and Deputy Chairperson) must have experience relevant to alcohol licensing matters.
- 6.5 A LAP is not required by 18 December 2013. Indeed a LAP is not required at all. A LAP, if adopted, must reflect community aspirations for the sale and supply of liquor in the District.
- 6.6 A LAP is a significant piece of policy work and Council needs to carefully consider whether it is sensible to proceed with a LAP at this time. The working party is of the view that consultation with specialist groups and the community should proceed before a LAP is promulgated for proceeding under the special consultative procedure.
- 6.7 Council has no option but to appoint a DLC as it is a statutory duty.
- 6.8 The appointment of the Chairperson is limited to a member of the Council. There will be additional pressures placed on Council staff to provide the expertise required for a Chairperson to function effectively.
- 6.9 A Commissioner appointed by the Chief Executive (on the recommendation of Council) will function independently of the Council staff and will require less in the way of administrative support.
- 6.10 A Deputy Chairperson will require less in the way of administrative support or oversight by virtue of the fact of the Deputy not being required very often.

- 6.11 The Council has a wide discretion to appoint anybody to the list subject to all list members having experience relevant to alcohol licensing matters.
- 6.12 The working party has identified the appointment of a Commissioner by the Chief Executive as an appropriate way forward. A Commissioner would be expected to write all the decisions of the DLC.
- 6.13 The working party has identified the appointment of Councillor Butzbach to be an appropriate appointment as the Deputy Chairperson of the DLC.
- 6.14 The working party has identified three people to be appropriate DLC members and those three people are Richard Gardiner, Zelda Martin and Tim Teen.
- 6.15 The working party believes that it is essential to engage with a wide cross section of groups and people and that the working party should remain in place to support the work of the DLC for a period of 12 months (until 18 December 2014).

## **7.0 PREFERRED OPTIONS AND REASONS**

- 7.1 The default hours of the Act can apply and a LAP is something that can be worked on in conjunction with other parties if required. A LAP could be of more benefit if it is drafted after experience. A LAP is not required at this time.
- 7.2 A Commissioner will not require administrative resources to the same extent as the appointment of a Councillor Chairperson would. A Commissioner to chair the DLC is the preferred approach.

## **8.0 RECOMMENDATIONS**

- A) **THAT** pursuant to section 193(1) of the Act, the Chief Executive be requested to appoint a Commissioner to the Westland DLC.
- B) **THAT** pursuant to section 189(3) of the Act, the Council appoints Councillor Jim Butzbach to be the Deputy DLC Chairperson.
- C) **THAT** pursuant to section 192(1), the DLC List comprise three persons identified separately.
- D) **THAT** pursuant to section 198 of the Act, the Chief Executive delegate the duties of secretary of the DLC to the Manager: Planning and Regulatory and the Group Manager: Planning, Community and Environment.

- E) **THAT** the working party of Councillors Butzbach, Keenan and Martin continue through to 18 December 2014.
  
- F) **THAT** the working party be required to:
  - 1. Consult with the liquor and hospitality industry widely and engage with the Police and Health Authorities for the purposes of considering the best ways for the Council to meet the objectives of the Act;
  - 2. Consider the Buller and Grey LAP model;
  - 3. Consider the need or not for a LAP;
  - 4. Consider the work and decisions of the DLC and report to Council if required.

**Richard Simpson**  
**Manager: Planning and Regulatory**

**Appendix 1:** A Preliminary Draft LAP.

## **PRELIMINARY DRAFT LOCAL ALCOHOL POLICY FOR WESTLAND**

### **(FOR CONSULTATION PURPOSES)**

#### **1. INTRODUCTION**

**1.1** The Sale and Supply of Alcohol Act 2012 (the Act) has the following objects:

- (a) That the sale, supply and consumption of alcohol should be undertaken safely and responsibly; and
- (b) The harm caused by the excessive or inappropriate consumption of alcohol should be minimised.

**1.2** Harm is defined very widely and includes:

*Any crime, damage, death, disease, disorderly behaviour, illness or injury, and harm to individuals or the community, either directly or indirectly caused by excessive or inappropriate alcohol consumption.*

**1.3** The Act allows territorial authorities to make a local alcohol policy (LAP). The LAP is a set of policies, made by the Council in consultation with its community, about the sale and supply of alcohol in its geographical area. Westland District Council has decided to develop a LAP for the District to set restrictions and conditions for the sale and supply of alcohol within the District.

**1.4** Once a LAP comes into force, the Council's District Licensing Committee (DLC) and the Alcohol Regulatory and Licensing Authority (ARLA) must have regard to the policy when they make decisions on license applications.

**1.5** Through a LAP the community is able to:

- Limit the location of licensed premises in particular areas or near certain types of facilities, such as schools or churches;

- Limit the density of licensed premises by specifying whether new licenses or types of licenses should be issued in a particular area;
- Impose conditions on groups of licenses, such as a ‘one-way door’ condition that would allow patrons to leave premises but not enter or re-enter after a certain time;
- Recommend discretionary conditions for licenses;
- Restrict or extend the default maximum trading hours set in the new Act, which are:
  - ❖ 8.00am–4.00am for on-licenses (such as pubs, cafes and restaurants)
  - ❖ 7.00am–11.00pm for off-licenses (such as bottle stores and supermarkets)

### **Criteria for Considering License Applications**

- 1.6** The purpose of the LAP is to provide local guidance for the Council’s DLC in deciding whether to issue a license.
- 1.7** Under section 105 of the Act, the DLC has to have regard to a range of matters in addition to “any relevant local alcohol policy” when considering a license application. The types of matters include:
- The object of the Act;
  - The suitability of the applicant;
  - The design and layout of any proposed premises;
  - Whether (in its opinion) the amenity and good order of the locality would be likely to be reduced, to more than a minor extent, by the effects of the licence;

- Whether (in its opinion) the amenity and good order of the locality are already so badly affected by the effects of the issue of existing licenses but that it is nevertheless desirable not to issue any further licences.

**1.8** The Act says that a licence may be refused if the issue of the licence or the consequence of the issue of the licence would be inconsistent with the LAP (section 108). This requirement does not apply for the renewal of a licence. The Act also says that a licence may be made subject to conditions if the issue of the licence, or the consequence of the issue of the licence, would be inconsistent with the LAP (section 109).

