



# AGENDA

Meeting of the  
Risk and Audit Committee

**Wednesday 14 August 2024**  
Commencing at 3.30pm

*To be held:*  
Clocktower Chambers,  
Palmerston Street, Westport



## CORE COUNCILLOR ROLE AND RESPONSIBILITIES

The Governance role entails:

- Strategic planning and decision-making;
- Policy and strategy review;
- Community leadership and engagement, and stewardship;
- Setting appropriate levels of service;
- Maintaining a financially sustainable organisation; and
- Oversight/scrutiny of Council's performance as one team.

The governance role focusses on the big picture of 'steering the boat' - management's role focusses on 'rowing the boat'

Our commitments to best support each other and meet the challenges and opportunities of 2024 include:

### CLEAR AND RESPECTFUL COMMUNICATION

We are committed to:

Actively listening and not interrupting;

Remaining conscious of 'tone', body language, and amount of time speaking (allowing time for others);

Responding/answering in a timely manner; and

Being honest, reasonable, and transparent.

### TRUST AND RESPECT

We recognise that trust and respect must be earned and that a team without trust isn't really a team. Trust can be built by:

Valuing long-term relationships; being honest; honouring commitments; admitting when you're wrong; communicating effectively; being transparent; standing up for what's right; showing people that you care; being helpful; and being vulnerable.

### CONTINUOUS LEARNING AND IMPROVEMENT

Continuous learning and improvement are critical for growing together as a team.

We are committed to constantly reviewing what is going well and what needs to improve in relation to the way we work together, the processes we follow, and the outcomes we deliver.

NONE OF US IS AS SMART AS ALL OF US

# Risk and Audit Committee

<b>Reports to:</b>	The Council
<b>Independent Chairperson:</b>	<b>Sharon Roche</b>
<b>Membership:</b>	The Mayor, all Councillors and Māori
<b>Meeting Frequency:</b>	Representative Bi-Monthly
<b>Quorum:</b>	A majority of members (including vacancies)

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## GENERAL PRINCIPAL

1. The work of this Committee will be in accordance with the priorities and work programme agreed by the Council.
2. This Committee has the powers necessary to perform the Committee's responsibilities, in accordance with the approved Long Term Plan and Annual Plan budgets. Subject to confirmation of compliance with the financial strategy.

## PURPOSE

The Risk and Audit Committee is responsible for:

1. Monitoring Council's financial strategy, and financial performance against the Annual and Long Term Plans.
2. Monitoring Council's interests in its Council Controlled Organisations (CCOs).
3. Reviewing the Council's risk register and associated process for managing current and emerging risk.
4. Ensuring the independence and effectiveness of Council's External and Internal Audit processes.
5. Monitoring existing corporate policies and recommending new or amended policies as required.
6. Ensuring that Council policies and practices will prevent unethical, questionable or illegal activities.
7. Providing a communication link between management, internal auditors/external auditors and Council.
8. Supporting measures to improve management performance and internal controls.
9. Ensuring Council's Policies and Bylaws are fit for purpose and comply with all relevant legislation.
10. Guiding the development of Council's Climate Change Adaptation Plan

## TERMS OF REFERENCE:

### General

1. To receive regular reports regarding Council's financial and non-financial performance against Annual and Long Term Plans.
2. To consider reports related to significant expenditure outside of the Annual and Long Term Plans and make appropriate recommendations to Council.
3. To develop and monitor policy related to the following matters:
  - a) Financial management;

- b) Revenue generation;
  - c) Procurement and tendering; and
  - d) The appointment and remuneration of directors and CCOs
4. To monitor the probity of processes relating to policies developed by the Risk and Audit Committee.
  5. To provide clear direction to Council's CCOs on Council's expectations, including feedback on draft statements of intent.
  6. To receive Quarterly reports of Council's CCOs, including board performance.
  7. To undertake any reviews of CCOs and make appropriate recommendations for approval by Council.
  8. Review CCO requests for major transaction approval and recommend appropriate actions to Council.
  9. To monitor Council's debt and investments to ensure compliance with Council policy.
  10. To monitor the Council's outstanding debtors' positions.
  11. Engage with Council's external auditors regarding the external audit work programme and agree the proposed terms and arrangements of the external audit.
  12. Assess management response to audit reports and the extent to which external audit recommendations concerning internal accounting controls and other matters are implemented.

**Internal Audit**

13. Agree the scope of internal audits.
14. Monitor the delivery of the internal audit work programme and results
15. Assess whether Internal Audit's recommendations have been properly implemented by management.
16. Review the annual Internal Audit Plans to ensure appropriate organisational structures, authority, access, independence, resourcing and reporting arrangements are in place.

**Strategy, plans and policy**

17. Develop and agree to strategies, plans and policies for the purposes of consultation and/or engagement with community.
18. Recommend to Council for adoption.
19. Monitor and review as and when required.

**Bylaws**

20. Develop and agree to the statement of proposal for new or amended draft bylaws for consultation.
21. Recommend to Council new or amended bylaws for adoption.

**Consultation and engagement**

22. Ensure appropriate, effective and transparent engagement with the community, tangata whenua and other stakeholders.
23. Conduct any public engagement required on issues before the Committee, in accordance with Council's Significance and Engagement Policy.
24. Conduct hearings, where appropriate, to consider submissions from members of the public and external organisations, making determinations on such matters unless they are reserved for Council to decide.



### **Submissions and legislation**

25. Approve submissions to external bodies/organisations on legislation and proposals, related to the Committee's areas of responsibility, that impact governance policy or matters.
26. Monitor and oversee strategic projects and programmes.
27. Monitor Council's Asset Management Plans/Strategic Infrastructure Plan.

### **Contracts**

28. Approve and monitor contracts and other legally binding arrangements provided that such contracts/arrangements:
  - a. Do not require the approval of the whole of Council; and
  - b. Fall within the budget approved under the Long Term Plan or Annual Plan and have a value exceeding the Chief Executive's financial delegation.

### **Reserves and Halls Subcommittees**

29. Monitor and oversee the Reserves and Halls Subcommittees.

### **Creative Communities Subcommittee**

30. Monitor and oversee the Creative Communities Subcommittee.

### **Other Matters**

31. Review the effectiveness of the risk control environment established by management to safeguard Council's financial and non-financial assets, including the adequacy and appropriateness of insurance policies in place and management's actions to mitigate risks
32. Review the effectiveness of the systems for monitoring the Council's compliance against legislation, regulation, policy, and guidelines (including health and safety).
33. Conduct and monitor special investigations in accordance with Council policy and approved budget or in response to material matters raised by staff or committee members, including engaging expert assistance, on matters within its Terms of Reference.
34. Provide an annual review of Council's risk management framework and amend as required.
35. Review and monitor business continuity planning.
36. Consider and make decisions which are within the Chief Executive Officer's delegations, and which the Chief Executive Officer has referred to the Committee for recommendation to Council.
37. Consider and make decisions on operational matters that fall within a Committee's area of responsibility that are outside of delegations to the Chief Executive Officer or other Council officers.
38. Commission new Committee reports and work required to respond to significant or compliance issues, or to complete the agreed programme of Council.
39. Monitor Audit recommendations and ensure completion.

