

NOTICE OF AN AUDIT AND RISK COMMITTEE MEETING

**Opōtiki District Council Chambers, 108 St John Street, Opōtiki
Monday, 27 November 2017
Commencing at 9.30am**

ORDER PAPER

APOLOGIES

DECLARATION OF ANY INTERESTS IN RELATION TO OPEN MEETING AGENDA ITEMS

PUBLIC FORUM

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PUBLIC EXCLUDED BUSINESS

- ITEM 09 CONFIRMATION OF IN-COMMITTEE MINUTES – AUDIT AND RISK COMMITTEE
MEETING 14 AUGUST 2017
- ITEM 10 RESOLUTION TO RESTATE RESOLUTIONS AND READMIT THE PUBLIC

STANDING ITEM:

RISK WORKSHOP – TO BE HELD AT THE CONCLUSION OF THE MEETING

Members: **Cr Arihia Tuoro (Chairperson)**

Cr Ken Young

Ex-Officio: **Mayor John Forbes**

Independent Member: **David Love**

Committee Secretary: **Gae Newell**

Quorum: **2**

LOCAL AUTHORITIES (MEMBERS' INTERESTS) ACT 1968

Councillors are reminded that if you have a pecuniary or non-pecuniary interest in any item on the agenda, then you must declare this interest and refrain from discussing or voting on this item, and are advised to withdraw from the Council chamber.

Aileen Lawrie

CHIEF EXECUTIVE OFFICER

AUDIT AND RISK COMMITTEE TERMS OF REFERENCE

1. The Audit and Risk Committee is a Committee of the Ōpōtiki District Council.

2. **Objective**

The objective of the Committee is to assist the Council in carrying out its duties in regard to financial reporting and legal compliance.

3. **Membership**

Chairperson: Councillor Tuoro

Members: Councillor Tuoro, Councillor Young

Ex-Officio: Mayor Forbes

Independent Member: David Love

4. **Meetings**

4.1 A quorum is two members.

4.2 The Committee shall meet as needed but in any event, at least annually.

4.3 Notice of meetings shall be in accordance with the requirements set out in the Local Government Act 2002.

5. **Terms of Reference**

The Audit and Risk Committee will:

1. *Review Council's annual financial statements with Council management and the Auditors prior to their approval by Council.*

2. *Oversee statutory compliance in terms of financial disclosure.*

3. *Monitor corporate risk assessment and internal risk mitigation measures and oversee:*

- *Council's risk management framework*
- *internal control environment*
- *legislative and regulatory compliance*
- *internal audit and assurance*
- *oversee risk identification on significant projects*
- *compliance to Treasury Risk Management Policies.*

4. *Review the effectiveness of Council's external accountability reporting (including non financial performance).*

5. *Conduct the process for the Chief Executive's Performance, for report to Council.*

6. *Draw to the attention of Council any matters that are appropriate.*
7. *Investigate and report on any matters referred to the Committee by Council. The circumstances the Council may refer matters to the Audit and Risk Committees include:*
 - a. *Any significant issues arising from the financial management of councils affairs.*
 - b. *Any complaints against elected members or alleged breaches of the Councils code of conduct.*
 - c. *Any significant issues arising from Audit New Zealand processes.*
 - d. *Due Diligence on strategic asset acquisition or disposal.*
 - e. *Setting up of Council Controlled Organisations.*
 - f. *Development of a Council risk assessment and mitigation strategies.*

6. **Authority**

- 6.1 The Committee is authorised to investigate any activity referred to it by Council resolution. It is authorised to seek any reasonable information it requires from Council staff.
- 6.2 The Committee is authorised by the Council to obtain outside legal or other independent professional advice and to arrange for the attendance at meetings of outside parties with relevant experience and expertise if it considers this necessary.



MINUTES OF AN ŌPŌTIKI DISTRICT COUNCIL AUDIT AND RISK COMMITTEE MEETING HELD ON MONDAY, 26 OCTOBER 2017 IN THE OPOTIKI DISTRICT COUNCIL CHAMBERS, 108 ST JOHN STREET, ŌPŌTIKI AT 2.30PM

PRESENT:

Councillor Arihia Tuoro (Chairperson)
Councillor Ken Young
David Love
Mayor John Forbes

IN ATTENDANCE:

Bevan Gray (Finance and Corporate Services Group Manager)
Gae Newell (Personal Assistant to CEO and Mayor)

APOLOGIES

Ken Young for lateness.

The Chief Executive Officer also tendered an apology for the meeting.

RESOLVED

(1) That the apologies be sustained.

Forbes/Love

Carried

DECLARATION OF ANY INTERESTS IN RELATION TO OPEN MEETING AGENDA ITEMS

David Love noted that he is a Bay of Plenty Regional Councillor and is also a member of the Regional Council's Audit and Risk Committee.

PUBLIC FORUM

Nil.

Item 2 was considered before Item 1 (waiting for Councillor Young to be present to confirm minutes) as David Love was not present at the last meeting.

1. CONFIRMATION OF MINUTES – AUDIT AND RISK COMMITTEE MEETING **p5**
4 SEPTEMBER 2017

RESOLVED

- (1) That the report minutes of the Audit and Risk Committee meeting held on 4 September 2017 be confirmed as a true and correct record.**

Young/Tuoro

Carried

2. ACTION SCHEDULE **p**

The Finance and Corporate Services Group Manager spoke to the items on the Action Schedule.

Credit Card Use

The Finance and Corporate Services Group Manager stated it is hoped to have the Sensitive Expenditure Policy updated with the addition of a section on credit card use by June 2018.

Datacom Users

David Love requested it be noted that the course of action as set out in the comments column has been reviewed and it is the only way forward.

RESOLVED

- (1) That the Action Schedule be received.**

Forbes/Young

Carried

Councillor Young entered the meeting at 2.40pm.

Item 1 was considered before Item 3.

3. DRAFT ANNUAL REPORT FOR THE YEAR ENDED 30 JUNE 2017 **p10**

The Summary Annual Report was tabled.

It was agreed that the expenditure items be shown in a more logical order, e.g. highest to lowest spend and that the year be added into the left hand page of the centre spread.

The Finance and Corporate Services Group Manager advised that Audit New Zealand have requested some amendments be made to the Annual Report document.

It was agreed that two parts be added to the recommendation to:

- Receive the Summary Annual Report as tabled
- Receive the draft Annual Report, subject to final amendments being made as requested by Audit New Zealand.

RESOLVED

- (1) **That the report titled "Draft Annual Report For The Year Ended 30 June 2017" be received.**
- (2) **That the Summary Annual Report be received.**
- (3) **That the draft Annual Report be received, subject to final amendments being made as requested by Audit New Zealand.**

Young/Love

Carried

4. NZ TRANSPORT AGENCY INVESTMENT AUDIT REPORT

p

RESOLVED

- (1) **That the report titled "NZ Transport Agency Investment Audit Report" be received.**
- (2) **That an action to review the procurement of professional services and late tenders is considered when Council reviews it's Procurement Policy in consideration with the requests in the NZ Transport Agency Investment Audit Report.**

Forbes/Young

Carried

5. KOHA PAYMENTS

p

The Finance and Corporate Services Group Manager advised that sensitive expenditure type items, e.g. flowers, will no longer be included as koha.

RESOLVED

- (1) **That the report titled "Koha Payments" be received.**

Young/Love

Carried

The Chairperson asked for the Risk Register to be a standing item on the agenda.

At the request of the Chairperson, the Finance and Corporate Services Group Manager will add staffing resources to the Risk Register.

THERE BEING NO FURTHER BUSINESS THE MEETING CLOSED AT 3.54PM.

**THE FOREGOING MINUTES ARE CERTIFIED AS BEING A
TRUE AND CORRECT RECORD AT A SUBSEQUENT IN-
COMMITTEE MEETING OF THE AUDIT AND RISK
COMMITTEE ON 27 NOVEMBER 2017.**

**COUNCILLOR ARIHIA TUORO
CHAIRPERSON**

Audit & Risk Action Sheet

Issue	Recommendation	Done	Assigned To	Status	Comments	
5	Resource recovery centre	Recommend Council review systems and controls around cash handling	<input type="checkbox"/>	Chris Hopman	In Progress	Finance have implemented tills for all RRC's, and a cash pickup process for Te Kaha and Waihou Bay. Chris and Ian still need to do some work with Opotiki RRC as Finance are coming up against resistance there.
6	Suspense accounts	Recommend Council undertake regular reviews of suspense accounts and ensure appropriate policies and procedures are in place for their use	<input type="checkbox"/>	Jan Burkhart	In Progress	Reconciliations have been performed on all suspense accounts as at 30 June 2017. Monthly reconciliations will be performed in accordance with the internal controls that will be implemented in early November. This includes the lodgement accounts that currently account for unallocated receipts.
7	Asset management plans	Recommend Council ensures that asset management plans are updated on a continuous basis	<input type="checkbox"/>	Chris Hopman	In Progress	Ari - Three Waters AMP's are currently updated with the completion of assets and outcomes. AMP's are currently undergoing review and update in line with the LTP process. A procedure to streamline the update process particularly surrounding monthly financial reconciliation was started however stalled due to staff leaving. With additional resource now being received the various processes are planned to be assembled within an Asset Management Policy and Framework.
19	Sensitive expenditure policy	Recommend that policy is updated in relation to credit card use, who is responsible for them and their use, the process for cancelling and destroying cards, how credit limits are set, how transaction documentation is compiled, review processes, and consequences of unauthorised use.	<input type="checkbox"/>	Bevan Gray	Not Started	The sensitive expenditure policy will be reviewed in line with OAG best practice, will contain a section on credit cards and their use with appropriate guidance. Will look to address before 30 June 2018. Report brought to A&R with amendments proposed this meeting.
21	Contract Management policy and Guidance	Recommend Council develop a contract management policy and guidance, to include procedures and templates for consistency	<input type="checkbox"/>	Chris Hopman	Not Started	Contact Regional Council who have just undertaken a similar exercise. KDC and WBOPDC have both just employed contract management roles. Expected to be undertaken by project manager & contract manager positions once roles have been filled.
22	Contract management oversight	Have individual or team in place with responsibility for oversight of contract management activities	<input type="checkbox"/>	Chris Hopman	Not Started	Recruiting currently
23	Contract management system	Put in place a contract management system to capture all contract information	<input type="checkbox"/>	Chris Hopman	In Progress	Finance have implemented the Contracts Module within Ozone to manage contracts and contract payments. A process to control contract coding, approval and receipting is being assembled under the asset management policy and framework.
24	Project Management	Recommend a documented approach and methodology, planned approach to undertake post implementation reviews, have independent quality assurance reviews.	<input type="checkbox"/>	Chris Hopman	In Progress	Project management framework has been drafted. To be further developed upon filling project manager role.
27	Procurement	Council to ensure that late tender policy in contract documents is consistent with Procurement Strategy, ongoing.	<input type="checkbox"/>	Chris Hopman		
28	Qualified proposal evaluators	Council to correct the wording in its contract documents for Qualified Proposal Evaluators by 30/06/17	<input type="checkbox"/>	Chris Hopman		
29	Procurement Strategy	Council to amend Procurement Strategy to include how it will procure professional services, which of those services are to be procured in-house and the rationale for the decision and seek endorsement for the amended policy from the Transport Agency by 30/06/18	<input type="checkbox"/>			
30	Contract Management	NZTA audit recommend that Council improves its contract management documentation to reflect actions agreed and undertaken by 30/06/17	<input type="checkbox"/>			
31	Asset Management	Audit NZ recommend a formal impairment assessment over assets held at cost is performed to ensure they are measured at lower of cost and recoverable amount.	<input type="checkbox"/>	Ari		Need to discuss with Bevan
32	Asset Management	Monthly reconciliations to be performed between the fixed asset register and the general ledger. These should be independently reviewed.	<input type="checkbox"/>	Ari		A procedure to streamline this process has been implemented. The procedure will be included in the Asset Management Policy and Framework.
33	Asset Management	Develop and implement an asset capitalisation policy that states the minimum amount of assets that will be capitalised as well as guidance for the type of expenditure to be capitalised.	<input type="checkbox"/>	Ari		This policy is under development.

REPORT

Date : 15 November 2017

To : Audit and Risk Committee Meeting, 27 November 2017

From : Finance and Corporate Services Group Manager, Bevan Gray

Subject : **DRAFT MANAGEMENT REPORT TO 30 JUNE 2017**

File ID : A125578

EXECUTIVE SUMMARY

The Draft Management Report provided by Audit New Zealand for the Annual Report 30 June 2017 highlights a number of issues/areas that require addressing. Some of these are existing issues that we haven't yet addressed, and some are new areas that require addressing. The report also highlights progress made towards addressing some of the existing issues.

The new areas should be taken as a signal to Council that we need to "up our game" so to speak. We will be in the limelight now with a major national infrastructure project on our doorstep.

We are going to need to ensure that we not only address these issues now, but also to be confident that we are responsive enough in the future that changes and amendments to legislation are addressed before the audit process begins.

The Office of the Auditor General also signalled nationally after the first round of 30 year Infrastructure Strategies were reported through the 2015-25 Long Term Plan process, that asset management is a key focus area for Local Government to improve on. The next Long Term Plan will undoubtedly require significant improvement and expansion on these first Infrastructure Strategies.

PURPOSE

This report is to provide the committee with the Draft Management Report from Audit New Zealand on the findings of their audit process for the year ended 30 June 2017.

It is an important part of the Audit & Risk Committee's role to have a handle on the issues and items raised by audit in the Management Reports. And to direct management to address these issues in a timely manner so that they can be cleared by audit in subsequent reviews.

BACKGROUND

Every year Audit NZ undertake an interim audit before the end of the year, and a full audit once the draft Annual Report is available for audit review. Audit NZ provide a Management Report to Council after each visit, identifying areas for improvement in procedures and processes.

Each draft report from Audit invites Council to comment on the items raised within the report. Management and staff have placed some suggested feedback in the report for your review.

This year there are a considerable number of points raised by Audit, some of them are around process, but to some degree most of them relate in some form or another to resourcing. The key areas most definitely do. There are processes underway to address the resourcing issues, and a lot of progress has been made already.

This year there have been a large number of recommendations actioned, and closed. This illustrates the continual improvement culture that the organisation is trying to foster.