### **Goals of the LAP**

**1.9** The Local Alcohol Policy provides direction for the DLC so that licensing decisions:

- Contribute to Westland being a safe and healthy District;
- Reflect local communities' character and amenity and their values, preferences and needs;
- Encourage licensed environments that foster positive, responsible drinking behaviour and minimise alcohol related harm.

### **Objectives of the LAP**

**1.10** The objectives of the LAP are to provide a policy which:

- Reflects the views of local communities as to the appropriate location, number, hours and conditions that should apply to licensed premises within their communities;
- Provides certainty and clarity for applicants and the public as to whether a proposed license application will meet the criteria of the LAP;
- Provides effective guidance for the decisions of the DLC and the ARLA.



## **Types of Licences**

**1.11** The types of licences provided for within this LAP are:

- On-licences where the licensee can sell and supply alcohol for consumption on the premises and can let people consume alcohol there (section 14 of the Act);
- Off-licences where the licensee sells alcohol from a premises for consumption somewhere else (section 17 of the Act).
- Club licences where the licensee can sell and supply alcohol for consumption on the club premises by authorised customers (section 21 of the Act).
- Special licence - on-site where the licensee can sell or supply alcohol, for consumption there, to people attending an event described in it (section 22 of the Act).
- Special licence – off-site where the licensee can sell the licensee’s alcohol, for consumption somewhere else, to people attending an event described in it (section 22 of the Act).

### **Notes:**

Some premises hold more than one licence – for example an on-licence bar may also hold an off-licence and be able to sell alcohol which is consumed off the premises.

The Act allows special licences to be issued for up to 12 months.

## **Definitions**

**1.12** In this LAP, unless the context otherwise requires

**Alcohol area** in relation to a single area condition, means the area described in the condition.

**Bottle store** means retail premises where (generally speaking) at least 85% of the annual sale revenue is expected to be earned from the sale

of alcohol for consumption somewhere else  
**(refer section 32(1)).**

**Bar**

In relation to a hotel or tavern, means a part of a hotel or tavern used principally or exclusively for the sale or consumption of alcohol **(refer section 5(1)).**

**Café**

has the same meaning as restaurant in terms of the licence.

**Club**

means a body that –

(a) Is a body corporate having as its object (or one of its objects) participating in or promoting a sport or other recreational activity, otherwise than for gain; or

(b) Is a body corporate whose object is not (or none of whose object is) gain; or

(c) Holds a permanent club charter **(refer section 5(1)).**

**Grocery store**

grocery store means a shop that –

(a) Has the characteristics normally associated with shops of the kind commonly thought of as grocery shops; and

(b) Comprises premises where –

(i) A range of food products and other household items is sold; but

(ii) The principal business carried out is or will be the sale of food products **(refer sections 5(1) and 33(1)).**

<b>Licensed premises</b>	means any premises for which a licence is held.
<b>Restaurant</b>	means premises that – <ul style="list-style-type: none"> <li>(a) Are not a conveyance; and</li> <li>(b) Are used or intended to be used in the course of business principally for supplying meals to the public for eating on the premises (refer section 5(1)).</li> </ul>
<b>Supermarket</b>	means premises with a floor area of at least 1000 m <sup>2</sup> , including any separate departments set aside for such foodstuffs as fresh meat, fresh fruit and vegetables, and delicatessen items (refer section 5(1)).
<b>Tavern</b>	means premises used or intended to be used in the course of business principally for providing alcohol and other refreshments to the public ( <b>refer section 5(1)</b> ).

## 2. DRAFT PROVISIONS

### 2.1 Hours for Off-Licences

**2.1.1** The following maximum trading hours apply to all off-licensed premises in the Westland District Council's territorial area other than in-bedroom (mini-bar) sales and special licences:

Maximum trading hours	All off-licence sales including over the counter sales, except mini-bars
Monday to Sunday	?am to ?pm

### 2.2 Hours for On-Licences

**2.2.1** The following maximum trading hours apply to all on-licensed premises that are restaurants or cafes in the Westland District Council's territorial area:

Maximum trading hours	Restaurants / Cafes
Monday to Sunday	?am to ?am the following day

**2.2.2** The following maximum trading hours and one way door restrictions apply to all on-licensed premises that are taverns / bars / nightclubs in the Westland District Council's territorial area:

Maximum trading hours	Taverns / Bars / Pubs / Night-clubs
Monday to Sunday	?am to ?am the following day
One-way door restriction	Discretionary conditions where appropriate

**2.2.3** The following maximum trading hours apply to all on-licensed premises that are clubs in the Westland District Council's territorial area:

Maximum trading hours	Clubs
Monday to Sunday	?am to ?am the following day

**Note:**

Where the LAP does not specify maximum trading hours, the default maximum hours in the Act apply. However, on any licensing application, the District Licensing Committee has discretion to set the permitted trading hours as more restrictive than the default maximum trading hours. Similarly where a LAP does set maximum trading hours, the District Licensing Committee also has discretion to set the permitted trading hours as more restrictive than the maximum trading hours in the LAP.

**2.3 Special Licences**

**2.3.1** Restrictions on hours will be imposed if the District Licensing Committee considers it appropriate in respect of any environmental or other considerations which may require constraints on the hours of operation. Such issues may be raised by the Licensing Inspector, Police, Medical Officer of Health or other relevant affected parties.

**2.3.2** The following one-way door restrictions apply to all premises in respect of which an on-site special license is issued:

One-way door restriction	Discretionary conditions where appropriate
--------------------------	--

**Note:**

The hours (opening and closing) and duration of a special licence are set, having regard to the nature of the event, or series of events. Special licences may be issued both for off-site consumption; wine sales from a market stall, or for on-site consumption; at a private function or when a bar has a special licence to open earlier / close later for significant events.

**2.4 Issuing of Further Off-Licences**

2.4.1 From the date this LAP comes into force, no further off-licences are to be issued for premises being a stand-alone bottle store in the Westland District.

**Note:**

Clause 2.4.1 does not prevent a bottle store for which an off-licence was held on the day prior to this LAP coming into force from renewing that licence. Where a bottle store for which an off-licence was held on the day prior to this LAP coming into force subsequently changes hands, clause 2.4.1 does not prevent the new owner from obtaining an off-licence for that premises.