### **The Committee is delegated the following powers:**

- The Committee may make recommendations to Council.
- The Committee will provide three-monthly reports to Council on its activities with appropriate recommendations.

**Special Notes:**

- In fulfilling their role on the committee, members shall be impartial and independent at all times.
- The Chairperson will be an independent appointment, not an elected member, to strengthen the independent nature of the Committee’s monitoring responsibility of Council activities.
- Members are appointed for an initial term of no more than three years that aligns with the triennial elections, after which they may be eligible for extension or reappointment.
- The Chief Executive Officer and Chief Financial Officer are required to attend all meetings but are not members and have no voting rights. Other Council officers may attend the Committee meetings, as required.
- The Chairperson of the Committee shall review the travel and other reimbursed expenses of the Chief Executive Officer and confirm compliance with Council policies and practice. This information will be provided to the Chairperson on a monthly basis.
- The Chairperson shall review the travel and other reimbursed expenses of the Mayor and confirm compliance with Council policies. This information will be provided to the Chairperson on a monthly basis.
- The Chief Executive Officer (Principal Advisor) shall be responsible for drawing to the Committee's immediate attention to any material matter that relates to the financial condition of Council, any material breakdown in internal controls, and any material event of fraud or malpractice.
- The Chairperson shall present an annual Audit and Risk Self Review to Council summarising the Committee's activities during the year and any related significant results and findings.

# Risk and Audit Committee

Clocktower Chambers,  
Palmerston Street, Westport



14 August 2024 03:30 PM

<b>Agenda Topic</b>	<b>Page</b>
1. <a href="#">Apologies</a>	9
2. <a href="#">Members Interests</a>	10
3. <a href="#">Confirmation of Previous Minutes Report</a>	11
3.1 <a href="#">Attachment 1 - Risk and Audit Committee Public Meeting Minutes 26 June 2024</a>	12
4. <a href="#">Action Points Report</a>	21
4.1 <a href="#">Attachment 1 -Risk and Audit Committee Action Points August 2024</a>	22
5. <a href="#">Risk and Audit Committee Work Plan Report</a>	25
5.1 <a href="#">Attachment 1 - Risk and Audit Committee Work Plan June 2024</a>	26
5.2 <a href="#">Attachment 2 - Risk and Audit Committee Revised Work Plan August 2024</a>	27
6. <a href="#">Verbal Updates</a>	28
7. <a href="#">NEMA, IAF and Better Off Funding Project Status Report Summaries from Projects in Partnership</a>	29
7.1 <a href="#">Attachment 1 - NEMA Projects Status Report May 24</a>	32
7.2 <a href="#">Attachment 2 - Better Off Funded Projects Status Report May 24</a>	39
7.3 <a href="#">Attachment 3 - IAF Projects Status Report May 24</a>	45
7.4 <a href="#">Attachment 4 - Projects in Partnership – Confirmed Minutes 10 June 2024</a>	50
8. <a href="#">Health And Safety Quarterly Report 01 April 2024 – 30 June 2024</a>	54
9. <a href="#">Appointments To Reserve And Hall Subcommittees</a>	57
10. <a href="#">Morrison Low Follow-Up Update</a>	61
10.1 <a href="#">Attachment 1 - Update On Morrison Low Recommendations On Improvements</a>	64

11.	<a href="#">Draft LGOIMA Charging Policy</a>	68
11.1	<a href="#">Attachment 1 - Draft LGOIMA Charging Policy</a>	73
11.2	<a href="#">Attachment 2 - Charging - A guide to charging for official information under the OIA and LGOIMA</a>	75
12.	<a href="#">Public Excluded Report</a>	115

Live streamed to the Buller District Council YouTube Channel

**RISK AND AUDIT COMMITTEE**

**14 AUGUST 2024**

**AGENDA ITEM: 1**

**Prepared by** Paul Numan  
Group Manager Corporate Services

**APOLOGIES**

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**1. REPORT SUMMARY**

That the Risk and Audit Committee receive any apologies or requests for leave of absence from elected members.

**2. DRAFT RECOMMENDATION**

**That there are no apologies to be received and no requests for leave of absence.**

**OR**

**That the Risk and Audit Committee receive apologies from *name* and accepts *name* request for leave of absence.**

# RISK AND AUDIT COMMITTEE

14 AUGUST 2024

AGENDA ITEM: 2

Prepared by Paul Numan  
Group Manager Corporate Services

## MEMBERS INTEREST

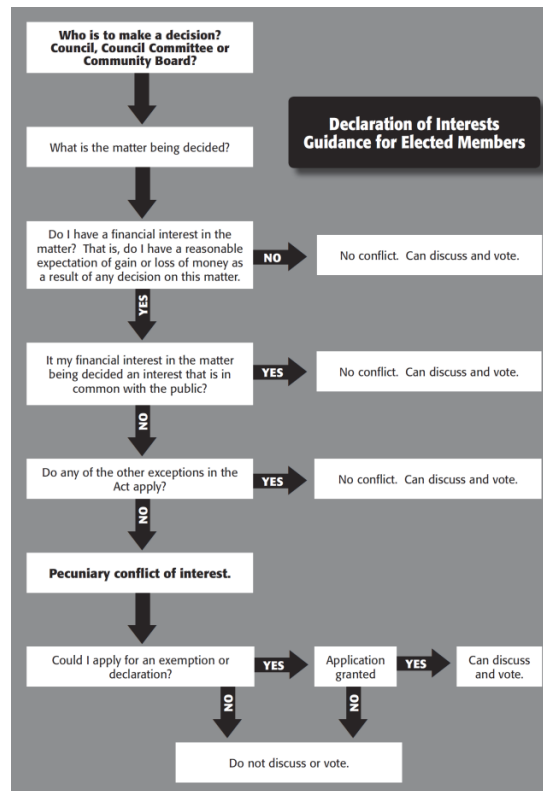
Members are encouraged to consider the items on the agenda and disclose whether they believe they have a financial or non-financial interest in any of the items in terms of Council's Code of Conduct.

Councillors are encouraged to advise the Governance Assistant, of any changes required to their declared Members Interest Register.

The attached flowchart may assist members in making that determination (Appendix A from Code of Conduct).