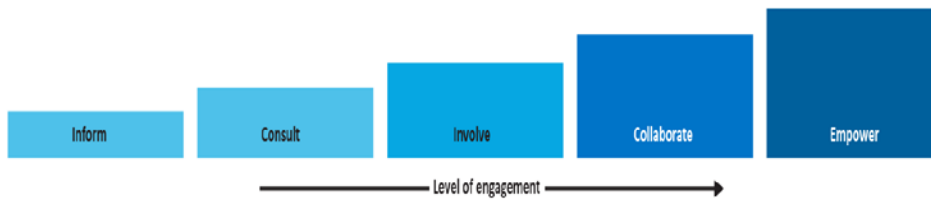
SIGNIFICANCE ASSESSMENT

Assessment of significance

Under Council's Significance and Engagement Policy, on every issue requiring a decision, Council considers the degree of significance and the corresponding level of engagement required. The level of Significance for receiving the Draft Management Report for 30 June 2017 is considered to be low as determined by the criteria set out in section 12 of the Significance and Engagement Policy.

Assessment of engagement requirements

As the level of significance for receiving the Draft Management Report for 30 June 2017 is considered to be low the level of engagement required is determined to be at the level of Inform according to Schedule 2 of the Significance and Engagement Policy.



RECOMMENDATIONS:

- 1. That the report titled "Draft Management Report 30 June 2017 be received.**
- 2. That the Committee approve the suggested commentary for reply to Audit NZ.**

Bevan Gray

FINANCE AND CORPORATE SERVICES GROUP MANAGER

Report to Council on the audit of
Ōpōtiki District Council
for the year ended 30 June 2017

Key messages

We have completed the audit for the year ended 30 June 2017. This report sets out our findings from the audit and draws attention to areas where Ōpōtiki District Council (the District Council) is doing well or where we have made recommendations for improvement.

The matters outlined in this report should be read in conjunction with our interim management report dated 30 August 2017.

We issued an unmodified audit opinion on 31 October 2017. This means we are satisfied the key financial statements and Council's activities and performance information fairly reflected the District Council's activity for the year end and its financial position at the end of the year.

The District Council continues to progress the harbour development project. We understand the District Council is currently working with a preferred tenderer and a final decision on funding from the Crown will be made by the end of 2017. The District Council received \$1.6 million in grants towards the development of the harbour this year. We reviewed the funding agreement and tested a sample of transactions and are satisfied that the revenue, expenditure, and items capitalised to work in progress have been accurately recorded in accordance with the applicable accounting standards.

The District Council was initially planning to perform a valuation of its infrastructure assets and land and buildings as at 30 June 2017. A fair value assessment of these assets was undertaken to determine whether there was a significant difference between the current carrying amount and fair value of these assets. It identified there was no significant difference and the District Council decided to delay the full revaluation of these assets. We reviewed the fair value assessment performed by the District Council and confirmed the assumptions used and calculations derived did not result in a material difference between the current carrying value and approximate fair value.

We reviewed the systems in place for recording costs associated with the wastewater reticulation system update and found the District Council has appropriate systems in place and our sample of transactions tested did not identify any costs that were incorrectly included into the value of the upgrade as work in progress.

The audit process did not go as smoothly as we would have liked and we intend to meet with management to discuss ways that we can work together to ensure a more efficient annual reporting process going forward.

We also followed up on the status of issues outstanding from previous audits. Management has made good progress in addressing these issues. Further details are included at Appendix 2.

Issues identified during the audit

The following table summarises our recommendations and their priority:

Section	Recommendation	Priority
3.1.1	A formal impairment assessment over assets held at cost is performed to ensure they are measured at the lower of cost and recoverable amount.	Necessary
3.1.2	Monthly reconciliations between the fixed asset register and the general ledger be performed. Reconciliations be independently reviewed.	Necessary
3.1.3	Implement an asset capitalisation policy that states the minimum amount of assets that will be capitalised as well as guidance for the type of expenditure to capitalised.	Necessary
3.2	Strengthen processes to confirm validity of a new suppliers.	Beneficial
3.3	Appropriate regular monitoring processes be implemented to ensure compliance with the financial covenants imposed by the Local Government Funding Agency.	Beneficial
3.4	Review current accounting processes and implement changes as necessary to ensure compliance with the amended Construction Contracts Act 2002.	Necessary
3.5	Annual report process is planned and scheduled on a project basis and closely monitored to ensure milestones are met. The process includes the preparation of a substantiation file.	Urgent
4.1	Appropriate processes be implemented to ensure compliance with legislation, for example, ensuring the annual report includes the results of any measurement undertaken during the year of progress towards the achievement of community outcomes.	Necessary
4.2	Implement a formal process to ensure compliance with key legislative requirements for Annual Plans.	Necessary

There is an explanation of the priority rating system in Appendix 3.

Thank you

We would like to thank the Council, management and staff for their assistance during the audit.

Clarence Susan
Audit Director
14 November 2017

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1 Our audit opinion

1.1 We issued an unmodified audit opinion

We issued an unmodified audit opinion on 31 October 2017. This means we were satisfied the financial statements and Council's activities and performance information fairly reflected the District Council's activity for the year and its financial position at the end of the year.

In forming our audit opinion, we considered the following matters.

1.2 Uncorrected misstatements

The financial statements are free from material misstatements, including omissions. During the audit, we have discussed with management any misstatements that we found, other than those which were clearly trivial. The misstatements that have not been corrected are listed in Appendix 1, along with management's reasons for not adjusting these misstatements. We are satisfied these misstatements are individually and collectively immaterial.

2 Key areas of audit emphasis

Our findings on the areas of audit emphasis highlighted in our audit arrangements letter dated 28 April 2017 are as follow.

2.1 Harbour development

The District Council continues to progress the harbour development project. We held discussions with staff on the progress the District Council has made on the project. We understand the District Council has appointed a preferred tenderer and is currently working through the tender process.

This project is dependent on funding from the Crown. The final decision on whether the Crown will fund the harbour transformation project is based on the feasibility study outcomes, and that Crown conditions on funding are met. This decision is expected to be made in December 2017. We will continue to monitor the progress of this project.

The District Council received \$1.6 million in grants towards the development of the harbour this year. We reviewed the funding agreement and tested a sample of transactions and are satisfied the revenue, expenditure and items capitalised to work in progress have been accurately recorded in accordance with the applicable accounting standards.

2.2 Property, plant and equipment

The District Council was initially planning to perform a valuation of its infrastructure assets and land and buildings as at 30 June 2017 as part of a three yearly valuation cycle. The District Council decided to undertake a fair value assessment of these assets to determine whether there was a significant difference between the current carrying amount and fair value of these assets.

The District Council found there was no significant difference between the carrying amount and fair value of these assets so the District Council decided to delay the full revaluation of these asset classes.

We reviewed the fair value assessment performed by the District Council and confirmed the assumptions used and calculations derived did not result in a material difference between the District Council's current carrying value of infrastructure and land and buildings assets and their approximate fair value.

2.3 Wastewater reticulation system upgrade

The Ōpōtiki sewerage reticulation system was identified for replacement in the 2012-22 Long Term Plan. This was scheduled to be completed in 2015/16, however, this project has been delayed until the District Council carries out an appropriate investigation to determine which would be the best solution for the upgrade. The investigation suggested that rehabilitating pipelines was better than installing a new reticulation system. Rehabilitation was found to be a more cost effective solution that will improve the level of service as well as allow for growth. We understand the roll-out of this programme is expected to start in the next two years.

We reviewed the systems in place for recording costs associated with these projects and found the District Council has appropriate systems in place and our sample of transactions tested did not identify any costs that were incorrectly included into the value of the upgrade as work in progress.

2.4 Management override

Professional auditing standards require us to consider fraud risks in all audits we perform, including the risk of management override of control.

Management is in a powerful position to perpetuate fraud due to its ability to override controls that appear to be operating effectively. We carried out substantive audit procedures, including reviews of journal entries, accounting estimates, and significant transactions that are outside the normal course of business. We also incorporated an element of unpredictability in our audit testing through random sampling. Our testing found no issues of concern.

3 Issues identified during the audit

3.1 Property, plant and equipment

3.1.1 Impairment assessment of property, plant and equipment

Public Benefit Accounting Standards require property, plant and equipment held at cost to be assessed for impairment indicators. If impairment indicators exist the assets recoverable amount (higher of value in use and fair value less costs to sell) is required to be calculated and an impairment loss recognised if the carrying amount is greater than the recoverable amount.

The District Council's assets held at cost include plant, machinery and vehicles, fixtures, fittings and equipment and library collections. We noted that no formal assessment of impairment has been performed over these assets. We understand the District Council relies on notification from staff of any issues of impairment. This exposes the District

Council to the risk of carrying assets at an amount higher than their recoverable amount.

We recommend that the District Council performs a formal impairment assessment over assets held at cost to ensure they are measured at the lower of cost and recoverable amount.

Management comment

A formal impairment process will be developed by the asset team.

3.1.2 Property, plant and equipment reconciliations

We noted that the assets in the fixed asset register did not agree to the figures in the general ledger. We identified a \$97,000 difference between the fixed asset register and the general ledger that was unable to be explained.

There is a risk that there could be a material difference between the fixed asset register and the general ledger resulting in different answers to the same questions, depending on which ledger is used.

We recommend the District Council performs monthly reconciliations between the fixed asset register and the general ledger. These reconciliations should be independently reviewed.

Management comment

Finance will be taking a more proactive approach to managing the assets of the Council, and will be aiding in the capitalisation and reconciliation process. One of the reasons to use one valuer this year was to ensure one concise record of all Council assets.

3.1.3 Capitalisation policy for property, plant and equipment

We noted the District Council does not have a policy on what type of assets should be capitalised. During our testing of asset additions we noted that if expenditure incurred was of a capital nature then the expense was capitalised regardless of the nature or amount of the expense. This increases the risk that the District Council is over-capitalising property, plant and equipment.

We recommend that the District Council implements an asset capitalisation policy on the minimum amount of assets that will be capitalised as well as guidance for the type of expenditure to capitalised to ensure the District Council is capitalising genuine assets.

Management comment

A capitalisation policy is being developed by finance to be applied across the council. Finance will seek input from the engineering services team as to materiality limits.

3.2 New suppliers

For new suppliers staff are required to fill in a Supplier Application Form. This form is checked by finance staff and finance staff contact the supplier to confirm the supplier is genuine.

We acknowledge this is a good process to follow, however, we recommend this process is strengthened by the District Council implementing the following:

- review the Companies Register to confirm existence of the Company;
- enquire with the IRD to ensure the GST number is valid; and
- check to see if there is a Company website.

Management comment

Management are happy with the current process given that it requires a staff member to directly liaise with the supplier in relation to a possible procurement, then a supplier form is requested, and completed. This is low risk, any significant procurement is required to go through a proper procurement process. Audit recommendations are a bit over the top.

3.3 New Zealand Local Government Funding Agency financial covenants

The District Council borrows funds from the New Zealand Local Government Funding Agency (LGFA). One of the requirements of borrowing from the LGFA is that the District Council is required to comply with particular financial covenants every year.

We understand the District Council was not aware that it was required to comply with these financial covenants. We performed the calculations to ensure the District Council had complied with these financial covenants and our testing found no issues of concern.

We recommend that, going forward, the District Council implements appropriate processes to ensure the District Council is regularly monitoring compliance with the financial covenants imposed by the LGFA.

Management comment

Council management have been aware of the financial covenants, the reporting certificate and covenants are built into the Annual Report template. A change in staff during the year however meant that the 6 monthly reporting covenant was missed. This has been diarised now so should not happen again.

3.4 Changes to the rules for retention money for construction contracts

The amended Construction Contracts Act 2002 in respect of retentions applies to all commercial construction contracts entered into on or after 31 March 2017. As the District Council is dealing with material amounts of contractual retentions it may be subject to the framework of the amended Construction Contracts Act 2002.

The amendments are not retrospective and will therefore only apply to commercial construction contracts entered into on or after 31 March 2017. The District Council has

performed a high level review of all its capital contracts from 31 March 2017 to 30 June 2017 and identified there were no significant retentions. Therefore no disclosure was required to be made in the financial statements.

We recommend the District Council considers the following to ensure compliance with the amended Construction Contracts Act:

- reviewing current accounting processes and implements changes as necessary to comply with the requirement for keeping proper records of all retention money. This may include opening separate accounts for retentions for larger construction projects in particular;
- ensuring that processes are in place to manage requests from contractors to inspect accounting records;
- reviewing the current construction contracts to ensure the contracts do not contain prohibited provisions in respect of the retention money and make amendments as necessary; and
- accepting alternative means of security (for example, retention bonds) for remedying of defects instead of cash retentions.

Management comment

Council has opened a trust account to hold retentions, and finance have also implemented a contract module to track retention requirements and payments.

3.5 Annual report process

The audit process did not go as smooth as anticipated. The first draft provided to us was incomplete and a quality assurance review had not been performed. This caused delays in the finalisation of the annual reporting process and resulted in additional audit time to complete the audit within the statutory timeframe.

The main reasons that caused the delays were:

- incomplete first draft of the annual report – this meant the financial figures in the annual report were very fluid and impacted on the finalisation of the financial statements.
- An internal quality assurance review had not been performed as there were a number of disclosures made that did not relate to the Council or the 2016/17 financial year.
- There was no comprehensive audit file that included relevant supporting documentation or workpapers to support information in the annual report. When information was requested there were delays in the Council providing information that corresponded with figures in the financial statements.
- A number of key finance staff were unavailable at times during the final audit visit. This had an impact on finalising supporting documentation and responding to audit queries in a timely manner.

While we acknowledge the recent changes in finance staff and their assistance to the audit team, we reiterate the importance of being prepared for the audit process. Any delays in delivering key documents result in delays in audit clearance and additional audit time and costs to complete the audit.

We recommend that the annual report process is planned and scheduled on a project basis and closely monitored to ensure milestones are met. The process should include the preparation of a substantiation file that includes copies of relevant documents and workpapers to support information in the annual report.

We intend to have a debrief meeting with finance staff to discuss ways we can work together to ensure an efficient audit going forward.

Management comment

Management and staff are cognisant of the issues and will look to address for future years, including training to onsite audit staff around the best use of council developed project management tools for the audit process.

4 Legislative compliance

We reviewed the systems and procedures the District Council employs to identify and comply with significant legislative requirements. Our review identified the following:

4.1 Community outcomes reporting

Clause 23, schedule 10 of the Local Government Act 2002 requires the District Council to disclose in the annual report the following:

- identify the activities within the group of activities;
- identify the community outcomes to which the group of activities primarily contributes;
- report the results of any measurement undertaken during the year of progress towards the achievement of those outcomes; and
- describe any identified effects that any activity within the group of activities has had on the community.

We reviewed the annual report and noted the District Council had not complied with all the requirements as it had not disclosed the results of any measurement undertaken during the year of progress towards the achievement of those outcomes.

We recommend the District Council implements appropriate processes to ensure compliance with legislation, for example, ensuring the annual report includes the results of any measurement undertaken during the year of progress towards the achievement of community outcomes.

Management comment

This was a previously unknown requirement, and a review of many of our peers could not identify this as being completed by them either.