## **2.5 Discretionary Conditions**

**Note:**

The Act provides for the LAP to include policies to guide the District Licensing Committee and the Alcohol Regulatory and Licensing Authority as to discretionary conditions that are appropriate. This policy guidance is in addition to the particular provisions of the Act in relation to the discretionary provisions including s117 of the Act which permits the Committee and the Authority to any issue any licence subject to “any reasonable conditions not inconsistent with this Act”.

### **2.5.1 On-Licences**

Conditions relating to the following matters may be appropriate for on-licensed premises such as nightclubs and late night bars:

- Provision of security (staff) after ‘x’ hour.
- Provision of effective exterior lighting.
- Restriction on the size and time of ‘last orders’.
- Restriction on the use of outdoor areas after ‘x’ hour.
- One-way door restrictions.
- That where a licence is granted for the first time (first time meaning premises where the prospective licensee has never held a liquor licence previously or is operating a premises that has never been a licensed premises before), the trading hours are more restrictive than the maximum trading hours contained in this LAP.

Conditions relating to the following matters may be appropriate for on-licensed premises such as cafes and bars:

- Provision of effective exterior lighting.
- Restriction on the size and time of 'last orders'.
- Restriction on the use of outdoor areas after 'x' hour.
- One-way door restrictions.
- That where a licence is granted for the first time (first time meaning premises where the prospective licensee has never held a liquor licence previously or is operating a premises that has never been a licensed premises before), the trading hours are more restrictive than the maximum trading hours contained in this LAP.

Conditions relating to the following matters may be appropriate for on-licensed premises such as BYO restaurants:

- Qualified manager to be on duty during busy periods e.g. Friday and Saturday nights.
- That where a licence is granted for the first time (first time meaning premises where the prospective licensee has never held a liquor licence previously or is operating a premises that has never been a licensed premises before), the trading hours are more restrictive than the maximum trading hours contained in this LAP.

Conditions relating to the following matters may be appropriate for on-licensed club

- Premises classified as a Class 1 or Class 2 Club under the ?, depending on the size and nature of the club:

- A requirement for a qualified manager to be present when alcohol is available for sale or supply.

### **2.5.2 Off-Licences**

Conditions relating to the following matters are appropriate for bottle stores:

- Prohibit sale of single Ready to Drink (RTD) mixes / bottles.
- Supervised designation of all bottle stores to ensure unaccompanied minors do not enter bottle stores.
- Display of safe drinking messages / material.

### **2.5.3 Special Licences**

Conditions relating to the following matters are appropriate for special licenses:

- Any special licence for a series of events should not be for a period exceeding 6 months.
- No premises should have more than 20 events under special licence in any 12 month period.



# Report



**DATE:** 28 November 2013  
**TO:** Mayor and Councillors  
**FROM:** Manager Planning and Regulatory

---

## **WESTLAND DISTRICT COUNCIL TRAFFIC AND PARKING BYLAW 2013**

### **1.0 SUMMARY**

- 1.1 The purpose of this report is to assist the Council in concluding the special consultative procedure relating to the adoption of a new Traffic and Parking Bylaw.
- 1.2 This issue arises from a decision of the Council to commence the special consultative procedure for the reviewed Traffic and Parking Bylaw.
- 1.3 The Council is required to give effect to the purpose of local government as prescribed by section 10 of the Local Government Act 2002 (the Act). That purpose is:
- (a) To enable democratic local decision-making and action, by and on behalf of, communities; and
  - (b) To meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses.
- 1.4 Council seeks to meet this obligation and the achievement of the district vision set out in the Long Term Plan 2012-22. The matters raised in this report relate to those elements of the vision identified in the following table.

<b>Vision's Objectives</b>	<b>Achieved By</b>
Involving the community and stakeholders	The use of the special consultative procedure.

- 1.5 This report concludes by recommending that Council adopts the Westland District Council Traffic and Parking Bylaw 2013.

## **2.0 BACKGROUND**

- 2.1 At its September 2013 meeting Council resolved to commence the special consultative procedure for the reviewed Traffic and Parking Bylaw 2013.
- 2.2 Council had previously decided to grant exemptions for certain vehicles and in planning for the exemption it was considered that a review was required because the overriding statutory authority had changed and some definitions in the Bylaw needed to be reviewed to bring them into conformity with enabling legislation.
- 2.3 A copy of the proposed Bylaw is attached as **Appendix 1**.

## **3.0 CURRENT SITUATION**

- 3.1 The special consultative procedure ran for the statutory period from 3 October 2013 to 1 November 2013. The requirements of the Act relating to the special consultative procedure have been met.
- 3.2 No submissions were received within the statutory timeframe.
- 3.3 A “late submission” was received from Frances Flanagan and Brian Ward from Teichelmann’s Bed and Breakfast in Hamilton Street. A copy is attached as **Appendix 2**. The late submission requests that an exemption be granted to Teichelmann’s Bed and Breakfast for guests who park in Hamilton Street.

## **4.0 OPTIONS**

- 4.1 If Council so wishes, the special consultative procedure can be concluded with a decision to adopt the reviewed Traffic and Parking Bylaw.
- 4.2 The letter from Teichelmann’s Bed and Breakfast can be considered if Council so wishes. In the absence of any other submissions the “late submission” can be considered without any prejudice.
- 4.3 Council has no obligation to conclude the special consultative procedure by adopting the proposed Bylaw. Likewise, Council has no obligation to either adopt or not adopt the Bylaw.
- 4.4 If Council has any concerns, it is defensible to consider those concerns, even to the extent of considering if the reviewed Bylaw should proceed.
- 4.5 Other options include the adoption of the reviewed Bylaw and a subsequent review of the extent of parking limitations. Such a review could proceed outside of Bylaw requirements.

- 4.6 In addition, the Council could resolve to adopt the proposed Bylaw but not enforce it which was a long standing approach to the previous Bylaw.

## **5.0 SIGNIFICANCE AND CONSULTATION**

- 5.1 The adoption of a Bylaw relating to Traffic and Parking is considered to be a significant action by virtue of the statutory requirement for consultation.
- 5.2 The special consultative procedure is specifically provided to ensure that consultation with the public occurs.