### DRAFT RECOMMENDATION:

**That Members disclose any financial or non-financial interest in any of the agenda items.**



## **RISK AND AUDIT COMMITTEE**

**14 AUGUST 2024**

**AGENDA ITEM: 3**

**Prepared by** Paul Numan  
Group Manager Corporate Services

**Attachments** 1. Risk and Audit Committee Public Meeting Minutes 26 June 2024

### **CONFIRMATION OF PREVIOUS MINUTES**

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**1. DRAFT RECOMMENDATION**

**That the Risk and Audit Committee receive and confirm Public Meeting Minutes from 26 June 2024.**



**MEETING OF THE RISK AND AUDIT COMMITTEE, HELD AT 1:30PM ON WEDNESDAY 26 JUNE 2024 AT CLOCKTOWER CHAMBERS, PALMERSTON STREET, WESTPORT.**

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**PRESENT:** S Roche (Chair), Mayor J Cleine, Cr P Grafton, Cr Joanne Howard, Cr T O'Keefe, Cr A Pfahlert, Cr G Neylon, Cr R Sampson, Cr L Webb, Cr G Weston, Deputy Mayor A Basher

**IN ATTENDANCE VIA ELECTRONIC LINK:** Tracy Hatton – Resilient Organisations (Speaking to Agenda Item Six)

**IN ATTENDANCE:** S Pickford (CEO), P Numan (Group Manager Corporate Services), D Marshall (Finance Support), L Brooks (Manger Finance), K Trigg (Group Manager Community Services), D Rossiter (Project Manager), J Salmond (Senior Project Lead), P Bicknell (Programme Manager – Recovery), C Borrell (Governance Assistant), C McDonald (Governance Secretary), N Riley (Group Manager Regulatory Services), B Little (Policy Advisor)

**MEDIA:** Ellen Curnow (Westport News)

**PUBLIC FORUM:** **Kevin Smith** – Spoke to the Climate Adaptation Project Update Report (Future Buller). Specifically, he spoke to the flooding and history behind the flooding in Westport.

**MEETING DECLARED OPEN AT: 1:49PM**

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**1. APOLOGIES (Page 9)**

**Discussion:**

Cr C Reidy, N Tauwhare (Iwi Representative), Mayor J Cleine to depart from 2pm until 3pm for a prior arranged engagement.

**RESOLVED** That the Risk and Audit Committee receive apologies from Cr C Reidy, N Tauwhare (Iwi Representative), and accepts Mayor J Cleine request for leave of absence.

**Deputy Mayor A Basher / Cr P Grafton**  
11/11

**CARRIED UNANIMOUSLY**



**2. MEMBERS INTEREST (Page 10)****Discussion:**

Nil

**RESOLVED** that Members disclose any financial or non-financial interest in any of the agenda items.

**Mayor J Cleine / Cr G Weston**

**11/11**

**CARRIED UNANIMOUSLY**

**3. CONFIRMATION OF MINUTES (Page 11)****Discussion:**

Nil

**RESOLVED** That the Risk and Audit Committee receive and confirm the Public minutes from the meeting of 17 April 2024.

**Deputy Mayor A Basher / Cr A Pfahlert**

**11/11**

**CARRIED UNANIMOUSLY**

**4. ACTION POINTS (Page 20)****Discussion:**

Action Point 237, 240, 241, 242 and 243 marked as completed.

**RESOLVED** that the Risk and Audit Committee receive the Action Point Report for information.

**Cr P Grafton / Cr T O'Keefe**

**11/11**

**CARRIED UNANIMOUSLY**

**5. RISK AND AUDIT WORKPLAN REPORT (Page 25)****Discussion:**

**RESOLVED** that the Risk and Audit Committee receive the Risk and Audit Work Plan for information.

**Deputy Mayor A Basher / Cr G Weston**

**11/11**

**CARRIED UNANIMOUSLY**

**6. CLIMATE CHANGE ADAPTATION/FUTURE BULLER UPDATE REPORT (Page 27)****Discussion:**

Mayor J Cleine departed the meeting at 1:54PM

D Rossiter answered questions on the report and introduced Tracy Hatton (Resilient Organisations) who is contributing to the project.

Tracy Hatton spoke to the project and the next steps it is going to take.

Details for the next round of community consultation are being developed to bring to the next RAC meeting in August.

Phase One commitments were introducing the project to the community and trying to build that ongoing relationship with the community and made clear that this was not a one off conversation and as the project develops the community will be engaged. The other key commitment in phase one is that the community will be listened to and that this project is community lead.

Page 38 – Mokihinui spelling to be corrected *noted and amended*

The project information is hosted via the Buller District Council website and there is a Future Buller Project Portal where the community can access the information and provide feedback.

**RESOLVED** That the Risk and Audit Committee receives the Climate Adaptation Project Update Report for information.

**Cr P Grafton / Cr G Weston**

**10/10**

**CARRIED UNANIMOUSLY**

**7. NEMA, IAF AND BETTER OFF FUNDING PROJECT STATUS REPORT SUMMARIES FROM PROJECTS IN PARTNERSHIP (Page 58)**

**Discussion:**

P Bicknell spoke to the report and answered Councillors questions.

A question was asked around the Better Off Funding outstanding claims. It was noted that most of these claims have been received.

Those that were submitted in December 2023 were paid in February 2024.

Most of February and March 2024 claims have been received. There were further claims submitted in April and May 2024 that will be included in a follow up report.

**RESOLVED** That Risk and Audit Committee receive the Reports and Minutes from the March Projects in Partnership meeting.

**Deputy Mayor A Basher / Cr A Pfahlert**

**10/10**

**CARRIED UNANIMOUSLY**

**8. RESERVE AND HALL SUBCOMMITTEES UPDATE (Page 83)**

**Discussion:**

K Trigg spoke to the report and answered questions.

Cr A Pfahlert departed the room 2:18PM

Cr A Pfahlert returned 2:20PM

**RESOLVED** That the Risk and Audit Committee

1. Receives the Reserves and Hall Subcommittees Update Report for information.

2.Thanks the members of the reserves and halls subcommittees for their continuing work and contribution to their communities.

**Cr G Neylon / Cr T O'Keefe**  
**10/10**  
**CARRIED UNANIMOUSLY**

**9. STATEMENT OF INTENT – BULLER HOLDINGS LTD GROUP FOR THE YEAR ENDED 30 JUNE 2025 (Page 89)**

**Discussion:**

Cr L Webb departed the room 2:22PM

Cr L Webb returned 2:25PM

Discussion was had around strategic alignment and risk management for Council in relation to Buller Holdings Limited (BHL). Councillors provided feedback about what they would like to see reported back by BHL.

S Roche will be reporting back to Director Graves after the Risk and Audit Committee meeting and advise him of these recommendations.

L Brooks spoke to how costs would be integrated to the Enhanced Annual Plan and the Long Term Plan.

D Marshall spoke to the asset management plan and how the costs would be integrated into the Long Term Plan.

**RESOLVED** That the Risk and Audit Committee recommends to the Council that it adopt the Statement of Intent for Buller Holdings Limited, WestReef Services Limited, and Buller Recreation Limited which are combined into one document named the Buller Holdings Group Statement of Intent for the year ending 30 June 2025.