Review of the 2017/18 Annual Plan

4.2 We reviewed the Council's 2017/18 Annual Plan to ensure compliance with the Local Government Act 2002 and the Local Government (Financial and Reporting) Prudence Regulations 2014. We identified the following:

- the Council had not disclosed the rates affordability, debt affordability, balanced budget, essential services and debt services benchmarks in the Annual Plan;
- the purpose of the Council's Council-Created Reserves was not noted and neither was the groups of activities that the reserve funds relate to;
- significant assumptions underlying prospective financials statements had not been disclosed in the Annual Plan; and
- cashflows from interest revenue had not been separately disclosed in the prospective statement of cashflows.

We recommend the District Council implements a formal process to ensure compliance with key legislative requirements for Annual Plans.

Management comment

5 Areas of interest for all local authorities

Every year we identify a variety of issues that we commonly find in the local government sector. These were outlined in our audit arrangements letter. Most of our findings have been incorporated in the relevant sections of this report or in our interim management report. Our comments on these issues not already addressed elsewhere are noted here.

5.1 Rates

We considered the District Council's compliance with key aspects of the Local Government (Rating) Act 2002 (LGRA) that could materially impact on the financial statements. We focused on the rates setting process – the consistency and completeness of the resolution and the funding impact statement (FIS). We also reviewed a sample of differentially set and targeted rates to assess whether the matters and factors used are consistent with the LGRA. Our review identified no issues of concerns.

5.2 Elected members – remuneration and allowances

We assessed the Council's compliance with the requirement to disclose the remuneration of each elected member in the annual report, against the relevant Local Government Elected Members' Determination. We found that all payments were within the limits set in the Determination and the disclosure was consistent with those amounts.

5.3 Audit of Debenture Trust Deed

As the District Council's appointed auditor we are also required to issue a report to the Trustees of the District Council's Debenture Trust Deed (the Deed). This requirement is included in the Deed dated 11 November 2014.

We are yet to complete our audit work of the Deed and this will be completed over the next few weeks. We will report significant findings in a separate letter to management if necessary.

6 Status of previous recommendations

Set out below is a summary of the priority of new recommendations raised during the current year's final audit as well as the status and priority of prior year recommendations not included in our interim management report.

The details of prior year recommendations not already discussed in this report are contained in Appendix 2.

	Priority			
	Urgent	Necessary	Beneficial	Total
New matters	1	6	2	9
Prior year matters still outstanding	1	3	-	4
Prior year matters in progress	-	2	-	2
Matters already reported in our interim management report	8	3	-	11
Total open or outstanding matters	10	14	2	26
Matter no longer followed up	-	1	-	1
Cleared matters	5	4	-	9

Appendix 1: Uncorrected misstatements

Uncorrected disclosure deficiencies

Detail of disclosure deficiency	Management's explanation for not correcting
GST receivable of \$38,000 has been disclosed as trade and other payable.	<i>The request required creating additional work which would also add additional risk to our GST reconciliation process. Management chose to leave as it was disclosed.</i>
A comparison of the carrying value of buildings valued using depreciated replacement cost and buildings valued using market-based evidence has not been disclosed in the financial statements.	<i>A new requirement that was advised very late in the piece with no chance of completion in time. It also requires us amend policy from a 3 yearly revaluation cycle to a yearly valuation cycle, and incur additional cost.</i>

Appendix 2: Status of previous recommendations

Outstanding matters

Recommendation	Current status	Priority	Management's proposed action
Annual reporting processes			
We recommended that a thorough quality review process is undertaken prior to the annual report being made available for audit. Compiling a comprehensive audit file will further reduce the time spent by both District Council staff and the audit team during the audit process.	This matter remains outstanding. Refer to section 3.1 for further information. Outstanding	Urgent	Management will ensure that a robust process is put in place for next year, a lot of development and learning went into this years process which will make future years much more streamlined.
Ability to delete journals from the general ledger			
We recommended that supporting documentation is retained for all journals deleted and a report detailing deleted journals is run on a monthly basis. This report should be independently reviewed against the supporting documentation to give the District Council assurance that the potential for fraud or error is mitigated.	Journals are still able to be deleted from the general ledger. The District Council has lodged a query with Datacom to resolve this issue. In progress	Necessary	Journals are not able to be deleted.
Review of the 2016/17 Annual Plan			
We recommended that a formal process is implemented to ensure compliance with legislative requirements in relation to future Annual Plans.	This matter remains outstanding. Refer to section 4.2 for further information. Outstanding	Necessary	A project plan is followed for Annual and Long Term Plans, we will amend to ensure that the additional requirements are captured.

Recommendation	Current status	Priority	Management's proposed action
Inconsistencies with the Funding Impact Statements (FIS) and the rates resolution			
We recommended that the District Council implements formal processes to ensure that the FIS and rates resolution are consistent going forward.	The FIS and rates resolution for 2017/18 were consistent with each other. However, the FIS continues to have more detailed information for communities of interest (for both residential and rural) than the rates resolution. In progress	Necessary	A review of all rating documentation was undertaken by Simpson Grierson this year, and all recommendations made by them were followed. We will do the same ahead of the LTP and take note of your suggestion.
Asset management plans (AMPs)			
We recommended the Council ensures AMPs are updated on a continuous basis to reflect the movements in infrastructure assets.	This will be addressed as part of the 2018-28 LTP audit. Outstanding	Necessary	
Historical payables balance			
We recommended that the District Council seeks to reduce the balances of the liabilities by contacting the parties concerned to arrange a refund of the monies. If this is not possible, we recommend the Council clears these balances.	There continues to be a number of historical balances for payables. We continue to recommend the District Council clears these balances. Outstanding	Necessary	We are working on clearing a lot of these balances, progress has been made.

Matters no longer being followed up

Journals system	
Our testing of journals identified instances where the journal had not been independently reviewed. We continue to recommend that journals are independently reviewed.	Matter resolved All journals were appropriately narrated and adequately supported. Journals continue to not be independently reviewed, this is a risk the District Council is prepared to accept.

Matters that have been resolved

Recommendation	Outcome
Rates reconciliations	
<p>A manual reconciliation is performed between QVNZ data and the rates information database (RID) before the rates are struck each year. We noted that no independent review is performed of this reconciliation.</p> <p>The rates statement report generated from the RID and reconciled to the Council-approved rates resolution is not independently signed as reviewed. Late adjustments can be made to individual properties after the rates are struck and these are not independently signed as reviewed.</p> <p>We recommended these reconciliations are signed as evidence of review. We also recommended that a three way reconciliation is performed between the rates statement report generated from the RID, the Council approved rates resolution, and the funding impact statement per the Annual Plan/LTP.</p>	<p>Matter resolved</p> <p>Reconciliation is now independently reviewed by the Group Manager Finance and Corporate Services.</p>
Lump sum contributions	
<p>To comply with the requirements of CI 15(4)e of Schedule 10 of the Local Government Act 2002, the District Council is required to include in its funding impact statement a statement about whether lump sum contributions will be accepted/invited in respect of any targeted rate.</p> <p>We recommended that the District Council complies with this legislative requirement going forward.</p>	<p>Matter resolved</p> <p>The District Council has included a statement in the funding impact statement that the District Council will not be collecting lump sum contributions.</p>

Recommendation	Outcome
Payment dates for targeted rates for water supply	
<p>The District Council has set both a rate and a charge to water supplied by meter for water. It does not appear the District Council is charging ratepayers twice for the water supplied, via these two different mechanisms.</p> <p>As the District Council is in practice only charging once for the water supplied, we recommended that the District Council considers whether it needs to include both a rate and a charge for water supplied by meter.</p>	<p>Matter resolved</p> <p>The 2017/18 rates resolution states the instalment dates for water by meter.</p>
Implementation of a new electronic purchase order (EPO) system for expenditure	
<p>During our testing of expenditure, we identified that the financial delegations loaded into the EPO system did not align with the financial delegations per the approved delegations register. This creates the risk that staff are able to authorise expenditure outside their approved delegation.</p> <p>We recommended that the District Council ensures the financial delegations as per the EPO system align with the approved delegations register.</p>	<p>Matter resolved</p> <p>During our testing of expenditure we confirmed that delegation limits in the EPO system align with the financial delegations per the approved delegations register.</p>
System to report against the dry weather sewerage overflow non financial reporting measure	
<p>A pop-up has been built into the CCM system (for the applicable wastewater overflow subtypes) which asks the user inputting the event to confirm whether the event occurred in dry weather.</p> <p>We commend the District Council for implementing this prompt, however, we recommended that the prompt provides further information to the user to ensure the event recorded aligns with the DIA's definition of dry weather.</p>	<p>Matter resolved</p> <p>There has been no change in the way the District Council records the data. However, during our testing of dry weather sewerage overflows, we did not identify any issues with information that has been recorded.</p>

Recommendation	Outcome
Impairment of receivables	
<p>The District Council has recognised a receivable at year-end in relation to chargeable work in progress. Our testing identified that this balance included individual amounts dating back to 2002. Given the age of these amounts it is likely that a portion of this receivable will not be received.</p> <p>We recommended that the District Council reviews the receivables balance with a view to impairing those long outstanding items that are unlikely to be received.</p>	<p>Matter resolved</p> <p>This balance has decreased from \$30,000 to \$4,500 in 2017.</p>
Development contributions	
<p>In previous years the District Council has collected development contributions for the planned Sports and Events Centre. These development contributions were collected as per the “cost of growth” for community infrastructure under the 2004, 2006 and 2009 development contribution policies.</p> <p>With the removal of the Sports and Events Centre from the 2012-2022 LTP, the District Council sought legal advice as to whether it is required to refund development contributions for community infrastructure collected since 2004. The advice sought noted, unless the Council intends to proceed with the Sports and Events Centre (or an equivalent project), there is a strong argument that section 209(1)(d) of the Local Government Act or administrative law principles would require a partial refund of the development contributions collected since 2004.</p> <p>The District Council has undertaken work to refund the development contributions collected and a provision of the amount outstanding has been provided for in the financial statements as at 30 June 2016.</p>	<p>Matter resolved</p> <p>The District Council has made all possible refunds. Any outstanding balance was transferred to Council-Created Reserves.</p>
High annual leave balances	
<p>A review of annual leave balances found a number of employees with high leave balances. We continued to recommend that annual balances of all staff be regularly reviewed to ensure the liability and associated risks are minimised.</p>	<p>Matter resolved</p> <p>Annual leave balances continue to be high. However balances are monitored monthly by management and processes have been put in place to reduce leave balances.</p>

Recommendation	Outcome
Breakdown in expenditure controls	
Our review of expenditure identified instances where purchase orders had not been completed correctly. The District Council needs to ensure adequate controls are in place around expenditure.	Matter resolved No issues identified during our testing of expenditure.

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Appendix 3: Explanation of priority rating system

Our recommendations for improvement and their priority are based on our assessment of how far short the District Council is from a standard that is appropriate for the size, nature, and complexity of its business.

We have developed the following priority ratings for our recommended improvements:

Urgent Major improvements required	Needs to be addressed urgently These recommendations relate to a significant deficiency that exposes the District Council to significant risk. Risks could include a material error in the financial statements and the non-financial information; a breach of significant legislation; or the risk of reputational harm.
Necessary Improvements are necessary	Address at the earliest reasonable opportunity, generally within 6 months These recommendations relate to deficiencies that need to be addressed to meet expected standards of good practice. These include any control weakness that could undermine the system of internal control or create operational inefficiency.
Beneficial Some improvement required	Address, generally within 6 to 12 months These recommendations relate to deficiencies that result in the District Council falling short of best practice. These include weaknesses that do not result in internal controls being undermined or create a risk to operational effectiveness. However, in our view it is beneficial for management to address these.

Appendix 4: Mandatory disclosures

Area	Key messages
Our responsibilities in conducting the audit	<p>We carried out this audit on behalf of the Controller and Auditor-General. We are responsible for expressing an independent opinion on the financial statements and reporting that opinion to you. This responsibility arises from section 15 of the Public Audit Act 2001.</p> <p>The audit of the financial statements does not relieve management or the Council of their responsibilities.</p> <p>Our audit engagement letter contains a detailed explanation of the respective responsibilities of the auditor and the Council.</p>
Auditing standards	<p>We carry out our audit in accordance with generally accepted audit standards. The audit cannot and should not be relied upon to detect every instance of misstatement, fraud, irregularity or inefficiency that are immaterial to your financial statements. The Council and management are responsible for implementing and maintaining your systems of controls for detecting these matters.</p>
Auditor independence	<p>We are independent of the District Council in accordance with the independence requirements of the Auditor-General's Auditing Standards, which incorporate the independence requirements of Professional and Ethical Standard 1 (Revised): <i>Code of Ethics for Assurance Practitioners</i>, issued by New Zealand Auditing and Assurance Standards Board.</p> <p>In addition to the audit, we have carried out engagements in the areas of the debenture trust deed and the summary annual report, which are compatible with those independence requirements. Other than the audit and these engagements, we have no relationship with, or interests in, the District Council.</p>
Other relationships	<p>We are not aware of any situations where a spouse or close relative of a staff member involved in the audit occupies a position with the Ōpōtiki District Council that is significant to the audit.</p> <p>We are not aware of any situations where a staff member of Audit New Zealand has accepted a position of employment with the Ōpōtiki District Council during or since the end of the financial year.</p>
Unresolved disagreements	<p>We have no unresolved disagreements with management about matters that individually or in aggregate could be significant to the financial statements. Management has not sought to influence our views on matters relevant to our audit opinion.</p>

REPORT

Date : 15 November 2017
To : Audit and Risk Committee Meeting, 27 November 2017
From : Finance and Corporate Services Group Manager, Bevan Gray
Subject : **QUARTERLY REPORT TO 30 SEPTEMBER 2017**
File ID : A125912

EXECUTIVE SUMMARY

To present the Quarterly Report for the quarter ended 30 September 2017. The Quarterly Report is designed to provide the Audit and Risk Committee with an understanding of progress against the 2017/18 Annual Plan for the current financial year.

PURPOSE

The purpose of this report is to present to the Audit and Risk Committee the Quarterly Report to 30 September 2017.

BACKGROUND

This report is for the three months ending 30 September 2017 and is designed to provide the Audit and Risk Committee with an understanding of progress against the 2017/18 Annual Plan.

The report provides a concise but comprehensive overview of the Council financial position as at 30 September 2017, and is structured as follows:

- [Financial Overview](#) Page 1
- [Capital expenditure report](#) Page 3
- [Treasury Report covering public debt, loan maturity, reserve funds and rate arrears](#) Page 4
- [Rates Arrears](#) Page 8
- [Appendix One: Details of Significant capital projects](#) Page 10
- [Non-Financial Performance Indicators](#) Page 15

SIGNIFICANCE ASSESSMENT

Under Council’s Significance and Engagement Policy, on every issue requiring a decision, Council considers the degree of significance and the corresponding level of engagement required. The level of Significance for receiving the Quarterly Report to 30 September 2017 is considered to be of low significance as determined by the criteria set out in section 12 of the Significance and Engagement Policy.