## **6.0 ASSESSMENT OF OPTIONS**

- 6.1 The complete absence of submissions (for or against) could be regarded as an acceptance of the desirability of the proposed Bylaw and the continuation of the status quo. Under such an assumption the adoption of the reviewed Bylaw appears to staff to be a preferred option.
- 6.2 The “late submission” requests an exemption. Council needs to carefully consider how many “exemptions” may be requested in the future. The proposed Bylaw, in its current form, would allow an exemption to be put in place. An issue that the Council has not turned its attention to is the grounds for exemption. The concept was, initially, private vehicles owned and operated by volunteer fire fighters. Staff will proceed with granting exemptions on this basis. If Council wishes to extend exemptions to other vehicles, now would be an appropriate time to deal with this issue.
- 6.3 It is possible that the parking plan that was previously adopted is not suitable for the purposes that the parking Bylaw is attempting to address.
- 6.4 Two parts of the proposed bylaw have been assessed as superfluous and incorrect. The definition of “permit” is superfluous and should be removed. There is a grammatical error at part 4.1 where the comma after the word *parking* needs to be removed and the word *restriction* needs to be in the plural. **Appendix 1** is the proposed bylaw with these alterations in place.

## **7.0 PREFERRED OPTION AND REASONS**

- 7.1 By virtue of the completion of the special consultative procedure Council is in the position of having such little feedback that the proposed Bylaw can readily be confirmed. The request of the “late submission” could be an undesirable precedent.

## 8.0 RECOMMENDATIONS

- A) **THAT** the Council resolution of 26 September 2013 to adopt the Westland District Council Traffic and Parking Bylaw 2013 (**Appendix 1**) be confirmed.
- B) **THAT** exemption to the Traffic and Parking Bylaw is limited to private vehicles owned and operated by volunteer fire fighters.

**Richard Simpson**  
**Manager: Planning and Regulatory**

**Appendix 1:** Proposed Westland District Council Traffic and Parking Bylaw 2013.

**Appendix 2:** Copy of letter from Teichelmann's Bed and Breakfast.



# APPENDIX 1

## WESTLAND DISTRICT COUNCIL TRAFFIC AND PARKING BYLAW 2013

### ANALYSIS

<b>CONTENTS</b>		<b>PAGE NO.</b>
<b>ANALYSIS</b>		1
<b>PARKING BYLAW</b>		2
<b>PART I – INTRODUCTION</b>		
1.0	Short Title & Commencement	3
2.0	Interpretation	3-8
<b>PART II - VEHICLES ON FOOTPATHS AND BERMS</b>		
3.0	Crossing Footpath or Berm	8
<b>PART III - PARKING</b>		
4.0	Stopping, Standing & Parking of Vehicles	9
5.0	Hours of Parking	9
6.0	Method of Parking	9
7.0	Temporary Discontinuance of a Parking Space	10
8.0	Unlawful Parking	10
<b>PART IV - SPEED &amp; DIRECTIONAL LIMITS</b>		
9.0	One Way Systems	11
<b>PART V - MISCELLANEOUS</b>		
10.0	Enforcement Officers	12
11.0	Offences	12
12.0	Penalties	12
13.0	Defences	12
14.0	Exempted Vehicles	13
16.0	Revocation	13

# **WESTLAND DISTRICT COUNCIL**

## **TRAFFIC AND PARKING BYLAW**

The purpose of this Bylaw is to set the requirements for parking and control of vehicle traffic on any road in Westland District, excluding State Highways controlled by the New Zealand Transport Agency unless the Council and the New Zealand Transport Agency have entered into an agreement providing that this Bylaw applies to those roads.

This Bylaw is made pursuant to section 22AB of the Land Transport Act 1998. In addition, traffic and parking issues are also regulated and controlled by other Acts and Regulations. This includes the Land Transport (Road User) Rule 2004, which should be referred to in conjunction with this Bylaw.

# **PART I**

## **INTRODUCTION**

### **1.0 SHORT TITLE, APPLICATION AND COMMENCEMENT**

This bylaw may be cited as the Westland District Council Traffic and Parking Bylaw 2013. This bylaw shall be read in conjunction with the Local Government Act 2002, the Land Transport Act 1998 and the Regulations for the time being in force pursuant to the Land Transport Act 1998.

This bylaw shall come into force 30 days after the adoption thereof.

### **2.0 INTERPRETATION**

In this Bylaw, unless the context otherwise requires:

#### **Authorised Officer**

means

*any person appointed or authorised by the Council to act on its behalf and includes any Parking Warden appointed under section 128D of the Land Transport Act 1998 or Police Officer.*

#### **Council**

means

*the Westland District Council and includes any person, authorised by the Council, to act on its behalf.*

#### **Disabled person parking space**

means

*an area reserved for the stopping, standing or parking of vehicles displaying a current Mobility Parking Permit issued by CCS Disability Action.*

#### **Driver**

means

*the driver of a vehicle and includes the rider of a motor cycle or power cycle or cycle and includes any person in charge of the vehicle; and 'drive' has a corresponding meaning.*

#### **Footpath**

means

*as much of any road or public place that is laid out or constructed by the authority of the Council for pedestrian use.*

#### **Grass Berm**

means

*the area behind a kerb which is laid out in grass and may include a riverbank area.*

## **Grass Verge**

### means

the area of road, which is laid out in grass:

- (a) between the carriageway and a kerb; or
- (b) adjacent to the carriageway where there is no kerb and which may include a riverbank area.