**Cr T O'Keefe / Cr P Grafton**  
**9/1**  
**MOTION CARRIED**

**10. STATEMENT OF INTENT – WESTPORT AIRPORT AUTHORITY (Page 113)**

**Discussion:**

A question was raised around how sustainable Airport operations will be going into the future.

It was suggested that this be looked at as part of the Long Term Plan.

Mayor J Cleine returned to the meeting at 2:41PM

**RESOLVED** That the Risk and Audit Committee recommends to the Council that it adopt the Statement of Intent for the Westport Airport Authority for the year ending 30 June 2025.

**Cr T O'Keefe / Deputy Mayor A Basher**

9/1/1

**Mayor J Cleine abstained as he was not present for the discussion.  
MOTION CARRIED**

**11. BULLER HOLDINGS LTD - FINANCIAL REPORT TO 31 MARCH 2024 (Page 123)**

**Discussion:**

Page 133 - the second table has no key/reference. D Marshall to reach out to Buller Holdings Limited to have this corrected. It is believed to be admission numbers.

**RESOLVED** That the Risk and Audit Committee receives the Quarterly Buller Holdings Limited Financial Report to 31 March 2024 for information.

**Cr A Pfahlert / Deputy Mayor A Basher**

**11/11**

**CARRIED UNANIMOUSLY**

**12. BULLER HOLDINGS UPDATE ON DIRECTOR REMUNERATION, EVALUATION AND EXPRESSIONS OF INTEREST - JUNE 2024 (Page 142)**

**Discussion:**

Cr R Sampson and Cr P Grafton have agreed to be part of the panel that undertakes the evaluation and interview process.

*Recommendation a) was left on the table, as Councillors felt it was more appropriate to address this as part of the appointment and evaluation process.*

*Recommendation b) ii has been amended from ‘Undertake the interview process and recommend to the Council the appointment of 3 directors to Buller Holdings and its subsidiaries from the 2024 Annual General Meeting of each company’*

*To:*

*‘Undertake the interview process and recommend to the Council the appointment of 3 directors to Buller Holdings Ltd at its 2024 Annual General Meeting.’*

*Recommendation b) iii. and b) iv were added as new recommendations.*

**RESOLVED** That the Risk and Audit Committee:

~~a) recommend to the Council that the directors fees payable to the directors of Buller Holdings Limited be increased by 5.8% from the 2024 AGM as per the Institute of Directors snapshot fee review.~~

b) Form a panel consisting of Independent Chair Roche, Mayor J Cleine and Cr R Sampson and Cr P Grafton to:

- i. Undertake the annual directors evaluation process.
- ii. Undertake the interview process and recommend to the Council the appointment of 3 directors to Buller Holdings Ltd at its 2024 Annual General Meeting.

- iii. Make a recommendation for an appointment of a Chairperson.
- iv. Make a recommendation with regard to Director's remuneration.

**Cr G Neylon / Deputy Mayor A Basher**

11/11

**CARRIED UNANIMOUSLY**

Cr T O'Keefe departed the room at 3:02PM

**13. PORT & DREDGE – MAY 2024 OPERATIONS REPORT (Page 156)**

**Discussion:**

D Marshall answered questions pertaining to the report.

Deputy Mayor A Basher departed the room at 3:04PM

Deputy Mayor A Basher returned 3:05PM

**RESOLVED** That the Risk and Audit Committee receives the Port and Dredge – May 2024 Operations Report for information.

**Cr G Neylon / Cr A Pfahlert**

10/10

**Cr T O'Keefe was not present for the vote**

**CARRIED UNANIMOUSLY**

**14. FINANCIAL REPORT: 31 MARCH 2024 (Page 161)**

**Discussion:**

D Marshall answered questions pertaining to the report.

**RESOLVED** That the Risk and Audit Committee receive the financial report for the nine months ended 31 March 2024 for information.

**Cr A Pfahlert / Cr P Grafton**

10/10

**Cr T O'Keefe was not present for the vote**

**CARRIED UNANIMOUSLY**

**15. INVESTMENTS AND BORROWINGS REPORT – AS AT 31 MAY 2024 (Page 172)**

**Discussion:**

Cr R Sampson departed the room at 3:09PM

D Marshall spoke to the report and it was requested that updates are provided to Councillors as they come to hand instead of waiting until the August Risk and Audit Committee Meeting.

Cr T O'Keefe returned 3:10PM

Cr R Sampson returned 3:10PM

**RESOLVED** That the Risk and Audit Committee receive the Investments and Borrowings report as at 31 May 2024 for information.

**Deputy Mayor A Basher /Cr G Weston**

10/0/1  
**Cr T O'Keefe abstained as she was not present for the discussion.  
 CARRIED UNANIMOUSLY**

**16. DEBT MANAGEMENT REPORT 30 APRIL 2024 (Page 184)**

**Discussion:**

D Marshall answered questions pertaining to the report.

**RESOLVED** That Risk and Audit Committee receive the debt recovery report as at 30 April 2024 for information.

**Cr T O'Keefe / Cr Joanne Howard  
 11/11  
 CARRIED UNANIMOUSLY**

**17. BYLAWS AND POLICIES (Page 191)**

**Discussion:**

Attachment 2 is incorrect and needs to be updated. It was handed as a physical attachment to Councillors and will be amended after the meeting.

B Little spoke to the report and answered Councillor's questions.

**RESOLVED** That the Risk and Audit Committee:

- a) Receives the Bylaws and Policies Report for information.
- b) Notes the projected work schedule for the review of bylaws and policies; and
- c) Notes that staff will investigate a Distribution of Development and Financial Contributions (Reserve Fund) Policy for this committee's consideration.

**S Roche / Cr P Grafton  
 11/11  
 CARRIED UNANIMOUSLY**

**18. STRATEGIC RISK REGISTER UPDATE JUNE 2024 (Page 206)**

**Discussion:**

Page 219 - April 2024 should read August 2024 *noted and amended*

**RESOLVED** That the Risk and Audit Committee:

- a) Note the updates received for the strategic risk register as at June 2024.
- b) Note that a Councillor workshop will be held during July - September to progress work on the Strategic Risk Register.
- c) That Council staff report back at the October Risk and Audit Committee meeting on the updated Strategic Risk Register.

**Cr G Neylon / Cr T O'Keefe**  
**11/11**  
**CARRIED UNANIMOUSLY**

S Roche thanked D Marshall and L Brooks for their hard work and notes that this will be their last Risk and Audit Committee Meeting.

**PUBLIC FORUM RESPONSE:**

S Roche will acknowledge Mr Smith and his concerns with a written response.