As the level of significance for receiving the Quarterly Report to 30 September 2017 is low, the level of engagement required is determined to be at the level of ‘Inform’ according to Schedule 2 of the Significance and Engagement Policy.



RECOMMENDATION:

- 1. That the report titled “Quarterly Report to 30 September 2016” be received.**

Bevan Gray

FINANCE AND CORPORATE SERVICES GROUP MANAGER

1.1. 1. Financial overview

This report summarises the key financial highlights for the quarter ended 30 September 2016.

1.2. Income statement

Summary Operating Statement for the Period Ending 30 September 2017						
2016.17 Actuals \$000's		YTD Actuals \$000's	YTD Budget \$000's	Total AP Budget \$000's	Variance \$000's	Variance %
	<u>Operating Revenue</u>					
10,207	Rates	2,626	2,641	10,563	(14)	-0.5%
1,737	Subsidies & Grants	256	345	1,461	(89)	-25.8%
1,032	Fees & Charges	337	353	1,461	(16)	-4.6%
120	Interest	10	25	104	(15)	-61.1%
70	Other Income	18	19	66	(1)	-5.8%
13,166	Total Operating Revenue	3,247	3,383	13,655	(136)	-4.0%
	<u>Operating Expenses</u>					
3,546	Personnel Costs	(806)	(1,148)	(4,285)	342	-29.8%
6,897	Other Expenses	(1,571)	(1,549)	(7,069)	(23)	1.5%
10,443	Total Operating Expenses	(2,378)	(2,697)	(11,354)	319	-11.8%
2,723	Earnings before interest and depreciation	869	686	2,301	183	26.6%
2,394	Depreciation	(650)	(575)	(2,300)	(75)	13.0%
222	Interest Expense	(14)	(103)	(411)	89	-86.5%
107	Operating surplus / (deficit)	205	8	(410)	197	

Significant variances

Revenue

The year to date operating revenue has a variance of \$136,000 (below budget). Subsidies and grants operating revenue are slightly less than budgeted due to a timing difference, the other areas of revenue are as budgeted.

Expenditure

The year to date operating expenditure has an under-spend to budget of \$319,000. Personnel expenses are less than year to date due to recoveries. Other expenses (good and services) are slightly higher than budget due to the earlier than expected progression of some operating projects and the use of contractors instead to fill the gaps whilst we recruit for positions.

Depreciation costs are accrued at a slightly higher cost than budgeted. This is to allow for annual depreciation costs to increase by \$300,000 from the asset revaluation process, which was much higher

than budgeted due to a more accurate estimation of replacement cost following the wastewater investigation project.

Interest costs are \$89,000 below budget, interest payments on the LGFA loans are lumpy with both quarterly and six monthly interest payments.. There is no expectation that this cost will exceed budget.

1.3. Cash and cash investment balance

Cash and cash equivalents as at 30 September 2017					
2016.17 Actuals \$000's		YTD Actuals \$000's	Total AP Budget \$000's	Variance \$000's	Variance %
1,076	Cash at bank and in hand	3	2	1	37%
3,525	Short term deposits	5,302	58	5,244	9041%
4,601		5,305	60	5,245	8741%

The first quarter cash position of \$5.305 million is due to a strong opening cash balance at 30 June 2017 of \$4.601 million, resulting from lower capital expenditure last year than planned. This trend of lower capital expenditure has continued for the first quarter of the financial year. Council have invested the balance in short term investments as per Councils' treasury policy.

1.4. Interest and debt level

Borrowing Liabilities as at 30 September 2017					
2016.17 Actuals \$000's		YTD Actuals \$000's	Total AP Budget \$000's	Variance \$000's	Variance %
5,000	Borrowings	5,000	12,142	(7,142)	-59%
222	Interest expense	14	411	(397)	-97%
5,222		5,014	12,553	(7,539)	-60%

Council borrowings currently remain at \$5m. The expectation is borrowings will increase in the last quarter of the financial year as capital projects near completion.

Interest expense will also remain under budget whilst borrowings are held at the current level.

Capital expenditure

Total capital expenditure completed for the 1st quarter year to date was \$1.186m, which is a 5% spend of the total capital budget of \$22.9m. The shortfall in capital expenditure is due to several projects being reliant on grant funding before the projects can commence, and the larger projects requiring a tendering process. To date 5 contracts have been awarded, 1 tender has closed and is being reviewed and 2 projects are about to go to tender. It is anticipated that capital spend will ramp up in the second half of the financial year.

The tables below summarises the capital expenditure report.

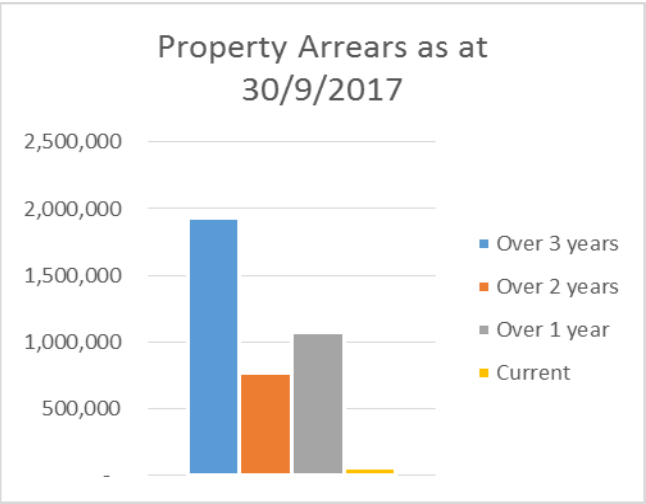
Summary Capital Projects for the Period Ending 30 September 2017					
2016.17 Actuals \$000's	Group	YTD Actuals \$000's	Total AP Budget \$000's	Remaining Budget \$000's	% Spent
1,568	Community & Cultural Sustainability	791	12,430	11,639	6.36%
485	Environmental Sustainability	64	7,845	7,781	0.82%
3,078	Economic Sustainability	288	1,887	1,599	15.26%
519	Support Services	43	650	607	6.62%
5,650	Total Capital Projects	1,186	22,812	21,626	5.20%
Capital Revenue and Expenditure as at 30 September 2017					
2,513	Capital Subsidies & Grants Revenue	736	10,089	9,353	7.30%
5,651	Capital Expenditure	1,186	22,912	21,727	5.17%
Capital Summary for the Period Ending 30 September 2017					
2016.17 Actuals \$000's		YTD Actuals \$000's	Total AP Budget \$000's	Remaining Budget \$000's	% Spent
2,939	Renewal	283	6,912	6,629	4.09%
1,931	Growth	577	8,420	7,843	6.85%
781	Level of Service	326	7,580	7,254	4.30%
5,651		1,186	22,912	21,726	5.18%

Refer to Appendix 1 for details of the projects at an activity level.

1.5. Rates Arrears

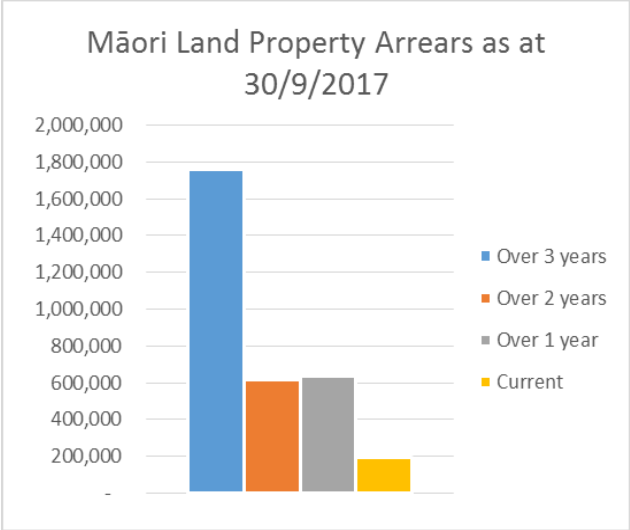
The total rates debtors balance as at 30 September is \$3.823m. Of this amount, \$3.769m is in arrears. The aging of the arrears is displayed in the table and chart below.

Property Arrears Report as at 30 September 2017				
Overdue Amt - 3 yrs	Overdue Amt - 2 yrs	Overdue Amt - 1 yrs	Overdue Amt - Curr	Overdue Amt - Total
1,932,319	761,588	1,074,792	54,334	3,823,033
51%	20%	28%	1%	



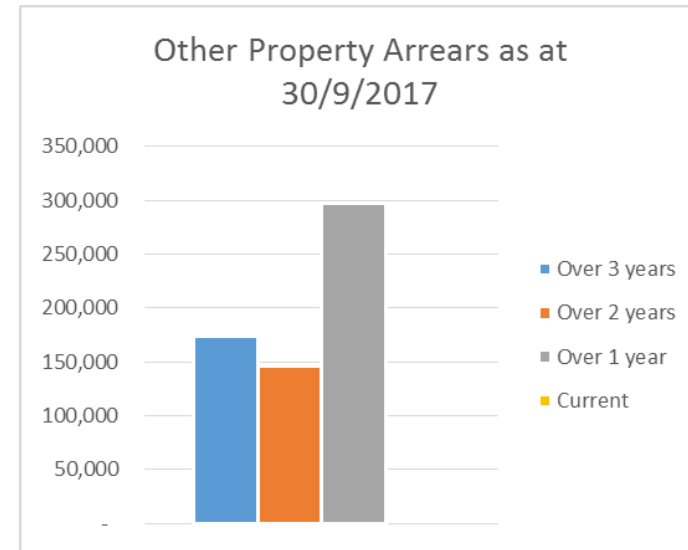
84% of the arrears, \$3.206m relates to Māori Land, as shown in the table and chart below. There are significant issues in dealing with Māori Land, not only for Council, but also for the owners. Council is working on a strategy to deal with these issues and the level of rates levied on Māori Land to try to alleviate this problem.

Property Arrears Report as at 30 September 2017				
Māori Land				
Overdue Amt - 3 yrs	Overdue Amt - 2 yrs	Overdue Amt - 1 yrs	Overdue Amt - Curr	Overdue Amt - Total
1,758,307	615,952	638,751	193,057	3,206,066
55%	19%	20%	6%	



The balance of the arrears of \$617k is for General Title land, as shown in the table and graph below. Council has a debt management procedure to ensure timely and active collection of these outstanding debts.

Property Arrears Report as at 30 September 2017				
General Title				
Overdue Amt - 3 yrs	Overdue Amt - 2 yrs	Overdue Amt - 1 yrs	Overdue Amt - Curr	Overdue Amt - Total
174,012	145,636	436,041	(138,723)	616,966
28%	24%	71%	-22%	



Section 62 – Notice of Intent to Mortgage holder for collection of Rates Arrears.

Council can request the first mortgagee of any property that is in arrears to recover the arrears. The first stage of this process is to send a Notice of Intent to the relevant mortgagee holder giving them notice of the default, and allowing them time to arrange payment of the outstanding amount. Generally Council allows for a three month period to expire before taking further action.

In September, 15 notices were sent out for the total value of \$47,121.95. One ratepayer has since paid, and another four properties have entered into payment arrangements, as summarised in the table below.

NOTICE OF INTENT 2017/2018					Section 62		Arrangement PAID	
No.	DATE	RATES	WATER	Total Owing up to 30 June 2017	BANK	Date Paid	Amount Paid	Balance Owing
1	1/09/2017	\$ 2,416.31		\$ 2,416.31	ANZ National Bank Ltd			2,416.31
2	8/09/2017	\$ 2,864.97	\$ 35.35	\$ 2,900.32	NZ Home Lending Ltd			2,900.32
3	12/09/2017	\$ 4,973.15	\$ 53.60	\$ 5,026.75	Bank of New Zealand			5,026.75
4	12/09/2017	\$ 3,591.59	\$ 6.00	\$ 3,597.59	Bank of New Zealand			3,597.59
5	12/09/2017	\$ 4,867.28	\$ 265.84	\$ 5,133.12	Bank of New Zealand			5,133.12
6	14/09/2017	\$ 2,865.64	\$ 251.10	\$ 3,116.74	ANZ National Bank Ltd			3,116.74
7	14/09/2017	\$ 6,104.28	\$ 336.64	\$ 6,440.92	ANZ National Bank Ltd			6,440.92
8	14/09/2017	\$ 2,183.47	\$ 5.01	\$ 2,188.48	ANZ National Bank Ltd			2,188.48
9	14/09/2017	\$ 1,266.90		\$ 1,266.90	ANZ National Bank Ltd			1,266.90
10	15/09/2017	\$ 3,677.54		\$ 3,677.54	Bank of New Zealand			3,677.54
11	15/09/2017	\$ 3,235.74		\$ 3,235.74	Bank of New Zealand			3,235.74
12	15/09/2017	\$ 2,555.90	\$ 124.88	\$ 2,680.78	Bank of New Zealand			2,680.78
13	15/09/2017	\$ 1,601.90		\$ 1,601.90	Bank of New Zealand			1,601.90
14	15/09/2017	\$ 1,819.06		\$ 1,819.06	ASB Bank Limited	9/10/2017	1,819.06	-
15	6/11/2017	\$ 2,019.80		\$ 2,019.80	ANZ National Bank Ltd			2,019.80
		\$ 46,043.53	\$ 1,078.42	\$ 47,121.95			\$ 1,819.06	\$ 45,302.89

Referrals to Debt Collection Agency

Other rate arrears are forwarded to Councils debt collection agency. Currently, there are 91 accounts with Baycorp, of which 63 are active. In the summary table below, Baycorp have a 19% collection rate of monies outstanding.