## **Owner**

### means

*in relation to a motor vehicle, means the person lawfully entitled to possession thereof, except where:*

- a) *The motor vehicle is subject to a bailment that is for a period not exceeding 28 days, or*
- b) *The motor vehicle is let on hire pursuant to the terms of a rental-service licence.*

*In which case 'Owner' means the person who, but for the bailment or letting on hire, would be lawfully entitled to possession of the motor vehicle and 'owned' and 'ownership' have corresponding meanings.*

## **Parking**

### means

- a) *In relation to any portion of a road where parking is for the time being governed by the location of parking spaces placed pursuant to this bylaw, the stopping or standing of a vehicle on that portion of the road for any period exceeding five minutes.*
- b) *In relation to any other portion of road, the stopping or standing of a vehicle on that portion of the road, and 'park' and 'parked' have corresponding meanings.*

## **Parking Warden**

### means

*a parking warden appointed or deemed to be appointed under Section 128D of the Land Transport Act 1998.*

## **Parking Space**

### means

*a space or section in a parking area or indicated by and lying within markings made by the Council for the accommodation of a vehicle.*

## **Road**

*includes a street, and also includes any place to which the public have access, whether as of right or not, and also includes all off-street car parks, bridges, culverts, ferries and fords forming part of any road, street, or other place as aforesaid, but does not include a motorway within the meaning of the Public Works Amendment Act 1947.*



## **Street**

### means

*all that land laid out by the Council as public street and also all that land vested in the Council as public street.*

## **Traffic Sign or Sign**

### means

*a traffic control device prescribed by Part 2 of Land Transport Rule 54002: Traffic Control Devices 2004*

## **Vehicle**

### means

*a contrivance equipped with wheels, tracks, or revolving runners on which it moves or is moved; and*

*(b) Includes a hovercraft, a skateboard, in-line skates, and roller skates; but*

*(c) Does not include—*

*A perambulator or pushchair:*

*(ii) A shopping or sporting trundler not propelled by mechanical power:*

*(iii) A wheelbarrow or hand-trolley:*

*(iv) A pedestrian-controlled lawnmower:*

*(v) A pedestrian-controlled agricultural machine not propelled by mechanical power:*

*(vi) An article of furniture:*

*(vii) A wheelchair not propelled by mechanical power:*

*(viii) Any other contrivance specified by the rules not to be a vehicle for the purposes of this definition:*

*(ix) Any rail vehicle.*

## **PART II**

### **VEHICLES ON FOOTPATHS AND BERMS**

#### **3.0 CROSSING FOOTPATH OR BERM**

- 3.1 No person shall take any vehicle across any footpath or berm except:
- a) At an authorised crossing installed or maintained by the Council and used as access to some property;
  - b) At any other place approved by the Council as a temporary measure when protection of the footpath has been undertaken to ensure no damage will occur to the footpath. This protection may be wooden planks 50 mm thick held and laid close together, steel plates or some other approved material.
- 3.2 Where a footpath or berm has been damaged as a result of a vehicle crossing it on an unprotected or inadequately protected point, the cost of repairing the footpath or berm may be recovered from the owner or the person in charge of that vehicle.

# **PART III**

## **PARKING**

### **4.0 STOPPING, STANDING AND PARKING OF VEHICLES**

- 4.1 The Council may from time to time, by resolution, impose parking restrictions on any road or other area controlled by the Council whether by way of time restriction, a restriction to a specified class, classes or description of vehicle, a total prohibition or any combination of these.
- 4.2 The Council shall by traffic signs erected or placed in a conspicuous position in or on any road or other area controlled by it, indicate where on the road, other area or portion thereof, the stopping of any vehicle, whether attended or unattended, is prohibited or restricted.
- 4.3 Any of the traffic signs referred to may, by resolution, be supplemented, altered or removed, but while maintained, shall apply to all vehicles other than those specifically excluded on the sign, marking, notice or device.

### **5.0 HOURS OF PARKING**

- 5.1 Every parking space may be occupied for only the time limit as specified between the following hours:

Mondays to Saturdays between 8.00 a.m. and 6.00 p.m.

The above hours may be amended by resolution of Council.

### **6.0 METHOD OF PARKING**

- 6.1
  - a) No driver or person in charge of a vehicle shall park such vehicle on or over any marking indicating the limits of the parking space or in such a position that the said vehicle shall not be entirely within the markings which indicate the limits of the parking space, provided, however, that where such vehicle has a trailer attached, the driver or person in charge thereof may park such vehicle and trailer in two parking spaces which are parallel to the kerb or footway.
  - b) No vehicle shall remain in a parking space once the parking time limit has expired.

- 6.2 a) No driver or person in charge of a vehicle shall park such vehicle on any disabled parking space designated pursuant to this Bylaw unless there is clearly displayed within such vehicle a current Operation Mobility Card issued by the CCS DISABILITY ACTION to the driver or person in charge of such vehicle or to some other person being carried or about to be carried in such vehicle.
- b) No person parking in a disability park with a permit shall exceed a maximum period of two hours.

## **7.0 TEMPORARY DISCONTINUANCE OF A PARKING SPACE**

- 7.1 If an Authorised Officer is of the opinion that any parking space or spaces should be temporarily discontinued as parking space, the Authorised Officer may place or erect, or cause to be placed or erected, a sign or signs sufficiently indicating 'No Stopping' at such parking space or spaces, and it shall be unlawful for any person to stop or park a vehicle at that parking space or spaces affected while any sign or signs are so placed or erected.
- 7.2 If the Authorised Officer is of the opinion that any parking space or spaces should be temporarily discontinued as a parking space, except for the use of a trades vehicle (as defined by the Council from time to time by resolution) or other specified vehicle, the Authorised Officer may place or erect or cause to be placed or erected a sign or signs sufficiently indicating 'Reserved Parking' for a specific trade or other specified vehicle at such parking space or spaces and it shall be unlawful for any person other than a person specifically authorised by the Authorised Officer to stop or park a vehicle at that parking space or spaces affected while any sign or signs are so placed or erected or to remove any sign or signs so placed or erected.

## **8.0 UNLAWFUL PARKING**

- 8.1 No person shall cause, allow, permit or suffer any vehicle to be parked in any parking space except in accordance with or pursuant to the provisions of this bylaw and of any resolutions made thereunder.

# **PART IV**

## **SPEED AND DIRECTIONAL LIMITS**

### **9.0 ONE WAY STREETS**

The Council may from time to time, by resolution, restrict vehicular movement on any road or part of a road to one specified direction when it is considered that such a restriction would assist in traffic movement. Any such restriction shall not take effect until appropriate traffic signs have been erected on the road so affected.

# **PART V**

## **10.0 ENFORCEMENT OFFICERS**

11.1 The enforcement of the provisions of this bylaw shall be carried out by either Police Officers, on behalf of the Council, or by Parking Wardens appointed by the Council.