**19. PUBLIC EXCLUDED REPORT (Page 219)**

**Discussion:** Nil

**RESOLVED** that the public be excluded from the following parts of the proceedings of this meeting.

<b>Item No.</b>	<b>Minutes/ Report of:</b>	<b>General Subject</b>	<b>Reason For Passing Resolution under LGOIMA</b>
<b>PE 1</b>	Paul Numan – Group Manager Corporate Services	Confirmation of Previous Public Excluded Minutes	<b>(s 7(2)(i))</b> - enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations); or  <b>(s 7(2)(j))</b> - prevent the disclosure or use of official information for improper gain or improper advantage.
<b>PE 2</b>	Simon Pickford – Chief Executive Officer	LGOIMA Policy	<b>(s 7(2)(a))</b> - Protect the privacy of natural persons, including that of deceased natural persons;
<b>PE 3</b>	Simon Pickford – Chief Executive Officer	Project Management Update	<b>(s 7(2)(f))</b> - Maintain the effective conduct of public affairs through the protection of such members, officers, employees, and persons from improper pressure or harassment
<b>PE 4</b>	Paul Numan – Group Manager Corporate Services	Expression of Interest applications for Buller Holdings and subsidiaries	<b>(s 7(2)(a))</b> - Protect the privacy of natural persons, including that of deceased natural persons;
<b>PE 5</b>	Paul Numan – Group Manager Corporate Services	BHL/BDC Governance Meeting Minutes	<b>(s 7(2)(i))</b> - enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations); or

**S Roche / Cr G Neylon  
11/11  
CARRIED UNANIMOUSLY**

**MOVED INTO PUBLIC EXCLUDED AT 3:35PM  
MEETING ADJOURNED 3:35PM**



**RISK AND AUDIT COMMITTEE**

**14 AUGUST 2024**

**AGENDA ITEM: 4**

**Prepared by** Paul Numan  
Group Manager Corporate Services

**Attachment:** 1. Risk and Audit Committee Action Points August 2024

**ACTION POINTS**

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**1. DRAFT RECOMMENDATION**

**That the Risk and Audit Committee receive the August Action Point report for information.**

## RAC Action Points - CURRENT

No.	Meeting Of / Action Point	Responsible	Update:	Date Required By:
218	<b>16 August 2023</b> <b>Pump Stations</b> Lifting of pump stations to be added to the Strategic Risk Register.	<del>D Marshall</del> <b>P Numan</b>	This item will remain on the action point report until it is transferred to the strategic risk register when it is completed in mid-2024 calendar year <b>Deferred to October Risk and Audit Committee Meeting</b>	<del>13 September 2023</del> <del>11 October 2023</del> <del>26 June 2024</del> <del>14 August 2024</del> <b>16 October 2024</b>
228	<b>15 November 2023</b> <b>Strategic Risk Register</b> D Marshall to bring first draft of updated SRR to March RAC.	<del>D Marshall</del> <b>P Numan</b>	Update report included in agenda Strategic Risk Register review due to be completed by June 2024 <b>Deferred to October Risk and Audit Committee Meeting following a Council workshop on 28 August 2024 run by Phil Rossiter which will cover Strategic Risk Register Review and Update. Please refer to the revised Risk and Audit Committee Work Plan.</b>	<del>26 June 2024</del> <del>14 August 2024</del> <b>16 October 2024</b>
229	<b>15 November 2023</b> <b>Information Management Project</b> D Marshall to go back through LTPs from the beginning of this project to look at budget allocations.  D Marshall to provide the monetary value in 2024/25 Enhanced Annual Plan.	<del>D Marshall</del> <b>P Numan</b>	The following information has been updated to reflect the actual spend v budget spend to 29 February 2024, forecast spend to 30 June 2024.  From 1 July 2024, an allowance has been placed each year of \$40,000 per annum to continue the digitisation process of council files. Any funding unspent from the project budget to 30 June 2024 will be carried forward into the 2024/2025 financial year.	<b>14 August 2024</b>

Information Management Programme				
Financial summary as at 28 February 2024				
Financial periods	Forecast	Actual	Budget	
To 30 June 2022	\$102,000	\$102,000	\$328,000	
July 2022 to June 2023	\$229,000	\$229,000	\$219,000	
July 2023 to 28 February 2024	\$64,000	\$63,829	\$70,000	
1 March 2024 to 30 June 2024	\$40,000		\$30,000	
After 1 July 2024 - carry forward	\$212,000			
<b>Total</b>	<b>\$647,000</b>	<b>\$394,829</b>	<b>\$647,000</b>	
LTP <b>annual</b> provision from 1 July 2024			\$40,000	

## RAC Action Points - CURRENT

No.	Meeting Of / Action Point	Responsible	Update:	Date Required By:
			<p>Update 14 August 2024:</p> <p><b>2211551840. Digitisation and Storage of Files</b></p> <p>2023/24 unspent budget* \$31,811            2024/25 budget \$39,393  <b>Total available to spend \$71,204</b></p> <p><b>2210551840. IM project</b></p> <p>2023/24 unspent budget* \$107,361            2024/25 budget \$5,423  <b>Total available to spend \$112,784</b></p> <p><b>*unspent budgets will need to be approved to be carried forward by Council, these are prior year carryover budgets plus 2023/24 budgets that are unspent at 30 June 2024.</b></p>	
233	<p><b>14 Feb 2024</b>  <b>PE: PIP IAF Funded Projects</b>            Staff to ensure climate change adaptation is identified in SRR</p>	<p><del>D Marshall</del>  <b>P Numan</b></p>	<p>Risk identified and will be included within the Strategic Risk Register review due to be completed by June 2024  <b>Deferred to October Risk and Audit Committee Meeting</b></p>	<p><del>March 2024 RAC</del>  <del>26 June 2024</del>  <del>14 August 2024</del>  <b>16 October 2024</b></p>
235	<p><b>14 Feb 2024</b>  <b>Slumpage in wharf back wall</b>            Staff noted that harbour land adjacent to Cobden St has problem with slumpage in the wharf back wall. Council Engineers advised that the slumpage relates to a broken stormwater pipe and repair costs are not able to be claimed via the flood recovery process. The repairs will be funded from the Council stormwater and harbour accounts.</p>	<p><del>D Marshall</del>  <b>W Dunlop</b></p>	<p><del>Staff to advise when work is complete</del>  <b>IS advise there are a number of steps required in the Cobden St Storm water outfall repair as follows;</b></p> <ul style="list-style-type: none"> <li>• <b>Currently awaiting storm water modelling data specific to Cobden St which is expected late August 2024.</b></li> <li>• <b>Following this Davis Olgivie (DO) will be engaged for final solution and design engineering continuing on from site assessment and optioneering stages already completed by DO.</b></li> <li>• <b>QS/Scope price final design and finalise budget allocation.</b></li> <li>• <b>Undertake construction procurement – noting Procurement starting late Oct 2024 (pending Wayde Dunlop approval to proceed)</b></li> </ul> <p><del>Staff to advise when work is complete.</del></p>	<p><del>26 June 2024</del>  <del>14 August 2024</del>  <b>On Going</b></p>