Debtors managed by Baycorp (from 1/7/11 to 16/11/2017)									
Status	# Clients	Debt Type	# Clients	Debt Type	Amount Payment			% of total clients	% of debt collected
					Loaded	Made	Balance		
Paid	3	Rates	19	Sundry Invoice	27,965	(29,336)	295	24%	99%
Monitor	1	Rates	7	Sundry Invoice	4,790	-	5,095	9%	-6%
Legal	12	Rates	2	Sundry Invoice	96,217	(21,847)	82,559	15%	14%
Field	1	Rates	0	Sundry Invoice	6,941	(1,499)	2,743	1%	60%
Retracted	4	Rates	1	Sundry Invoice	97,995	(3,585)	95,551	5%	2%
Telephony	0	Rates	1	Sundry Invoice	698	(140)	569	1%	19%
WIP	2	Rates	2	Sundry Invoice	5,224	(50)	5,174	4%	1%
WIP - Active	4	Rates	31	Sundry Invoice	26,853	(3,392)	23,461	38%	13%
Work Ceased	1	Rates	0	Sundry Invoice	2,487	-	2,792	1%	-12%
	<u>28</u>		<u>63</u>		<u>269,170</u>	<u>(59,847)</u>	<u>218,239</u>		<u>19%</u>

Appendix 1 - Capital Projects

Capital Project	2017/18 YTD Actuals	2017/18 Total Budget
Grand Total	1,185,008	22,812,380
Community and Cultural Sustainability	790,771	12,430,000
Property	156,213	4,060,000
Additional Office Space	0	120,000
Earthquake Prone Buildings	0	50,000
Investigation - CBD Integration with Harbour Investigation	0	100,000
Library Relocation Costs	0	40,000
Redevelop of Mechanics Institute	151,777	1,500,000
Technology & Research Centre	750	1,800,000
Wharf Removal and Rebuild	3,686	450,000
Cycle Way	60,400	455,000
Feasibility Study - EBOP Trail	0	30,000
Horse Trail Fencing	0	25,000
Hukuwai Bridges	45,406	0
Opo - Waiotaha Bch - Ohiwai	11,539	255,000
Tirohanga Military Track	2,500	120,000
Trail Enhancements - LOS	955	25,000
District Library	10,849	55,000
Book Stock Replacement	10,849	45,000
Replacement Furniture & Fittings	0	10,000
Playgrounds	9,747	50,000
Play Equipment	9,747	50,000
Public Toilets	5,304	200,000
Pipi Beds - roof renewal	5,304	200,000
Parks & Reserves	2,015	150,000
Hukutaia Domain - 2018 Centennial	0	50,000
Memorial Park - enhancement	0	30,000
Opotiki Aerodrome Boundary Fencing	2,015	0
Pakowhai Bridge Lighting	0	50,000
Rose Garden Renovation Investigation	0	20,000
Community Development	0	20,000
CBD Cameras & Internet Expansion	0	20,000
Economic Development	0	50,000
Joint Water Quality - Waiotaha	0	50,000
Harbour Development	546,242	7,390,000
Harbour Dev - Construction	215,000	6,000,000
Harbour Dev - Project Mgmt	331,242	1,390,000

Capital Project	2017/18 YTD Actuals	2017/18 Total Budget
Environmental Sustainability	63,604	7,845,000
Solid Waste Management	0	30,000
Te Kaha RRC - painting	0	10,000
Waihau Bay - Reseal	0	20,000
Stormwater	6,520	3,440,000
Comprehensive Discharge Consent	0	30,000
Condition & Performance Assessment	0	10,000
King St/Goring St Gravity Main	1,170	140,000
Opotiki Plant Replacements	0	140,000
Ricardo Monitoring System	0	30,000
SW - Replace gravity main	0	60,000
Tarawa Creek Flood Water	3,640	1,600,000
Upgrade Richard Street	0	1,200,000
Wellington/Brabant St Pump Stn	1,710	230,000
Opotiki Sewerage	57,084	4,375,000
Factory Road Wastewater Ext	1,364	150,000
Opotiki Wastewater - Pumps (spares)	0	100,000
Opotiki WW - Private Laterals	0	1,000,000
Opotiki WW Stage 2	7,684	625,000
Replacement No 1 Pump Station	23,522	0
Soakage Lines Renewal	4,680	25,000
Waioeka Sewerage Pump & Reticulation	2,520	0
Waioeka Sewerage Road Extn	2,036	0
WW Opotiki 2017	15,279	2,475,000

Capital Project	2017/18 YTD Actuals	2017/18 Total Budget
Support Services	42,476	650,000
Finance	20,587	65,000
Office Equipment	0	20,000
Software Systems & Improvement	20,587	45,000
Information Systems	21,889	275,000
Hardware & Software Renewal	21,889	275,000
Plant Operating	0	310,000
Fleet Vehicle & Plant renewal	0	310,000

Capital Project	2017/18 YTD Actuals	2017/18 Total Budget
Economic Sustainability	288,157	1,887,380
Ohiwa Water	0	5,000
Ohiwa Chlorination	0	5,000
Opotiki/Hikutaia Water	108,199	65,000
Factory Road Loop Main	92,004	0
Hikutaia Booster Station	0	15,000
WaterS Condition & Performance	0	5,000
WTP Backwash Pump	9,002	10,000
WTP Chlorine Pipe upgrade	0	30,000
WTP Treatment Equipment	7,193	5,000
Te Kaha Water	8,094	50,000
Northern Ext Stage 1	676	0
Southern Ext Stage 2a	7,418	0
Te Kaha Water - Spare Pumps	0	50,000
Subsidised Roading	124,348	1,417,380
Asset Management Planning	30,213	166,000
Drainage Renewals	3,313	66,810
Emergency Reinstatement	0	260,000
Minor Improvements	4,921	110,000
Ngarue Road Bridge	5,663	0
Pavement Rehabilitation	2,299	250,000
Sealed Resurfacing	0	391,540
Traffic Services Renewals	9,871	44,650
Unsealed road metalling	68,069	128,380
Non-Subsidised Roading	47,516	350,000
Footpath	47,516	80,000
Seal Extension	0	210,000
Urban Kerb & Channel	0	60,000

REPORT

Date : 8 November 2017

To : Audit and Risk Committee Meeting, 27 November 2017

From : Finance and Corporate Services Group Manager, Bevan Gray

Subject : **SENSITIVE EXPENDITURE POLICY UPDATE**

File ID : A125111

EXECUTIVE SUMMARY

Council has a Sensitive Expenditure Policy which was adopted 15 December 2015. This policy has now been updated to align with industry standards around areas identified by Audit New Zealand in their interim management report. The policy has been updated to include the use of Credit Cards. The Committee's recommendation is sought for Council to adopt the revised policy for use.

PURPOSE

To present to the Committee an updated Sensitive Expenditure Policy and seek their recommendation to Council to adopt the revised policy for use.

BACKGROUND

Audit New Zealand have reviewed the sensitive expenditure policy and identified areas where we could improve our policy to align with industry standards. Being a relatively recently implemented policy it was felt a full review would not be necessary.

The areas identified by Audit NZ and updated/included in the policy are:

- Credit Cards

DISCUSSION AND OPTIONS

Following the interim audit undertaken by Audit NZ a recommendation was made that the sensitive expenditure policy is updated in relation to credit card use, who is responsible for them and their use,

the process for cancelling and destroying cards, how credit limits are set, how transaction documentation is compiled, review processes, and consequences of unauthorised use.

The revisions in front of you hopefully address the recommendations made.

SIGNIFICANCE ASSESSMENT

Assessment of significance

Under Council’s Significance and Engagement Policy, on every issue requiring a decision, Council considers the degree of significance and the corresponding level of engagement required. The level of significance for receiving and recommending Council adopts the Sensitive Expenditure Policy is considered to be low as determined by the criteria set out in section 12 of the Significance and Engagement Policy.

Assessment of engagement requirements

As the level of significance for receiving and recommending Council adopts the Sensitive Expenditure Policy is considered to be low, the level of engagement required is determined to be at the level of Inform according to Schedule 2 of the Significance and Engagement Policy.



RECOMMENDATIONS:

- 1. That the report titled Sensitive Expenditure Policy Update be received.**
- 2. That the Audit and Risk Committee recommend Council adopt the revised Sensitive Expenditure policy for use.**

Bevan Gray

FINANCE AND CORPORATE SERVICES GROUP MANAGER

POLICY	STATUS	AT	DATE	DOC ID
<i>Sensitive Expenditure Policy</i>	<i>Draft. Current adopted policy is A89706</i>			A124388



OPOTIKI DISTRICT COUNCIL

SENSITIVE EXPENDITURE POLICY

Purpose

The purpose of this policy is to:

- Set out clearly the principles and decision guidelines for sensitive expenditure
- Set out clearly defined parameters for sensitive expenditure
- Ensure that sensitive expenditure is assessed, authorised and reviewed consistently for all staff and Councillors.

Sensitive Expenditure is spending by Council that could be seen to give some benefit to a staff member or Councillor or could be considered unusual for Council. Sensitive expenditure will have one or more of the following attributes:

- Results in a perceived or real private benefit to the individual
- May be an unusual expenditure item for Council
- Doesn't directly align with the core business of Council or has a poor link to the business purposes of Council
- Usually a discretionary expenditure item
- Is likely to be more than less difficult to justify to the public
- May involve a conflict of interest (legal or ethical)
- May be considered an extravagant or immoderate expenditure.

Definitions

Sensitive Expenditure - Any council expenditure where there may be a perceived personal benefit to staff or Councillors, or expenditure that could be considered unusual for a council Is deemed to be sensitive expenditure.

Application

This policy applies to all staff, contractors and Councillors of the Opotiki District Council.

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Policy

Principles applicable to sensitive expenditure

- Council is spending public money – it is not the property of staff or Councillors to do with as they please. Consequently all expenditure should be subject to a standard of probity and financial prudence that is to be expected of a local authority and be able to withstand public scrutiny.
- Those standards apply the principle that expenditure decisions:
 - Have a justifiable business purpose.
 - Preserve impartiality.
 - Are made with integrity.
 - Are moderate and conservative, having regard to the circumstances.
 - Are made transparently.
 - Are appropriate in all respects.
- In practice, an authorised staff member will make the decision on and/or payment for each item of sensitive expenditure. They will need to exercise careful judgement in accordance with these principles and this policy. This will always be about balance in the particular context. The principles must also be applied as a set as all are equally important.
- In the case of expenditure incurred by the Mayor or other Councillors (not explicitly approved by Council), this is subject to review by the Chief Executive for compliance with this policy.

Deciding when sensitive expenditure is appropriate

- The quantity of money spent on an item of sensitive expenditure may be small relative to Council's total expenditure. However each sensitive expenditure decision is important, because improper expenditure could harm the reputation of, and trust in, the Council as well as local authorities in general.
- In deciding what appropriate sensitive expenditure is, Council staff and Councillors need to take account of both individual transactions and the total amount of sensitive expenditure.
- Even when sensitive expenditure decisions can be justified at the item level, the combined amount spent on a category of expenditure may be such that, when viewed in total, the entity could be criticised for extravagance and waste.

The responsibilities of Senior Managers, the Mayor and Councillors

- To be truly effective, this sensitive expenditure policy, procedures and other controls must be embedded in the Council's values, philosophy, practices and business processes. When this occurs everyone at Council becomes involved in the proper and prudent management of sensitive expenditure.
- Overall responsibility for this policy rests with those at the top of Council, the Mayor, Councillors and senior management team. This group must make it clear to staff what is and is not acceptable sensitive expenditure. This group also must model those behaviours to the highest standard.

Good controls and judgement

- The responsibilities of the Mayor, Councillors and the Senior Management Team (SMT) at Council include being accountable for properly and prudently spending the public money under their control. This includes sensitive expenditure and the internal controls that support this.
- While good controls at Council will assist good sensitive expenditure decisions, good judgement will also be required. This is because it is not possible or desirable to attempt to set rules for every possible situation that may arise. In the absence of a specific rule for a given situation, Management, the Mayor and Councillors are expected to exercise good judgement by taking the principles in this policy into account in the context of the given situation.
- Management, the Mayor and Councillors are required to ensure transparency in both sensitive expenditure and remuneration systems, to avoid any trade-off between the two. Items of expenditure that may not be justified under the principles of this policy should not be included as part of an employee's remuneration for the purposes of avoiding scrutiny against sensitive expenditure principles.

General controls for sensitive expenditure

- All claims must be submitted promptly after the expenditure is incurred. Except in exceptional circumstances this means within one month of the expenditure being incurred.
- Staff, Councillors and the Mayor is, in accordance with the principles of this policy, required to exercise prudent judgement regarding all Council related expenditure.
- Sensitive expenditure will only be reimbursed if it is deemed to be reasonable, actual and has been incurred directly in relation to the Opotiki District Council business.
- Valid original GST compliant invoices/receipts and other supporting documentation must be maintained/submitted for all sensitive expenditure. Credit card statements do not constitute adequate documentation for reimbursement.
- All claims must clearly state the business purpose of the expenditure where it is not clear from the supplier documentation supporting the claim.

- All claims must document the date, amount, description, and purpose for minor expenditure (<\$20) when receipts are not available.
- Wherever possible Councils preferred suppliers are to be used.

Approval of sensitive expenditure:

- Must only be given where the person approving the expenditure is satisfied that a justified business purpose and other principles have been adequately met.
- To determine the appropriateness/reasonableness of sensitive expenditure the principles in section 1 of this policy must be applied. In addition the following questions should be considered:
 - Does the expenditure support the Council's Vision, Mission and Values?
 - Could the expenditure be justified to a stakeholder, e.g. the public?
 - Could publicity about the expenditure or occasion adversely affect the Council?
- Must be given before the expenditure is incurred, wherever practical;
- Must be made strictly within their delegated authority in accordance with the delegations manual and only where budgetary provision exists.
- Must be given by a person senior to the person who will benefit or might be perceived to benefit from the expenditure, wherever practical.
- In general the practice of 'one up approval' will be utilised by the Ōpōtiki District Council.
- Group Managers will approve any sensitive expenditure incurred by their staff.
- The Chief Executive will approve any sensitive expenditure of Group Managers.
- The Mayor will approve any sensitive expenditure of the Chief Executive.
- Any sensitive expenditure incurred by the Mayor will be approved by the Finance and Corporate Services Manager and the Deputy Mayor.

Issue and operation of Council credit and 'P' cards

- Whilst using credit and P cards is not a type of sensitive expenditure they are a common method of payment for such expenditure in many local authorities.
- There are only two Council credit cards issued. These are for items of expenditure where it is difficult to issue a purchase order. Usually these are for library book purchases direct from the publisher, or renewal of software subscriptions. Where a staff member uses a credit card to procure a good or service a "credit card purchase" form must be completed.
- The Finance and Corporate Services Group Manager is responsible for the management of Council credit cards. If a new card needs to be issued then a business case will be required for its issue. The business case will outline the need for the card, and the limit to be applied to the card.

- The Finance and Corporate Services Group Manager is also responsible for the closing and destruction of cards. This will need to happen if there are changes to staff as each card is named for the holder.
- The card holder is responsible for the day to day management of the card, including its security. If the card is lost the holder is responsible for notifying the Finance and Corporate Services Group Manager at their earliest convenience, or ANZ bank directly.
- There are two limits set on the card, the first is the individual transaction limit based on the financial delegation of the card holder. The second is the total transaction limit for the card. This is based on the business case and the use of the card. Any amendments to limits will need to be authorised by the Finance and Corporate Services Group Manager.
- Copies of credit card transactions need to be kept by the card holder, these are to be provided to Finance so that they can reconcile the monthly credit card payments in total.
- Credit card transactions and purchases need to be approved on a one up basis in line with Council's normal procurement and purchase order process.
- Unauthorised credit card use will not be tolerated, and may be treated as serious misconduct as per the employee handbook.
- Cash advances from Council credit cards are not permitted. Delegated financial limits apply to Council credit cards, these are personalised for Council staff that require them.
- Expenditure charged to Council credit cards must be for business use only. Personal purchases are not permitted.
- Where the use of a personal credit card is necessary (e.g. in the event of travel) Council will reimburse staff and members at zero cost to the card holder/owner, provided that the costs claimed comply with this policy, and where practicable are pre-approved.