## **11.0 OFFENCES**

11.1 Every person commits an offence against this bylaw who:

- a) Fails to comply in all respects with any prohibition or restriction or direction or requirement indicated by the lines, domes, zones, markings, traffic signs, or other signs and notices, laid down, placed, or made, or erected in or upon any road or public place in the district pursuant to any provision of this bylaw.

Provided that this sub-clause shall be subject to any clause of this bylaw which deals with the directional flow or movement of any particular kind or kinds of vehicles in any particular area, road or public place, or

- b) Fails to comply with any condition, duty or obligation imposed by this Bylaw.
- c) Drives or parks a vehicle on any grassed or cultivated area under the control of Council.

## **12.0 PENALTIES**

12.1 Where a Parking Warden has reason to believe that the user of a vehicle has committed a parking offence that is an infringement offence:

- a) The user of the vehicle may be proceeded against for the alleged offence under the Summary Proceedings Act 1957 and in such case the maximum penalty shall be the maximum penalty for such offences provided for in the Transport Act 1962, and the Land Transport Act 1998;
- b) A Parking Warden may issue an infringement notice in respect of the alleged offence in which case the infringement fee payable shall be the maximum infringement fee specified in Part 1 of the Second Schedule to the Transport Act 1962 or the Land Transport Act 1998, as amended from time to time.

12.2. The fees fixed for parking infringements shall be the maximum fees as specified in part one of the second schedule to the Transport Act 1962 and as amended from time to time.

## **13.0 DEFENCES**

It shall be a defence to any person charged with a breach of any parking provision in Part III hereof if that person proves:

- a) That the Act complained of was done reasonably in circumstances of traffic emergency or in compliance with the directions of a Police Officer, traffic control signal or traffic sign, or in the case of an act done by a Police Officer, was necessary in the execution of his or her duty.
- b)
  - i) That the vehicle was at the time of the act complained of actually engaged in a public work on the road, and
  - ii) That the vehicle was being used on the road with due consideration for other road users, and

- iii) That the act complained of was reasonably necessary for the purposes of that work, and
  - iv) That the person took all reasonable care to prevent the occurrence of any accident, mishap, collision, or damage, or in any injury to or interference with any other person, animal, or property arising by reason of the act.
- c) That the act complained of was necessary for the loading or unloading of the vehicle in the course of trade, and was done with due consideration to the safety and convenience of other road users, and either:
- i) That alternative access for the purpose of loading or unloading the vehicle was not available, or
  - ii) That where such access was available, the circumstances existing at the time were such that it was unreasonable to require such access to be used.

#### **14.0 EXEMPTED VEHICLES**

This bylaw shall not apply to the following classes of vehicles:

- a) A vehicle used as an ambulance and being at the time used on ambulance service.
- b) A vehicle being used by the New Zealand Fire Service to answer a request for an emergency service.
- c) A vehicle used by a Police Officer lawfully engaged in the course of Police duties.
- d) A vehicle where the driver has an authorisation from the Council to occupy a parking space beyond a parking time limit.

#### **15.0 REVOCATION**

The Westland District Council Traffic and Parking Bylaw 1999 is hereby revoked.

The initial resolution to make this Bylaw was passed by the Westland District Council at an ordinary meeting of the Council held on the twenty-sixth day of September 2013 and was confirmed, following consideration of submissions received during the special consultative procedure, by a resolution at a subsequent meeting of the Council on the 28<sup>th</sup> day of November, 2013.

THE COMMON SEAL of the WESTLAND DISTRICT COUNCIL was affixed in the presence of:

---

**MAYOR**

---

**CHIEF EXECUTIVE**

# APPENDIX 2



5 NOV 2013  
BY:

SCANNED

CE	Mayor	GM /CE	GM /DA	GM CS	EA	
						<i>[Signature]</i>

04 November 2013

The Regulatory Manager  
Westland District Council  
Private Bag 704, Hokitika 7842

Dear Richard

RE: Statement of Proposal , Westland District Council Traffic & Parking Bylaw 2013.

Please excuse our late submission of comment to the above. After returning to Hokitika from being away and catching up with the Guardian news we were not fully aware that submissions had to be made by 01 November.

When first mooted by Enterprise Hokitika I recall being present at EH Retail Group meetings where some of the problems of this bylaw were identified. Hamilton Street with a 120min limit was identified as a detriment to our accommodation business and a suggestion we believe was taken back to Council by Cr Scott for our guests to show a card or leaflet displaying our details on the vehicle dashboard. However on a consequent conversation with your self a few months ago the indication was that there were to be no exceptions.

If the new proposed bylaw is extended in some way where exactly does this leave our guests, some of whom can be with us for a period of two days and nights? Is it possible to be considered for an exemption please.

Yours sincerely

*[Signature]*  
Frances Flanagan & Brian Ward

20 Hamilton Street  
Hokitika 7810  
New Zealand

Phone: +64 3 755 8232  
Fax: +64 3 755 8239  
Email: teichel@xtra.co.nz  
Web: www.teichelmanns.co.nz



# Report



**DATE:** 28 November 2013  
**TO:** Mayor and Councillors  
**FROM:** Chief Executive

---

## **REVOCATION OF JACKSON BAY WHARF BYLAW**

### **1.0 SUMMARY**

- 1.1 The purpose of this report is to provide a clearer management framework for Westland District Property Ltd (WDPL) to operate the Jackson Bay Wharf.
- 1.2 This issue arises from a request through the Annual Plan from WDPL that Council revoke the Jackson Bay Wharf Bylaw.
- 1.3 The Council is required to give effect to the purpose of local government as prescribed by section 10 of the Local Government Act 2002. That purpose is:
  - (a) To enable democratic local decision-making and action, by and on behalf of, communities; and
  - (b) To meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses.
- 1.4 Council seeks to meet this obligation and the achievement of the district vision set out in the Long Term Plan 2012-22. The matters raised in this report relate to those elements of the vision identified in the following table.

<b>Vision's Objectives</b>	<b>Achieved By</b>
Involving the community and stakeholders Having inspirational leadership Having top class infrastructure for all communities	Having an appropriate framework in place to operate a strategic asset of Council and ensuring fees and charges are set commercially and are at a level that supports the ongoing maintenance of that asset.