## RAC Action Points - CURRENT

No.	Meeting Of / Action Point	Responsible	Update:	Date Required By:
236	<p><b>14 Feb 2024</b>  <b>Crack in Buller Coal Ltd shed floor</b>            Recent media coverage was discussed about this topic. The shed is located on council owned land and councillors were concerned there might be an exposure to the council if this cracking became a larger problem. Staff advised that the problem is not that of council, but councillors asked to keep the matter on the Action Points for future monitoring.</p>	<p><del>D Marshall</del>  <b>P Numan</b></p>	<p>Staff to advise if any further issues arise.</p>	<p>On Going</p>
244	<p><b>17 April 2024</b>  <b>Capital Receipts And Expenditure To 31 December 2023 Update</b>            D Marshall to provide a report to the June Risk and Audit Committee meeting regarding the original proposal to amalgamate the Reefton Service Centre and the original budget broken down</p>	<p><del>D Marshall</del>  <b>P Numan</b></p>	<p>Moved to August Risk and Audit, as the capacity of the Finance Team is limited with the preparation of the Enhanced Annual Plan.  <b>This item is not on the Agenda as it was removed by the Senior Leadership Team. Please refer to the revised Risk and Audit Committee Work Plan.</b></p>	<p><del>26 June 2024</del>  <del>14 August 2024</del>  <b>16 October 2024</b></p>
245	<p><b>26 June 2024</b>  <b>LGOIMA Charging Policy</b>            Staff to bring back a draft policy for consideration</p>	<p><b>S Pickford</b></p>	<p>This item will be addressed on the agenda</p>	<p>14 August 2024</p>

## RISK AND AUDIT COMMITTEE

14 AUGUST 2024

AGENDA ITEM: 5

**Prepared by:** Paul Numan  
Group Manager Corporate Services

**Attachments:** 1. Risk and Audit Committee Work Plan June 2024  
2. Risk and Audit Committee Revised Work Plan August 2024

### RISK AND AUDIT WORK PLAN

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#### 1. DRAFT RECOMMENDATION

1. That the Risk and Audit Committee receive the revised Risk and Audit Work Plan for information.

2. That the Risk and Audit Committee adopt the revised Risk and Audit Work Plan as outlined in Attachment 2

#### 2. CAPACITY OF THE CORPORATE SERVICES TEAM

The capacity of the Corporate Services team is limited given vacancies. The Manager Finance and the Management Accountant recruitment is underway, accordingly there is limited capacity which has been reprioritised with a focus on closing out the 22/23 Annual Report, ongoing work with the 23/24 Annual Report and finance support to the wider organisation.

The Risk and Audit Committee Work Plan has been adjusted to reflect this after a meeting with the Independent Chair of the Risk and Audit Committee.

The following two reports have not been provided to the August Risk and Audit Committee Agenda following a discussion and decision by the Senior Leadership Team:

- **CAPITAL RECEIPTS AND EXPENDITURE**

After the recent disestablishment of the Project Management Office (PMO), a new Capital Reporting Regime is being developed by the Infrastructure Manager of Capital Works. This will align with the Capital Receipts and Expenditure Report that will come to the Risk and Audit Committee in December.

- **MONTHLY FINANCIAL PERFORMANCE REPORTS**

June financial performance results are not available due to the Corporate Services Team priorities as outlined above.

Risk and Audit Committee  
Proposed Programme 2024 Calendar Year

Categories/Reports Proposed	SLT Member	Reporting Officer	February	March	April	May	June	July	August	September	October	November	December
<b>Risk &amp; Assurance Items</b>													
Ernst & Young Report on BDC's Annual Report and its Preparation	CFO	Finance Manager		Moved to April	✓								
Strategic Risk Register Update	CFO	CFO		✓	✓		✓				✓		✓
Strategic Risk Framework Review	CFO	CFO							✓				
Health and Safety Report Update	CFO	HR		✓			✓		✓				✓
BHL Letter of Expectation	CFO												✓
CCO Statements of Intent	CFO	Finance Manager		Draft			Final						
CCO Director Appointments and Remuneration	CFO	Finance Manager			Review Appointments and remuneration levels								
CCO Exemption Paper (required every 3 years)	CFO	Finance Manager	✓										
BHL Quarterly Financials	CFO	Finance Manager	✓				✓				✓		
BHL Annual Report (adopt is required under law by 30 Sept each year)	CFO	Finance Manager									✓		
Westport Airport Authority Financials - 30 June	CFO	Finance Manager							✓				
Westport Airport Authority Financials - Half year	CFO	Finance Manager	✓						✓				
Insurance	CFO	Management Accountant					Insurance Update Report				Insurance Update Report		Finalise
Review of Procurement Policy	IS	Manager Infrastructure Delivery/CFO			✓		✓						
Update on By-law review process	CEO	Community Services Manager											
Review of BDC Created Policy	CFO	CFO					✓				✓		
Review of Business Continuity Plan	CFO	CFO	✓						✓				
LGOIMA report	CEO	CEO	✓				✓		✓				✓
<b>Internal Audits</b>													
Dredge Activities	CFO	Project Accountant	✓				✓		✓		✓		
Harbour Activities	CFO	Project Accountant					✓		✓		✓		
Follow-up on Ernst & Young Matters Raised in their Annual Report	CFO	Finance Manager					EY Closing Report		✓				✓
Follow-up on matters raised in Morrison Lowe report													
<b>Monitoring Items</b>													
BDC Quarterly / Half Yearly Financials	CFO	Finance Manager	✓				✓						✓
BDC Monthly Financial Performance Report	CFO	Financial Accountant		Report to be issued pre meeting			✓				✓		✓
BDC Investments and Borrowings	CFO	Finance Manager	✓	✓	✓	✓	✓		✓		✓		✓
BDC Debt Management - Sundry and Rates	CFO	Finance Manager		✓			✓		✓				✓
BDC Capital Receipts and Expenditure	CFO	Financial Accountant		✓			✓						✓
PIP Report	CEO	CEO	✓	✓	✓	✓	✓		✓		✓		✓
Capital Report Multi-Year Projects							✓		✓				
KPMG Update	CEO	CEO					✓		✓		✓		✓

The highlighted reports have been updated on the Revised Work Plan Document

The following items are not directly related to the Risk & Audit work programme but are provided to note when staff have key programmes of work

Major Financially Based Reports to be Prepared in the 2024 Calendar Year													
Annual Plan					Adopt draft & Consultation	Consultation & Hearings	Adoption						
Long Term Plan							Adoption		Preparation of draft	Preparation of draft	Preparation of draft	Preparation of draft	Preparation of draft
BDC Annual Report							Interim Audit	Preparation of Annual Report	Preparation of Annual Report	Preparation of Annual Report	Adoption Annual Report - Audit opinion issued	Publish Annual Report & Summary Document	
Rating Policy Review													
Rating Policy Review			Preparation and review - 3 waters rates	Preparation and review - 3 waters rates	Consultation part of Enhanced Annual Plan	Hearings part of Enhanced Annual Plan	Adoption part of Enhanced Annual Plan			Preparation and review - general rates	Preparation and review - general rates	Preparation and review - general rates	Preparation and review - general rates