Travel and accommodation expenditure – principles

- Councillors and Council staff may need to incur travel and accommodation costs while conducting Council business elsewhere in New Zealand or overseas. The principles of a justified business purpose, moderate and conservative expenditure, are particularly relevant for travel and accommodation expenditure.
- Travel and accommodation expenditure should be economical and efficient, having regard to purpose, distance, time, urgency and personal health, security and safety considerations.

Travel and accommodation expenditure – air travel

- To the extent practical, air travel is to be booked well ahead of the actual travel date, so the expenditure is the most cost-effective possible. Staff travel and accommodation will be approved on a one-up basis with the appropriate form.

- Discounted economy or economy class and/or a discount airline is to be the first choice for journeys where the uninterrupted flight time is 5 hours or less, except where the distance or hours travelled, work schedule on arrival, or personal health, safety or security reasons make business class preferable, in which case prior approval of the Chief Executive Officer is required. Travel for the Mayor or Chief Executive will often be more flexible fares to provide for the frequency that priorities change and flights need re-booking.
- Council does not provide for membership of airline travel clubs e.g. Koru Club.
- Air points (loyalty schemes) - Loyalty rewards accruing to staff and elected officials carrying out their official duties remain the benefit of the Council; provided the use of carriers supplying air points does not result in Council incurring additional costs.

Meals and accommodation when travelling

- To the extent practical, accommodation is to be booked well ahead of the actual travel date, so the expenditure is the most cost-effective possible. This must take into account the location of the accommodation relative to the event, the standard of the accommodation and security issues. Wherever possible use is to be made of Council's preferred suppliers and negotiated corporate rates.
- Where an employee chooses to stay in private accommodation reimbursement will be made directly to the hosts at the discretion of the Chief Executive.
- Drinks – Council will pay for only two beverages (alcoholic or non-alcoholic) with an evening meal, and these must be clearly identifiable on receipts supporting the expenditure.
- Minibars/Videos – these costs will not be reimbursed by Council.
- Phone Calls – All charges for business related telephone calls, faxes, email and internet access made by an employee or Councillor while travelling on Council business will be reimbursed. Council will also pay for one toll call home (10-15 minutes) each day while staff are travelling on Council business.
- Accommodation check out times is to be observed. In the absence of extenuating circumstances, any additional costs as a result of failing to check out in time are the responsibility of the staff member or Councillor.
- Reasonable expenses will be met for unexpected events, e.g. overnight expenses due to a cancelled plane flight.
- Reasonable meal costs will be met with the total cost not expected to exceed \$60 per person per meal. Separate meal expenses will not be met where a meal has been provided as part of the meeting, conference, training, etc.
- Where travel arrangements are extended to accommodate an employee's or member's personal arrangements, all costs in addition to those that would be expected for the business component of the trip are the responsibility of the staff member or Councillor.

Motor Vehicles and Taxis

- Council requires that the most economical type and size of rental car be used, consistent with the requirements of the trip. Rental cars are only available for business conducted outside the district. Any fines (parking or traffic offences) incurred while using a rental vehicle are the responsibility of the driver.
- Private use of a rental car is only permitted in exceptional circumstances and requires the express approval of the Group Manager or Chief Executive. All additional costs as a result of private use are the responsibility of the employee or Councillor.
- Council expects the use of taxis to be cost effective relative to other transport options.
- Council vehicles (except those provided explicitly under a remuneration arrangement) are not available for private use. Any fines (parking or traffic offences) incurred while using a Council vehicle are the responsibility of the driver unless the fines relate to an aspect of the condition of the vehicle outside the driver's control.
- Generally Council will not pay for travel by private motor vehicle where travel by other means is more practical and cost effective. Staffs are expected to always use a Council vehicle for Council business if one is available. Pre-approval is required in all instances where reimbursement by Council is claimed. Where the use of a private vehicle is approved, mileage reimbursement for running costs will be made in accordance with the current Council vehicle policy. The maximum reimbursement payable will be the running costs of the alternative Council vehicle. The vehicle owner must ensure that they have appropriate insurance cover for the vehicle while it is being used on Council business. Any fines (parking or traffic offences) incurred while using a private vehicle on Council business are the responsibility of the driver.
- All reimbursement claims for use of a private motor vehicle must be made on the appropriate Council form and at the rates approved from time to time by Council. The reimbursement rate will be in line with those generally used in the public sector. Mileage rates used are the standard mileage rate for motor vehicles advised by Inland Revenue.
- For the avoidance of doubt the replacement of Council motor vehicles is to be undertaken in accordance with Council's Motor Vehicle Replacement Policy and requires the approval of the tender sub-committee.

Tipping

- The probity issue associated with tipping is that it is discretionary and usually undocumented expenditure. Tipping should not in any circumstances be extravagant. The principle of moderate and conservative expenditure is particularly relevant.
- Council will not reimburse staff or Councillors for tipping while they are on business in New Zealand. Council will reimburse staff and Councillors for low to moderate tipping during international travel only in places where tipping is local practice.

Other travel issues

- The use of communications technology e.g. cell phones, telephones, email and internet access should be moderate. Reasonable private use to clear email and communicate with family members is permitted.
- Private travel (extended travel) linked with official Council travel. Staff and Councillors with the express approval of the Department Manager or Mayor (as applicable) may undertake private travel before, during or at the end of Council travel, provided there is no additional cost to the entity and the private travel is only incidental to the business purpose of the travel.
- Travelling spouses, partners, or other family members. As a general principle, travel cost for accompanying spouses, partners or other family members are a personal expense and will not be reimbursed by Council. In those rare instances where the involvement of a spouse directly contributes to a clear business purpose and preapproval has been obtained, then Council may contribute to all or part of the additional costs.
- The cost of stopovers will only be reimbursed where they are pre-approved and have a clear business purpose.

Entertainment and hospitality expenditure – principles

- Entertainment and hospitality can cover a range of items from tea, coffee and biscuits to catering, such as meals and alcohol. It also includes non-catering related items, such as Council funded entry to sporting or cultural events.
- Expenditure on entertainment and hospitality is sensitive because of the range of purposes it can serve, the opportunities for private benefit and the wide range of opinions on what is appropriate.
- Five business purposes of entertainment and hospitality have been identified:
 1. building relationships
 2. representing the organisation
 3. reciprocity of hospitality where this has a clear business purpose and is within normal bounds – acceptance of hospitality is expected to be consistent with the principles and guidance for provision of hospitality
 4. recognising significant business achievement
 5. building revenue
- Supporting the Council's internal organisational development may in occasional circumstances also be a legitimate business purpose for moderate expenditure.
- Given the many non-commercial functions of Council, there will only be limited justification for expenditure under some of the five purposes of entertainment and hospitality above.

- The principles of a justified business purpose, moderate and conservative expenditure are particularly relevant to Council. Council requires tight control of expenditure and transparent reporting.

Entertainment and hospitality expenditure – general

- All entertainment and hospitality expenditure must be pre-approved where practical and always supported by clear documentation. This documentation must identify the date, venue, costs, recipients and benefits derived and /or reasons for the event.
- The most senior person present should approve and confirm the expenditure as being appropriate.
- Expenditure on liquor will only be approved when consumed along with food and the amount involved is reasonable and moderate.

Goods and services expenditure – disposal of surplus assets

- This section covers obtaining, disposing or using goods and services that are not covered by the terms and conditions of employment.
- Sale of Surplus Assets – As part of normal business Council will from time to time dispose of assets. Typically this is when the assets have become obsolete, worn out or surplus to requirements. Council's disposals are intended to be both transparent and fair.
- Council will not dispose of assets to staff or Councillors or related parties at a discounted rate if a greater net value is likely to be realised by an alternative method of sale.
- The principles of preserving impartiality and integrity are particularly relevant. Council expects staff disposing of assets not to benefit personally from the disposal. All disposals are to be handled in a manner that ensures the staff's personal judgement or integrity are not compromised.
- To ensure transparency, fairness and receipt of best value for Council, the disposal of assets, which have become obsolete, worn out or surplus to requirements, shall normally be conducted on the open market or by way of trade-in on a replacement asset, unless the value of the assets are minimal (i.e. <\$500)
- Where disposal to officers or Councillors is approved by the Chief Executive (or delegated by the Chief Executive), the following principles shall apply:
 - Officers involved in disposing of the asset shall not benefit from the disposal
 - All assets identified for disposal to officers shall be valued and subject to a tender or other process that is appropriate to the value of the asset
 - Assets shall not be sold at a discounted rate to officers or Councillors if a greater value could be realised by an alternative method of disposal.

Goods and services expenditure – loyalty reward scheme benefits

- Loyalty reward schemes provide a benefit to the customer for continuing to use a particular supplier of goods or services. Generally, the rewards tend to be given in the name of the individual who obtains the goods or service, regardless of who has paid for them.
- Where a reward/prize is obtained by chance and without inducement, it will be the property of Council. If there is no business use for the prize or gift received it may become the property of the individual at the discretion of the Chief Executive or Departmental Manager.
- Generally prizes received from a free competition entry obtained while undertaking an entity's business are also considered a loyalty or reward scheme for the purposes of the Council policy with the exception of:
 - Air Points schemes, these are covered under section 8 of this policy.
 - Prizes received from competitions at training or conference events or through membership of professional bodies are treated as the property of the Council. In situations where receiving a prize or loyalty reward could be perceived as inappropriate, even if the entity rather than the individual would benefit from it, Council expects the prize or reward to be declined. If there is no business use for the prize or gift received it may become the property of the individual at the discretion of the Chief Executive or Departmental Manager.
- The principles of preserving impartiality and integrity are particularly relevant.
- Council treats loyalty rewards accruing to staff carrying out their official duties as the property of Council.
- Staff must apply, as far as practicable, those loyalty rewards only for the benefit of Council.
- Council requires that staff keep a record of loyalty rewards accrued and applied for the benefit Council, and regularly supply the departmental manager with a report of this record.
- Council requires staff leaving Council with unapplied loyalty rewards to transfer the benefits to Council or buy the unapplied rewards from Council at the market rate. Where neither of these is practical, arrangements are to be made with the supplier to cancel the unapplied rewards.

Goods and services expenditure – private use of Council assets

- Any physical item owned, leased or borrowed by Council is considered an asset for the purpose of this policy. This includes photocopiers, telephones, cell phones, cameras, means of accessing the Internet, and stationery.
- The principles of transparency, moderate and conservative expenditure, are particularly relevant. Private use for personal purposes will only be permitted in defined limited circumstances.
- The costs to Council of private use will be recovered, unless it is impractical or uneconomic to separately identify those costs.

- The use of Council assets in any private business that any employee or Councillors may operate is strictly prohibited.

Goods and services expenditure – Council use of private assets

- Council may decide that reimbursing staff for use of private assets is appropriate for reasons such as cost, convenience or availability. Council may also decide to do this in circumstances where it would not fully use an asset of the same type if it acquired it directly. Examples include private motor vehicles, private cell phones and private computers.
- The main issue associated with Council's use of private assets is the risk of the Council paying or reimbursing amounts that inappropriately benefit the staff member or Councillor. Therefore pre-approval by the Department Manager is required. In assessing the request the Department Manager will pay particular attention to the principles of a justified business purpose and preserving impartiality and integrity.
- Staff members must not approve or administer payments to themselves for the Councils use of their private assets.

Goods and services expenditure - Private use of Council suppliers

- Some Council suppliers may offer discounts to Councillors and staff.
- As staff may have access to some Council suppliers on the same basis as Council, they may receive preferential access to goods or services, and potentially at a preferential price, which is not available to the public. The risk is that the availability of the discount to staff will influence the choice of Council suppliers. In particular the selection of suppliers must be in Council's interest and is not to be affected by the availability or possibility of purchasing privileges for staff.
- Staff may make use of any preferential access to goods or services through Council's suppliers under the following conditions:
 - The discount offered must be the same discount offered to all Council staff and not be particular to individual staff members.
 - All orders are to be issued on a cash sale basis only and the staff member must pay in full for the goods and services directly to the supplier at time of supply
 - In rare circumstances a Council order may cover expenditure with a personal component, e.g. travel or accommodation booking. In this case payment to Council for the personal component must be made on the earlier of the confirmation of the cost or the receipt of the invoice from the supplier.
 - Councillors may have preferential access to goods or services through Council's suppliers on the same basis as staff, provided there is no real or perceived conflict of interest.

Staff support and welfare expenditure – clothing

- Other than official uniforms and health and safety-related clothing, staff will not be clothed at the Council's expense, when they are engaged in a normal business activity.

Staff support and welfare expenditure – care of dependants

- The Chief Executive may authorise in exceptional circumstances – such as when the staff member is unexpectedly required to perform additional duties at very short notice, or a dependant unexpectedly requires additional care that the staff member cannot provide because of the essential nature of their duties at the time – the reimbursement of actual and reasonable costs. In all other instances care of dependants is to be treated a personal and private expense of the staff member.

Staff support and welfare expenditure – financing Social Club activities

- Staff social clubs typically provide the opportunity for staff to have social interaction with both immediate work colleagues and other people in Council with whom they would not normally have contact. Social clubs may also assist staff to gain a better understanding of the wider roles and functions of Council and its business units.
- Council may make a prudent and reasonable monetary contribution to a social club(s). The contribution may be in the form of an all-purpose grant towards the club's annual budget, or it may be a grant or subsidy for a specific event.
- Before approving a grant to be made the Chief Executive must be satisfied that there is a justified business purpose for the contributions. This purpose would typically be connected with organisational development and staff welfare.

Staff support and welfare expenditure – farewells and retirements

- Expenditure on farewells and retirements includes spending on functions, gifts and other items when staff are leaving or retiring from Council or its Business Units.
- Expenditure on farewells and retirements should not be extravagant or inappropriate to the occasion. The principle of moderate and conservative expenditure is particularly relevant.
- Expenditure on farewells or retirements is to be pre-approved by the Chief Executive.

Staff support and welfare expenditure – sponsorship of staff or others

- Staff taking part in an activity that is not part of their job – such as a sporting event – may be sponsored by Council through the provision of, or payment for, goods or services (for example, a t-shirt or an entry fee).
- Sponsorship should have a justified business purpose, which could include both publicity for the Council and its objectives and organisational development. The cost to Council must be moderate

and conservative. If the sponsorship does not have a justified business purpose, the cost is a donation.