- 1.5 This report concludes by recommending that Council undertakes a Special Consultative Procedure to revoke the Jackson Bay Wharf Bylaw 2001 and delegates the setting of fees and charges for the Jackson Bay Wharf and associated facilities to Westland District Property Ltd (WDPL).

## **2.0 BACKGROUND**

- 2.1 The Jackson Bay Wharf Bylaw was put in place by Council in 2001 under the authority of the 1974 Local Government Act. The bylaw was put in place to control the use of the wharf, to protect the wharf from damage and to recover the cost of providing a service to shipping at Jackson Bay.
- 2.2 The Jackson Bay wharf is one of Westland's strategic assets. Ownership of the wharf was transferred from the Crown to Council in 1998. On transfer of the wharf, Council obtained a Coastal Permit from the West Coast Regional Council for "exclusive occupation...for the purpose of the continued use of the Jackson Bay Wharf."
- 2.3 Options were considered as to how to make the wharf viable, to generate enough revenue from the users and beneficiaries to protect and maintain the asset. In that regard a small committee of representatives of the fishing industry was put together and recommendations from them on fees and charges were brought to Council.
- 2.4 The committee's recommendation was to charge \$300+GST for crayfish and \$23+GST for wet fish. The charges were based on the total value of the two types of catch unloaded across the wharf. This recommendation was accepted by Council and included in the Jackson Bay Bylaw 2001.
- 2.5 In late 2011, Council and WDPL began working towards the transfer of the management of Jackson Bay Wharf from Council to WDPL, to become effective from 1 July 2012. Due diligence was undertaken and a Transition Plan drafted for the wharf and associated facilities to be managed by WDPL, with the goal of bringing its operation to breakeven within a 5 year period.
- 2.6 The Transition Plan was split into three parts as follows:  
**Stage 1: Securing Revenue**
  - 2.3.1 The first part of the plan addressed income, which came from two sources:
    1. The honesty box for the recreational boat launching ramp

2. The levy on wet fish and crayfish landed across the wharf  
2.3.2 Income and Expenses y/e 30 June 2011 were:

Operating Revenue                      \$1,438.00

Operating Expenditure                 \$57,911.00

- 2.3.3 WDPL undertook an audit of wet fish/crayfish tonnage landed across the wharf to see if the catch was being reported by the industry to Council. WDPL identified that Council had not invoiced operators/processors since 2008 and that appeared to be because the industry was not providing Council with catch tonnage figures. WDPL estimated in excess of \$160,000 of levies not invoiced.
- 2.3.4 On the recommendation of WDPL in 2012, Council reconfirmed the original \$23+GST wet fish levy and the \$300+GST crayfish levy.
- 2.3.5 It was also determined that legal protections should be put in place in respect of the use of the wharf. In particular WDPL considered it proper to ensure that the wharf was used in a safe manner and that the asset was protected against damage. A Licence Agreement to Occupy Wharf Space at Jackson Bay was prepared for signature by users of the wharf. This Licence Agreement is the basis upon which the wharf is currently used.

### **Stage 2: Maintaining the Wharf**

- 2.3.6 The second part of the plan concentrated on ensuring that existing assets, the wharf and associated facilities, were maintained to a good standard. A full review of the wharf was carried out by Westroads; all piles and structures under the wharf have been inspected and a 5 year maintenance plan is in draft form awaiting approval by the WDPL board.

## **3. CURRENT SITUATION**

- 3.1 WDPL is required under its Statement of Intent and management contract to operate in a manner that achieves commercial returns for the wharf and other Council assets which it manages.
- 3.2 The Bylaw (attached as Appendix 1) provides Council with the ability to:
- 3.2.1 Set fees and charges
  - 3.2.2 Determine how the wharf is used
- Both of these can be addressed by WDPL without a Bylaw in place.
- 3.3 There is currently a tension between what is in the Jackson Bay Wharf Bylaw 2001 and what is set out in the Management Contract and Statement of Intent with WDPL. In particular the Bylaw does not

comfortably fit a management role where the requirement is to operate the wharf and associated facilities on a commercial basis.

- 3.4 It is also clear that the Council is empowered to manage the wharf without the Bylaw pursuant to the general power in s 12 of the Local Government Act 2002. While the wharf must be managed wholly or principally for the benefit of the district in a way that is consistent with the LGA, as a strategic asset of Council, this can be done effectively in the absence of a Bylaw. Indeed, the mandate given to WDPL by way of a statement of intent is significantly more flexible than a bylaw put in place under the LGA 1974.
- 3.5 There is also no bar to delegating the management responsibilities in respect of the wharf to WDPL, noting that this delegation will not relieve the Council from its duty to ensure that its obligations in respect of the management of the wharf under LGA and otherwise are complied with.
- 3.6 The Licence to Occupy system in which WDPL use to manage use of the wharf for commercial benefit is working well with most fishermen complying.

#### **4. OPTIONS**

- 4.1 Retain the Bylaw.
- 4.2 Commence a process to revoke the Bylaw and to delegate the setting of fees in respect of the wharf to WDPL.

#### **5. SIGNIFICANCE AND CONSULTATION**

- 5.1 The decision on whether to proceed with commencing a special consultative procedure to revoke a Bylaw is not in itself significant. However a bylaw revocation is subject to provisions in the Local Government Act 2002.
- 5.2 Under s90 (2) of the LGA, Jackson Bay Wharf is listed as a strategic asset in Council's Policy on Significance.
- 5.3 Consultation on this matter to date has been limited to discussions with WDPL, who support the proposal to commence a process to revoke the Bylaw.
- 5.3 There is considerable interest in the Jackson Bay Wharf and the setting of fees and charges, mainly by the fishing industry users of the wharf.

## **6. ASSESSMENT OF OPTIONS (INCLUDING FINANCIAL IMPLICATIONS)**

- 6.1 Not proceeding to revoke the Bylaw will mean that the management of the wharf continues to be constrained by the Bylaw, with Council setting the fees and charges.
- 6.2 Revoking the Bylaw will mean that fees and charges can be set on a commercial basis and be levied on those who are receiving most benefit from use of the asset. The wharf will be managed by WDPL through the Licences to Occupy with individual licensees.