Risk and Audit Committee  
Proposed Programme 2024 Calendar Year Updated August 2024

Categories/Reports Proposed	SLT Member	Reporting Officer	February	March	April	May	June	July	August	September	October	November	December
<b>Risk &amp; Assurance Items</b>													
Ernst & Young Report on BDC's Annual Report and its Preparation	GM Corporate Services	Finance Manager		Moved to April									
Strategic Risk Register Update and Framework Review	GM Corporate Services	GM Corporate Services		√	√		√				√		√
Health and Safety Report Update	GM Corporate Services	Human Resources		√			√		√				√
BHL Letter of Expectation	GM Corporate Services												√
CCO Statements of Intent	GM Corporate Services	Finance Manager		Draft			Final						
CCO Director Appointments and Remuneration	GM Corporate Services	Finance Manager			Review Appointments and remuneration levels								
CCO Exemption Paper (required every 3 years)	GM Corporate Services	Finance Manager	√										
BHL Quarterly Financials	GM Corporate Services	Finance Manager	√				√				√		
BHL Annual Report (adopt is required under law by 30 Sept each year)	GM Corporate Services	Finance Manager									√		
Westport Airport Authority Financials - 30 June	GM Corporate Services	Finance Manager					√						
Westport Airport Authority Financials - Half year	GM Corporate Services	Finance Manager	√										√
Insurance	GM Corporate Services	Management Accountant					Insurance Update Report				Insurance Update Report		Finalise
Review of Procurement Policy	GM Infrastructure Services	Manager Infrastructure Delivery/CFO			√		√						
Update on By-law review process	CEO	Community Services Manager					√		√		√		√
Review of BDC Created Policy	GM Corporate Services	GM Corporate Services					√				√		
Review of Business Continuity Plan	GM Regulatory Services	CEO	√								√		
LGQIMA report	CEO	CEO	√				√		√		√		√
Projects in Partnership	GM Corporate Services						√		√		√		√
Reserve and Hall Subcommittee Update	GM Community Services						√		√		√		√
<b>Internal Audits</b>													
Dredge Activities	GM Corporate Services	Project Accountant	√				√				√		
Harbour Activities	GM Corporate Services	Project Accountant					√				√		
Follow-up on Ernst & Young Matters Raised in their Annual Report	GM Corporate Services	Finance Manager					EY Closing Report		√				√
Follow-up on matters raised in Morrison Lowe report									√				
<b>Monitoring Items</b>													
BDC Quarterly / Half Yearly Financials	GM Corporate Services	Finance Manager	√				√						√
BDC Monthly Financial Performance Report	GM Corporate Services	Financial Accountant		Report to be issued pre meeting			√				√		√
BDC Investments and Borrowings	GM Corporate Services	Finance Manager	√	√	√	√	√				√		√
BDC Debt Management - Sundry and Rates	GM Corporate Services	Finance Manager		√			√						√
BDC Capital Receipts and Expenditure	GM Corporate Services	Financial Accountant		√			√						√
PIP Report	CEO	CEO	√	√	√	√	√		√		√		√
Capital Report Multi-Year Projects							√		√		√		√
KPMG Update	CEO	CEO							√		√		√
The following items are not directly related to the Risk & Audit work programme but are provided to note when staff have key programmes of work													
<b>Major Financially Based Reports to be Prepared in the 2024 Calendar Year</b>													
Annual Plan					Adopt draft & Consultation	Consultation & Hearings	Adoption						
Long Term Plan							Adoption		Preparation of draft	Preparation of draft	Preparation of draft	Preparation of draft	Preparation of draft
BDC Annual Report							Interim Audit	Preparation of Annual Report	Preparation of Annual Report	Preparation of Annual Report	Adoption Annual Report - Audit opinion issued	Publish Annual Report & Summary Document	
<b>Rating Policy Review</b>													
Rating Policy Review			Preparation and review - 3 waters rates	Preparation and review - 3 waters rates	Consultation part of Enhanced Annual Plan	Hearings part of Enhanced Annual Plan	Adoption part of Enhanced Annual Plan			Preparation and review - general rates	Preparation and review - general rates	Preparation and review - general rates	Preparation and review - general rates

## **RISK AND AUDIT COMMITTEE**

**14 AUGUST 2024**

**AGENDA ITEM: 6**

**Prepared by:** Paul Numan  
Group Manager Corporate Services

### **VERBAL UPDATES**

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**1. DRAFT RECOMMENDATION**

**1. That the Risk and Audit Committee receive the By-Law Policy verbal update for information.**

**2. That the Risk and Audit Committee receive the 22/23 Annual Report verbal update for information.**

**2. BY-LAW POLICY**

A verbal update will be provided by Krissy Trigg (Group Manager Community Services)

**3. 22/23 ANNUAL REPORT**

A verbal update will be provided by Paul Numan (Group Manager Corporate Services)



## RISK AND AUDIT COMMITTEE

14 AUGUST 2024

AGENDA ITEM: 7

**Prepared by** Penny Bicknell  
Programme Manager – NEMA & BoF

Steve Garner  
Programme Manager - IAF

**Reviewed by** Paul Numan  
Group Manager Corporate Services

**Attachments**

1. NEMA Projects Status Report May 24
2. Better Off Funded Projects Status Report May 24
3. IAF Projects Status Report May 24
4. Projects in Partnership – Confirmed Minutes 10 June 2024

### **NEMA, IAF AND BETTER OFF FUNDING PROJECT STATUS REPORT SUMMARIES FROM PROJECTS IN PARTNERSHIP**

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#### **1. REPORT PURPOSE**

The purpose of this report is to bring the Risk and Audit Committee a summary of the Project Status Reports for NEMA, IAF and Better Off Funded projects for month end May 2024 (April 2024 financials) and the Minutes of 10 June 2024 Projects in Partnership Meeting.

#### **2. DRAFT RECOMMENDATIONS**

**That Risk and Audit Committee receive the Reports and Minutes from the March Projects in Partnership meeting.**

### **3. SUMMARY**

Key points to note from each of the Programmes of Work for April/May:

#### **3.1 NEMA Projects**

- 3 Waters work package 1-5. Closing out of the final project – awaiting heritage report from Heritage Properties NZ as Brougham Street Brick Arch structure over 100 years old.
- Wastewater Betterment project — installation of the fourth pump station scheduled for 2<sup>nd</sup> week June.
- Stormwater Betterment project – Coates Street completed.
- Westport Port Repairs – Contract awarded to HEB Construction. NEMA approved reappropriation of underspends of \$300k from the Tranche 2 programme to the Port Repairs project. Practical completion March 2025

#### **3.2 IAF Projects**

- Design projects on track. The need to do some additional hydrographic work re Lagoon Creek to determine the bridge deck height on Alma Road has been identified and a PCN has been approved for the additional work.
- Staff will attend a TToP Pre Hearing meeting in June to discuss rezoning proposals for Alma Road. Substantive Hearings on residential zoning to be held in July.
- IAF construction funding is currently conditional on the TToP rezoning in the Alma Road McPadden Road area.