- Sponsorship of people who are not staff must be undertaken in a manner that is transparent. It is also preferable that, if non-staff are sponsored, the sponsorship is of an organisation they belong to, rather than directly of the individual.
- In most circumstances such sponsorship is best considered by Council as part of its grants budget allocation.

Other types of expenditure – donations

- A donation is a payment (in money or by way of goods or services) made voluntarily and without the expectation of receiving goods or services in return.
- Council requires donations to be:
 - lawful in all respects
 - disclosed in aggregate in the Council's annual report
 - made to a recognised organisation by normal commercial means (not to an individual) and not in cash; and non-political.

Other types of expenditure – Koha

Koha is a gift, a token, or a contribution given on appropriate occasions made in the context of Maori custom, without any obligation for that recipient to provide something in return.

In the Ōpōtiki District, Koha is a normal and accepted practice and provides an indication of the importance of an event, or shows a relationship is valued and sometimes the recompense for hospitality at events. Both Council staff and Councillors frequently find themselves in situations where providing a Koha is an expected custom, and offence can be caused if those customs are not adhered to. For Council this poses a challenge to balance the expectations of its community against standard financial practice.

- Koha payments must be approved by the chief executive as appropriate as to its purpose and amount. They will generally be specific to a legal entity or known grouping of people (eg hapū).
- The type of Koha depends on the circumstances to which it is required. For formal meetings at a marae, it will generally be a pre-prepared cheque written to the entity holding the function. For a tangi it may be written directly to the family of the deceased. For events where a kaumatua, or group attends to perform formalities a cheque or petrol vouchers may be appropriate.
- In instances where there is insufficient time to draw a cheque in advance, the staff member or Councillor must communicate in advance of the need to provide Koha or as soon as practicable following the event, including the amount and method of payment. If cash is provided a withdrawal slip should be retained.

- All instances of Koha will be reported to the Audit and Risk Committee Meeting in a report prepared by the Financial Accountant. The report will outline the event, and the justification for the amount provided.

Other types of expenditure – communications technology

- Communications technology – such a cell phones, telephones, email and internet access is widely used in the Council workplace. While some personal use of this technology may be unavoidable, excessive use incurs costs, including lost productivity to Council.
- Council’s policies on general and personal use of communications equipment is contained within Council’s Information Technology policies.
- Where it is administratively possible and cost effective Council will require reimbursement of personal use.

Other types of expenditure – gifts

- A gift is usually given as a token of recognition of something provided by the recipient.
- The giving of gifts by Council requires the express prior approval of the Chief Executive or Council resolution.
- The giving of gifts must be appropriate, transparent and reasonable.
- The receiving of a gift is not strictly sensitive expenditure however it nevertheless is a sensitive issue. This policy below aims to ensure that staff and Councillors’ impartiality or integrity cannot be called into question as a result of receiving gifts.
 - Council staff are permitted to accept gifts if they are infrequent and inexpensive and are openly distributed by suppliers and clients. (e.g. pens, badges, calendars etc)
 - Infrequent is defined as no more than three times in any 12 month period and inexpensive as having a monetary value of less than \$60.
 - In all instances staff must inform their manager or supervisor that they have received a gift for service or appreciation.
 - The acceptance of any gift with a monetary value exceeding \$60 must have the express approval of the Group Manager for staff to retain it.

Review

Annually or earlier if required to update to new industry standards or following recommendations from audit reviews.

Policy Owner

Finance and Corporate Services Group Manager.

REPORT

Date : 15 November 2017
To : Audit and Risk Committee Meeting, 27 November 2017
From : Gerard McCormack, Planning & Regulatory Manager
Subject : **DRAFT ENFORCEMENT POLICY**
File ID : A125490

EXECUTIVE SUMMARY

A Draft Enforcement Policy is attached for review and comment. The Policy sets out how the Planning and Regulatory Group will perform the Council's regulatory responsibilities.

PURPOSE

To provide to the Committee the Draft Enforcement Policy for review and comment.

BACKGROUND

Council, as a regulator, is responsible for a wide ranging list of statutes. At times the Council is required to take formal enforcement action against individuals or entities that fail to comply with aspects of the various statutes that Council is obliged to manage as a Territorial Authority.

Staff, in particular those working in the Regulatory Group, investigate breaches of the law and prepare, where appropriate, the case for enforcement action. In order to ensure consistency of approach and transparency of process, many Councils around New Zealand have policies that set out how the Council will carry out its role as a regulator.

A Draft Enforcement Policy has been put together to fulfil this purpose for the Planning and Regulatory Group at Opōtiki District Council.

DISCUSSION

From an organisational perspective the Draft Enforcement Policy provides for an open and transparent process with regards to the Council approach to enforcement. It clearly sets out what can be expected of all those involved in the compliance process. It will ensure a consistent approach is applied across regulatory functions.

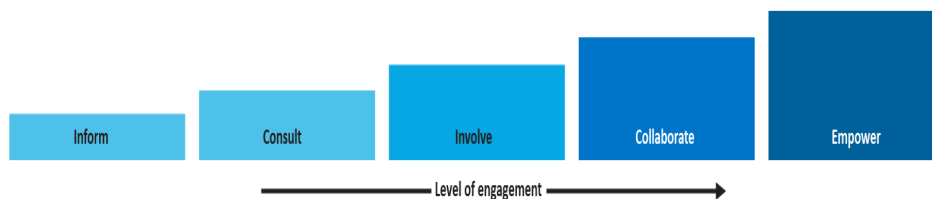
SIGNIFICANCE ASSESSMENT

Assessment of significance

Under Council's Significance and Engagement Policy, on every issue requiring a decision, Council considers the degree of significance and the corresponding level of engagement required. The level of Significance for the Enforcement Policy is considered to be low as determined by the criteria set out in section 12 of the Significance and Engagement Policy.

Assessment of engagement requirements

"As the level of significance for the Enforcement Policy is considered to be of low significance the level of engagement required is determined to be at the level of 'inform' according to Schedule 2 of the Significance and Engagement Policy.



RECOMMENDATIONS:

- 1. That the report titled "Draft Enforcement Policy" be received.**
- 2. That the Draft Enforcement Policy be adopted**

Gerard McCormack

PLANNING AND REGULATORY MANAGER

POLICY	STATUS	AT	DATE	DOC ID
<i>Enforcement Policy</i>	<i>Draft</i>		<i>To be confirmed</i>	<i>To be confirmed</i>



Ōpōtiki District Council
 STRONG COMMUNITY STRONG FUTURE

OPOTIKI DISTRICT COUNCIL

ENFORCEMENT POLICY

INTRODUCTION

Ōpōtiki District Council (the Council) is responsible for the administration and regulation of a wide range activities. These include matters such as land use and development under the District Plan, the carrying out of building work, the preparation of food for sale at cafes, restaurants and other outlets, controls on the sale and consumption of alcohol in public, controls on dogs, littering and parking.

The primary purpose of these regulatory activities is to protect the public, the environment and groups such as consumers and residents. The main statutes under which the Council has responsibilities for enforcing regulatory requirements are listed below. (Note this is not a complete list.)

- Biosecurity Act 1993
- Building Act 2004
- Dog Control Act 1996
- Freedom Camping Act 2011
- Food Act 2014
- Forest and Rural Fire Act 1977
- Gambling Act 2003
- Hazardous Substances & New Organisms Act 1996
- Health Act 1956
- Impounding Act 1955
- Land Transport Act 1998
- Litter Act 1979
- Local Government Act 2002
- Prostitution Law Reform Act 2003
- Reserves Act 1977
- Resource Management Act 1991
- Sale and Supply of Alcohol Act 2012
- Transport Act 1962
- Various regulations, Council policies, plans and bylaws

The Enforcement Policy (the Policy) sets out the general principles that Ōpōtiki District Council intends to follow in relation to its regulatory obligations.

PURPOSE

The primary purpose of this Policy is to:

- Inform the general public of the Council's approaches to the compliance and enforcement of the legislation it is responsible for enforcing;
- Outline the possible enforcement actions able to be administered by the Council;
- Guide and assist officers of the Council in the performance of their compliance, enforcement and prosecution functions;
- Ensure consistent, appropriate and coordinated decision-making of compliance, enforcement and prosecution matters.

OBJECTIVES

The regulatory activities the Council is responsible for, provide a range of health, safety and environmental benefits for the public and residents of the Ōpōtiki District. The key areas where the Council has enforcement responsibilities are:

Our environment – We want everyone to be able to share in the benefits of living in a built and natural environment that contributes to the outcomes agreed in the District Plan.

Buildings – We want to have buildings that are safe and provide the amenities expected by owners and users. We are concerned about buildings that expose owners and users to risks to their health or safety.

Food – We want to support local food businesses that meet the food safety standards and ensure people can enjoy food prepared and sold in the district. We are concerned about risks to people’s health that can arise from poor food safety standards when preparing food for sale at cafes, restaurants or other outlets.

Alcohol – We want people to enjoy public events and public spaces without being confronted by anti-social behaviour caused by excessive consumption of alcohol or alcohol being consumed by persons who are under-age.

Dogs – We want people to have the confidence they can live and carry out their businesses in the district without being distressed or intimidated by dogs that are not being properly controlled by their owners.

PRINCIPLES OF ENFORCEMENT

The requirement to monitor and ensure compliance with the law is a mandatory obligation of most of the Acts that the Council administers. These Acts provide the specific legislative framework for Council to enforce the rules and regulations. While these Acts provide the enforcement tools, how Council chooses to enforce remains at its discretion. This is necessarily so when considering that compliance and enforcement is complex in law and usually complicated by many factors, all having a bearing one way or another on an appropriate response. The Council is accountable to the community for the manner in which it exercises this discretion.

A number of principles guide this exercise of discretion as follows:

- Fair, reasonable and proportional approach
- Consistency of process
- Transparency
- Targeted
- Responsive and effective
- Education

Fair, reasonable and proportional approach - We will apply regulatory interventions and actions appropriate for the situation. We will use our discretion justifiably and ensure our decisions are appropriate to the circumstances and that our interventions and actions will be proportionate to the risks posed to people and the environment, and the seriousness of the non-compliance.

Consistency of process - Our actions will be consistent with the legislation and within our powers. Compliance and enforcement outcomes will be consistent and predictable for similar circumstances. Consistency of process does not mean uniformity, it means taking a similar approach in similar circumstances to achieve similar ends, while allowing for the flexibility of discretion for case by case scenarios.

Transparency - Transparency is important in maintaining public confidence in the Council’s ability to regulate. It is about helping those who are regulated and other members of the community, to understand what is expected of them and what they should expect from the Council. An integral component of transparency is making clear why an Officer intends to take or has taken enforcement action. It also involves distinguishing between statutory requirements and providing advice or guidance about what is desirable or good practice but is not necessarily compulsory.

Targeted - We will focus on the most important issues and problems to achieve the best environmental outcomes. We will target our regulatory intervention at poor performers and illegal

activities that pose the greatest risk to the environment. We will apply the right tool for the right problem at the right time.

Responsive and effective - We will consider all alleged non-compliance to determine the necessary interventions and action to minimise impacts on the environment and the community and maximise deterrence. We will respond in an effective and timely manner in accordance with legislative and organisational obligations.

Education - Education is a crucial factor in providing an effective enforcement service. Ongoing education ensures that the public is aware of the current regulations as well as increasing public confidence in the service to enforce them.

THE ENFORCEMENT PROCESS

The following section outlines the enforcement process we will undertake from discovery of an offence through to the decision to take enforcement action.

The response upon discovery of an offence will be largely dependent on several factors, including the need to deal with any ongoing adverse environmental effects, risk of continuing offending and the seriousness of the offence. It is expected that the response will take the following staged approach:

1. Response to Effects

Upon discovery, the initial response will be to assess the actual or potential effects, if any, resulting from the contravention. Significant adverse effects will require an immediate response prior to any other action. This may include:

- To prevent further serious environmental damage from starting or continuing. May include abatement notice, enforcement or interim enforcement order.
- An immediate closure in the case of a serious food hygiene risk.
- Seizure of an offending animal in the case of a dog attack.

2. Gathering information

Following any urgent intervention to deal with effects, the next stage is to conduct investigations, including gathering evidence, speaking to witnesses and obtaining explanations.

The purpose of this is to find out whether, how, and why the breach occurred and enable informed decisions to be made. The depth and scope of an investigation will be dependent on the seriousness of the incident.

In less serious matters, it may be sufficient to write to the offending party or parties requiring written explanation as to why the offence occurred and the circumstances behind it, and then determine and appropriate response.

In more serious matters, it is expected that the investigation will be more in depth and that detailed witness statements will be obtained and that liable parties will be interviewed under formal caution.

Regardless of the level of offending, a response will ordinarily be sought from an offender. The exception to this would be matters of a very minor nature with nil environmental or other detrimental effects, or the person has responded such that the effects are remedied and it will not happen again.

Upon receipt of any explanation, the next and final stage is one of deciding on an appropriate response to the offence through a sound decision-making process.