## **7. PREFERRED OPTION AND REASONS**

- 7.1 The preferred option is to revoke the Bylaw to allow WDPL the ability to manage the wharf commercially without the constraint of a Bylaw.

## **8. RECOMMENDATIONS**

- A) **THAT** Council use a Special Consultative Procedure to propose the revocation of the Jackson Bay Wharf Bylaw 2001 and that a Statement of Proposal be prepared.
- B) **THAT** Council delegates to Westland District Properties Ltd the setting of fees and charges for the Jackson Bay Wharf and associated facilities in a reasonable commercial manner.

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

**Appendix 1:** Westland District Council Jackson Bay Wharf Bylaw 2001

# Appendix 1



## WESTLAND DISTRICT COUNCIL JACKSON BAY WHARF BYLAW

---

A Bylaw to control the use of the wharf, to protect it from damage and to recover the cost of providing a service to shipping.

In pursuance of the powers vested in it by the Local Government Act 1974 and all other enabling powers the Westland District Council hereby makes this Bylaw.

### Analysis

1. Short Title
2. Commencement
3. Interpretation
4. Fees and Charges
5. Use of Wharf
6. Traffic on Wharf
7. Miscellaneous
8. Offences
9. Penalties

**1.0 Short Title**

1.1 This Bylaw may be cited as the Jackson Bay Wharf Bylaw.

**2.0 Commencement**

2.1 This Bylaw shall come into force 14 days after its adoption.

**3.0 Interpretation**

3.1 In this Bylaw, unless the context otherwise requires:

“**Council**” means the Westland District Council and includes any person, authorised by the Council, to act on its behalf;

“**Master**” in relation to any vessel includes any person in charge of that vessel;

“**Owner**” in relation to a vessel, includes an agent and also includes a charterer.

“**Vehicle**” and “**Heavy motor vehicle**” have the same meanings as they respectively have in Section 2 (1) of the Land Transport Act 1998;

“**Vessel**” means every description of ship, boat or craft used in navigation whether or not it has any means or propulsion and regardless of that means; and includes a barge;

“**Wharf**” means the structure owned by the Council and operated by it for local shipping at Jackson Bay at latitude 43° 58' 31" and longitude 168° 36' 50"

“**Registered length**” or “**length**” in relation to any vessel means the length of that vessel measured from the foreside of the head of the stem to the afterside of the head of the stern post, or to the foreside of the head of the rudder stock if no stern post is provided;

**4.0 Fees and Charges**

4.1 The Council may from time to time by resolution fix fees and charges payable for all or any of following purposes:

- (a) To provide funds for the maintenance and renewal of the wharf and any associated works, and facilities and providing any associated services.
- (b) To defray the cost and expenses incurred by the Council in administering, policing and protecting the wharf and any associated works, facilities and services.

- 4.2 Any such fees and charges may be calculated according to the amount or nature of freight loaded or discharged at the wharf or of the vessel's tonnage, length or character or a combination of these factors.
- 4.3 The master of any vessel that berths at the wharf shall be liable for any berthage fees or charges fixed under this Bylaw. In the case of non-payment of the berthage fee the owner of the vessel shall be liable for such fees.
- 4.4 The fees and charges payable under this Bylaw shall be payable to the Westland District Council at Hokitika within 28 days of the fee or charge being incurred and shall be accompanied by a statutory declaration made in a form prescribed by Council.
- 4.5 Any fees or charges that are unpaid after 28 days shall incur an additional penalty for late payment. The penalty shall be 5 percent of the fee or charge outstanding at the close of each period of 28 days from the date of it being incurred.

#### **5.0 Use of Wharf**

- 5.1 The master of every vessel that uses the wharf shall ensure that the vessel remains alongside the wharf only for the time necessary to load or discharge goods, or to take on fuel, fresh water or stores or to undertake emergency repairs
- 5.2 Notwithstanding sub clause (1) of this Bylaw the Council may at any time instruct the master of any vessel to remove the vessel from the wharf.
- 5.3 The master of any vessel arriving at the wharf shall use sufficient fenders and mooring ropes to protect the wharf from damage.
- 5.4 Every person who wilfully or negligently destroys or damages the wharf shall be liable for the amount of that destruction or damage or any loss or expenses caused to or incurred by the Council in any Court of competent jurisdiction.

#### **6.0 Traffic On Wharf**

- 6.1 The Council in the interest of the safety of users of the wharf and to protect the wharf from damage may from time to time by resolution:
  - restrict the maximum speed of any vehicle using the wharf
  - limit the number of vehicles which may use the wharf at any one time,
  - restrict the use of heavy vehicles,
  - prohibit the parking, stopping or standing of vehicles on the wharf except for the purpose of loading supplies on to ships berthed at the wharf or to pick-up produce discharged from such ships.



6.2 Any such restrictions, limitations or prohibitions shall be displayed by notices or signs erected at the landward side of the wharf.

**7.0 Miscellaneous**

7.1 No person shall place or store property or deposit rubbish on the wharf except in a receptacle or receptacles provided for that purpose

7.2 The Council may erect such notice boards and signs as it deems necessary on the wharf.

7.3 All lawful instructions, restrictions or prohibitions contained on a notice board or signs erected under this Bylaw shall be complied with at all times.

7.4 No person shall without the consent of Council place any placard or notice upon the wharf.

7.5 No person shall interfere with, damage or deface any noticeboard erected by the Council.

**8.0 Offences**

8.1 Every person committing an offence against this Bylaw who without reasonable excuse:

(a) Fails, refuses or neglects to comply in all respects with any lawful instructions or demands made pursuant to this Bylaw by the Council or any person acting under its authority.

(b) Fails to pay any fees, charges or penalties payable pursuant to this Bylaw by the date they become payable.

(c) Makes a false declaration under clause 4.4 of this Bylaw.

(d) Wilfully or negligently destroys, damages or otherwise interferes with the wharf or any part thereof or anything forming part of or connected with the wharf.

(e) Fails to comply with or does any act in contravention of any condition, duty or obligation imposed by this Bylaw.

(f) Fails to comply with or does any act in contravention of any prohibition, restriction or limitation laid down or imposed by this Bylaw.

(g) Molests or makes use of threatening language to any officer or person exercising any power or duty under this Bylaw and acting under the authority of the Council.