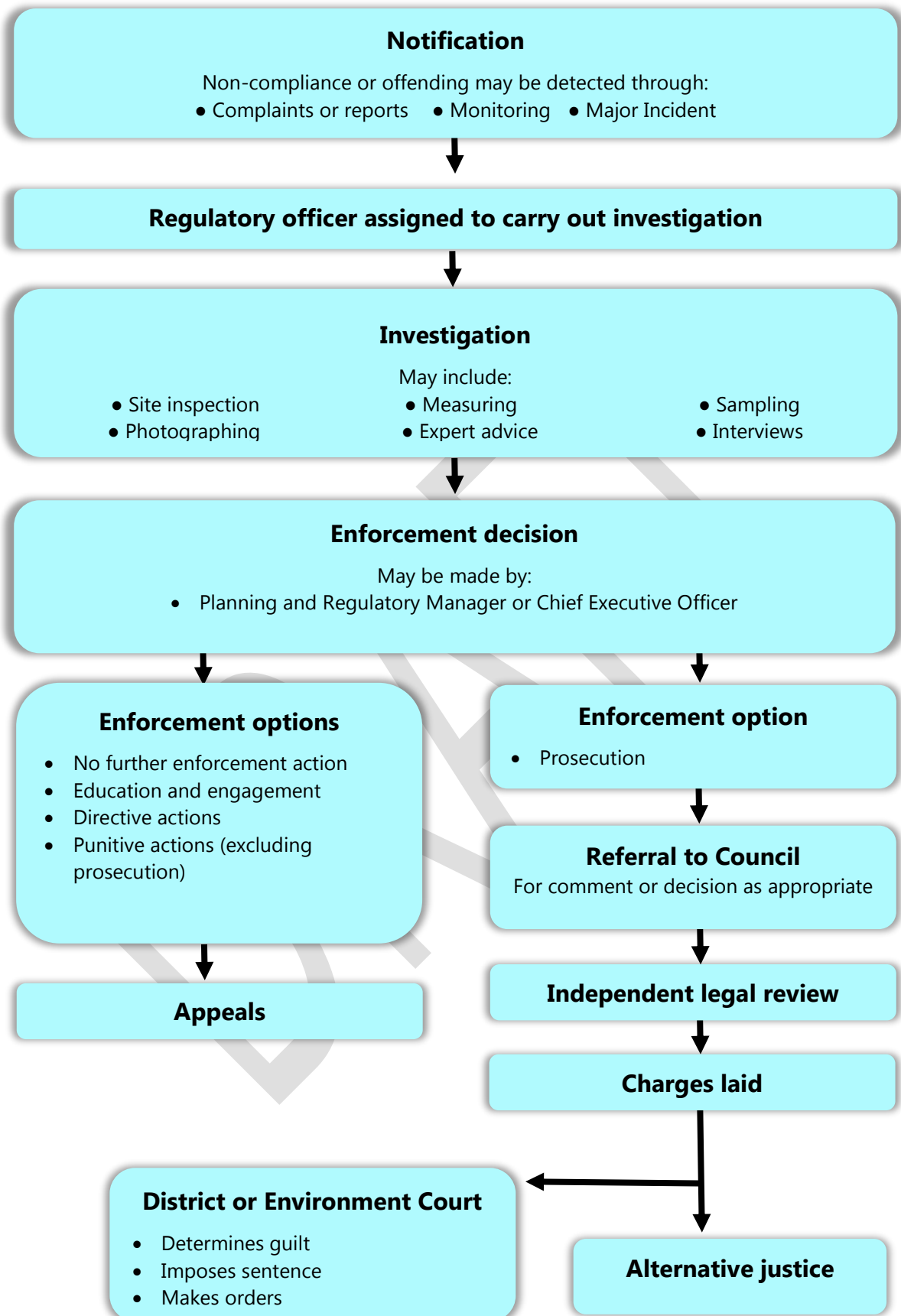
3. Deciding the Enforcement Response

Providing the correct enforcement response, requires considerable skill. It also requires a good knowledge or understanding of the relevant legislation involved. It is widely accepted across agencies that the Courts have provided helpful guidelines as to what factors are appropriate to consider to determine seriousness of a breach. Factors to consider are:

- The actual adverse effects (effects that have occurred)
- Any likely adverse effects (potential effects)
- Whether it was deliberate or an accidental action
- The degree of due care taken/foreseeability of incident
- The value or sensitivity of the area affected
- The attitude of the offender toward the offence
- Whether it was a repeat non-compliance or if previous enforcement action was needed for a similar situation
- Any effort made to avoid, remedy and/or mitigate the adverse effects
- The effectiveness of any remediation or mitigation undertaken
- Any profit or benefit gained by alleged offender
- Any relevant special circumstances – e.g. extreme weather event or other event outside the control of the party involved

Not every factor will be relevant every time. On occasion one single factor may be so overwhelmingly aggravating, or mitigating, that it may influence the ultimate decision. Each case is unique and the individual circumstances need to be considered on each occasion to achieve a fair and reasonable outcome.

An overview of the enforcement process is illustrated below:



ENFORCEMENT OPTIONS

Ōpōtiki District Council Regulatory Officers have a broad range of enforcement options available to them to address matters of non-compliance. The tools that apply to the different regulatory functions are illustrated in the table below. These tools can be categorised into three main types; informal directive and punitive actions. Informal actions are focussed on providing education and incentive based responses to allow the person to become better informed and develop their own means to improved compliance. Directive actions are about looking forward and giving direction and righting the wrong. Punitive actions are about looking back and holding people accountable for what they have done.

	Building	Planning and resource consents	Environmental Health	Liquor	Noise	Animal control	Bylaws
Education and incentive							
Education and Engagement	X	X	X	X	X	X	X
Directive actions							
Letter of Direction	X	X	X	X	X	X	X
Excessive Noise Direction					X		
Notice to Fix	X						
Abatement Notice		X			X	X	
Enforcement Order		X					
Negotiated settlements	X	X	X	X	X	X	X
Punitive actions							
Formal Warning	X	X	X	X	X	X	X
Infringement Notice	X	X		X		X	X
Prosecution	X	X	X	X	X	X	X

Selecting the appropriate enforcement response will depend on such factors as the seriousness of the offence, the significance of adverse effect on people and/or the environment, and the level of remorse shown by the offender. A brief description of each of the relevant tools, impacts on the liable party, and the circumstances when we might use these tools are described below.

Education and Incentive			
Action	Description of Action	Potential impacts on the liable party	When might this action be appropriate
Education and Engagement	To prevent further breaches, or to remedy or mitigate the effects of non-compliance, Council can provide information or guidance around rules	This is a non-formal process and as such has no legal implications.	Education and other incentive based interactions are reserved for dealing with co-operative parties, who are motivated to do the right thing but lack the

	and regulations or provide assistance to enable parties to achieve compliance.		knowledge or skills necessary to achieve and maintain compliance.
Directive Actions			
Action	Description of Action	Potential Impacts of the Liable Party	When might this action be appropriate
Letter of Direction	To prevent further breaches, or to remedy or mitigate the effects of non-compliance, Council can give a written direction for a party to take or cease a particular action.	Such a direction is not legally enforceable.	Letter of directions should be reserved for dealing with co-operative parties, who are motivated to follow the direction, and where the breach is of a minor nature, consistent with a breach that would perhaps also receive a formal warning.
Excessive Noise Direction	These binding notices require excessive noise to be reduced to a reasonable level and can apply for a period of up to 72 hours. Directions can be given verbally or in writing.	If a direction is not complied with, officers can seize and remove, render inoperable or make unusable, any device causing excessive noise.	Used in urgent cases where noise is causing immediate nuisance. Usually in response to complaint from neighbour or member of the public where, for example, a burglar alarm is sounding continuously, or a noisy party continues to an unreasonable hour.
Notice to Fix	A notice to fix is a formal, written directive. It is drafted and served by council instructing a specified person to correct an instance of non-compliance with the Building Code and/or Building Act. The form and content of the notice are specified in the Building Act.	A direction given through a notice to fix is legally enforceable. To breach a notice to fix is to commit an offence and make liable parties open to punitive actions or fines.	A notice to fix may be appropriate where a building warrant of fitness and/or compliance schedule requirements in the Building Act have not been adhered to or when Building Consent is not obtained for building work that requires a consent.
Abatement Notice	An abatement notice is a formal, written directive. It is drafted and served by Council instructing an individual or company to cease an activity or requiring them to do something. The form, content and scope of an abatement notice are prescribed in statute.	A direction given through an abatement notice is legally enforceable. To breach an abatement notice is to commit an offence and make liable parties open to punitive actions.	An abatement notice may be appropriate any time that there is a risk of further breaches of environmental regulation or remediation is required as a result of non-compliance.

Enforcement Order	Enforcement orders offer more options than an abatement notice, including the ability to recover clean-up costs incurred or likely to be incurred in avoiding, remedying or mitigating any adverse effect on the environment.	To breach an enforcement order is to commit an offence and make liable parties open to punitive actions.	An enforcement order may be appropriate when an abatement notice has not been complied with as another way of achieving compliance.
Negotiated settlements	A person may approach the Council with a proposal for settlement. We are open to resolving non-compliance by agreement where a remedy is possible and where this is prompt, easily implemented and in the public interest.	A negotiated settlement typically requires the following – the person to admit that they have breached the law, to cease the non-compliant conduct, pay compensation, pay our costs and may involve some publicity	A negotiated settlement will only be agreed to if it is in the public interest. Council is unlikely to agree to a negotiated settlement where the non-compliance has caused serious harm, the person is a repeat offender or activity resists compliance.

Punitive Actions

Action	Description of Action	Potential impacts on the liable party	When might this action be appropriate
Formal Warning	A formal warning is documented by way of a letter to a culpable party informing them that an offence against an Act or regulation has been committed, and that they are liable.	No further action will be taken in respect of that breach. However, the warning forms part of a history of non-compliance and will be considered if there are future incidents of non-compliance.	A formal warning may be given when: <ul style="list-style-type: none"> • An administrative, minor or technical breach has occurred; and • The environmental effect, or potential effect, is minor or trivial in nature; and • The subject does not have a history of non-compliance; and • The matter is one which can be quickly and simply put right; or • A written warning would be appropriate in the circumstance.

Infringement Notice	An infringement notice is a written notice which requires the payment of a fine. The amount of the fine is set in law.	No further action will be taken in respect of that breach. However, the infringement forms part of a history of non-compliance and will be considered if there are future incidents of non-compliance.	An infringement notice may be issued when: <ul style="list-style-type: none"> • There is prima facie (on the face of it) evidence of a legislative breach; and • A one-off or isolated legislative breach has occurred which is of minor impact and which can be remedied easily; and • Where an infringement notice is considered to be a sufficient deterrent.
Prosecution	A prosecution is a process taken through the criminal courts to establish guilt or innocence and, if appropriate, the court will impose sanctions. Matters are heard in either the District Court or Environment Court depending on the Act. All criminal evidence rules and standards must be met.	A successful prosecution will generally result in a conviction, a penalty imposed and consideration of the costs of the investigation. A prosecution forms part of a history of non-compliance and will be considered if there are future incidents of non-compliance.	A prosecution may be considered appropriate when the factors listed above indicate that the matter is sufficiently serious to warrant the intervention of the criminal law. Consideration will be given to the Solicitor-General's Prosecution Guidelines (2013).

WHAT THE COMPLAINANT CAN EXPECT FROM THE REGULATORY TEAM

To initiate an enforcement investigation, complaints should be preferably made via the standard form which can be found on the Council's website, at the Council offices or alternately they can be sent out to complainants if requested.

In order to assist the investigation we ask that as much information is provided as possible when the initial enquiry is made. This should include the identity and address of complainant, the address at which the alleged breach has taken place, a description of the unauthorised activities and the harm that is considered to be caused. Complainants will also be encouraged to send in dated photographs of the alleged breach in order to assist the investigation. In respect of complaints received, the following standards apply:

- All valid enquiries will be properly recorded and investigated
- The personal details of the new enquirer will be held in the strictest confidence.
- Other than cases where immediate or urgent action may be required (see step 1 of the Enforcement Process above), an initial investigation is to be undertaken within five working days of receipt.
- In cases of involving a serious and/or irreversible harm, the complaint will be investigated as a matter of priority, usually within 24 hours of receipt. Urgent action will be instigated to stop unlawful activity.

- The enquirer will be updated on any subsequent action that may result as soon as reasonably practicable.
- Staff will not take sides in a dispute; staff will however judge what action is appropriate according to the evidence, particular circumstances, impact on the environment, relevant policies, and legalisation.

WHAT THOSE IN BREACH CAN EXPECT FROM THE REGULATORY TEAM

Under normal circumstances, prior to taking formal enforcement action, the officer concerned will fully and openly discuss the circumstances of the breach with those involved. Those in breach will be contacted as soon as possible following the site visit, and advice will be provided on what action is required to avoid, remedy and/or mitigate the environmental harm identified. When breaches are found to have occurred Regulatory Officers will:

- Communicate clearly to the responsible party or their agent, identifying the problem and that they may need to undertake action to achieve compliance.
- Where officers consider there is a minimal effect, or effects are satisfactorily addressed by mitigation measures, a reasonable period of time will be allowed for the submission of a retrospective application to regularise an activity (where this is an available course of action under the relevant piece of legislation).
- Initiate formal enforcement powers after being satisfied that there is a clear breach of the relevant piece of legislation, and there has been an adverse impact on the environment.
- In the case of formal action being authorised, the rights of appeal will be explained to those in breach.
- Persistent offenders and those who seek to exploit the compliance process at the expense of others will be dealt with using appropriate action.

WHAT THE REGULATORY TEAM CAN EXPECT FROM THE COMPLAINANT AND THOSE IN BREACH

Regulatory Officers often deal with heavy caseloads and can, as a result, experience many pressures on their time throughout the day. Therefore, in order to allow Officers to make best use of their time, and ensure that the regulatory Team service is operating as effectively and efficiently as possible, members of the public are asked to adhere to the following:

- People are asked to treat officers with respect and listen to what is being said rather than what they 'think or want to hear'. Sometimes a favourable outcome, or the outcome the complainant seeks, cannot always be achieved. If this occurs, the reasons for taking the action or not taking any action, will be explained in full by the Officer in a clear and understandable fashion.
- Officers are happy to speak to members of the public on the phone provided the conversations are productive. If callers are unreasonable in their expectations or are rude to staff they will be asked to only communicate with the Officer via letters or email to which they can expect a response within 10 working days of receipt.

INFORMING THE PUBLIC

The Council is committed to educating and informing members of the public in relation to the work carried out by its Regulatory Team. The Council will attempt to strike a balance between informing the public about regulation through publishing articles in newsletters as well as publicising when formal action is taken via the media. It is considered important to highlight action that has been taken to

discourage others from breaching regulations and to ensure the public have confidence in the Regulatory Team. All communication with the media will be undertaken in accordance with relevant policies.

Pro-active campaigns will be used to educate the public in relation to the targeted breaches of the specific regulations through Council publications and press releases. Local community groups may also be encouraged to assist in targeted campaigns in their particular area.

As part of the Council's commitment to being open and accountable, a six-monthly Regulatory report will be presented to Council.

RELEVANT LEGISLATION

See Introduction.

REVIEW

This policy will be reviewed every three years. Refer to policy index for policy owner.

DRAFT

REPORT

Date : 15 November 2017

To : Audit and Risk Committee Meeting, 27 November 2017

From : Chief Executive Officer, Aileen Lawrie

Subject : **RESOLUTION TO EXCLUDE THE PUBLIC**

SECTION 48 LOCAL GOVERNMENT OFFICIAL INFORMATION & MEETINGS ACT 1987

THAT the public be excluded from the following parts of the proceedings of this meeting, namely:

9. In-Committee Minutes – Audit and Risk Committee Meeting 14 August 2017

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

Item No	General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under section 48(1) for the passing of this resolution
9.	In-Committee Minutes – Audit and Risk Committee Meeting 14 August 2017	That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists.	Section 48(1)(a)

This resolution is made in reliance on section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by section 6 or section 7 of that Act or section 6 or section 7 or section 9 of the Official Information Act 1982, as the case may require, which would be prejudiced by the holding of the whole or the relevant part of the proceedings of the meeting in public are as follows:

9.	Maintain effective conduct of public affairs Protect Information	Section 7(2)(f)(i) & (ii) Section 7(2)(b)(i), (d) and (e)
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