#### **3.3 Better Off Funded Projects**

- Crown Infrastructure Partner approved claims of \$138k but have held payment until they have received the funders version of the KPMG report.
- Good progress on 3 Waters projects with Westport WaStop project completed and Henley Street stormwater outfall upgrade completed.
- Master planning stage BoF project completed
- Granity Fundraising Hall nearing completion.

### **4. CONSIDERATIONS**

#### **5.1 Strategic Alignment**

Not relevant to this report

#### **5.2 Significance Assessment**

Not relevant to this report

### **5.3 Tangata Whenua Considerations**

The contents of the report are not a matter requiring consultation with tangata whenua.

### **5.4 Risk Management Implications**

All projects/initiatives carry a low-risk threshold for Council and a full risk register for each project is completed.

### **5.5 Policy Framework Implications**

Council must comply with the relevant policy and legal requirements of the “Better Off” funding agreement, including the Water Services Act 2021, Health Act 1956, the Health and Safety at Work Act 2015, the Resource Management Act 1991, Local Government Act 2002 and Council’s own Procurement Policies and Delivery Guidelines.

### **5.6 Legal Implications**

No legal implications are foreseen.

### **5.7 Financial / Budget Implications**

All eligible costs for these projects are funded through NEMA and DIA funding agreements.

### **5.8 Media/Publicity**

Publicity is expected across these projects through the delivery phases.

### **5.9 Consultation Considerations**

The team will work to ensure affected parties and stakeholders will be included and consulted throughout the programme delivery process.

## Project Status Report – NEMA Projects overview – May 2024



### Programme/Project Details

<b>Location and Region:</b>	Buller District
<b>Contracted Amount:</b>	\$17.1 million of which \$10.6 million is for 'out of policy' repairs. Eligible infrastructure repairs are covered under the normal policy of 60% Govt/40% Council. Cabinet approved 'out of policy' for Betterment projects, Dredging and the 40% Council share. BDC share is the threshold payments for each event and any insurance claim deductions.
<b>Reporting Period:</b>	May 2024 (Financials to 30 April 2024)
<b>Project Principal:</b>	Buller District Council (BDC)
<b>Project Partner(s):</b>	NEMA
<b>Programme Manager:</b>	Penny Bicknell
<b>Programme Outcomes:</b>	<p>Flood Recovery Infrastructure repairs relating to the July 2021 and February 2022 weather events. The Programme of Works covers Infrastructure repairs approved by Cabinet for Tranche 2 in June 2022.</p> <p>The Programme of works includes the following work packages (WP):</p> <ul style="list-style-type: none"> <li>• WP 1-5: 3 Waters repairs (completed)</li> <li>• WP 6 Betterment Projects (out of policy)</li> <li>• WP 7 Westport Port Repairs</li> <li>• WP 8 Westport Dredging Project (out of policy)</li> <li>• WP 9 Inangahua River Projects <ul style="list-style-type: none"> <li>○ Reefton Historic Landfill (completed)</li> <li>○ Reefton Stopbank repairs (completed)</li> </ul> </li> <li>• WP 10 Tiphead repairs (completed)</li> <li>• Programme Manager</li> </ul>


Project Overview/traffic Light Status/High-Level Summary (G = Green; A = Amber; R = Red)		
Aspect	Status	Comments
Overall:	G	<ul style="list-style-type: none"> <li>Overall, the programme is nearing completion by the end of the financial year with the exception of the Wharf Repairs</li> <li>Wharf repair contract awarded.</li> </ul>
Budget:	G	<ul style="list-style-type: none"> <li>\$17,144,191</li> </ul>
Scope:	G	<ul style="list-style-type: none"> <li>All projects within scope</li> </ul>
Resource:	G	<ul style="list-style-type: none"> <li>Resource assigned to each project as required</li> </ul>
Schedule:	A	<ul style="list-style-type: none"> <li>Schedule for each project - see page 4. Currently all scheduled to be completed by the end of the financial year except for the Wharf Repair</li> </ul>
Risks / Issues:	G	<ul style="list-style-type: none"> <li>All programmes have a Risk and Issues matrix.</li> </ul>

State of Play	
Last Month (May)	Next Month (June)
<ul style="list-style-type: none"> <li>• WP1-5 One final project– Brougham Street Brick Arch – completed</li> <li>• All other projects in WP 1-5 are complete and all assets transferred back to the asset owner.</li> <li>• WP6 Betterment: <ul style="list-style-type: none"> <li>○ WW Pump stations – 4<sup>th</sup> pump station cabinet completed</li> <li>○ WWTP Grit &amp; Sediment - Brick House Technologies - In production. Future work out of IAF budget</li> <li>○ Alt Drinking Water options – report completed</li> <li>○ Coates Street – construction completed</li> </ul> </li> <li>• WP7 Westport Port Repairs. <ul style="list-style-type: none"> <li>○ Procurement Contract executed</li> <li>○ NEMA approved reappropriation of \$300k from surplus</li> <li>○ Agreed project oversight meeting timeframes with NEMA</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Awaiting final heritage report from Heritage Properties NZ as part of mandated process for structures over 100 years of age.</li> <li>• WP6 Betterment: <ul style="list-style-type: none"> <li>○ Pump stations – 4<sup>th</sup> Pump station – Bright Street to be installed</li> <li>○ WWTP Grit &amp; Sediment - Monitoring production and payment plan</li> </ul> </li> <li>• WP7 Westport Port Repairs. <ul style="list-style-type: none"> <li>○ Suppliers debrief meetings</li> <li>○ Progress site management plan documentation and key stakeholder liaison</li> <li>○ Additional investigation work for risk management and value optimization purposes in relation to ground conditions</li> </ul> </li> </ul>

## Project Schedule

NEMA T2 Project Schedule																										
Project	2022						2023												2024						Comments	
	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun		
WP 1-5 3 Waters	Construction continued from emergency repair works																									Project Complete
WP 6 Betterment Projects						Planning and Design			Construction																	7 projects completed by end June. 1 project jointly funded with IAF project complete by end June 2024 (WWTP grit & sediment screen) to be delivered August 24 with delayed payment plan
WP7 Westport Wharf				Planning and Design																						Schedule to May 2025 <span style="color: orange;">→</span>
WP8 Dredging						Dredging commenced																				Complete June 24
WP9 - Reefton Stopbank	River training								River training																	Project Complete
WP 9 Reefton Landfill			Planning and Design						Construction								River training									Project Complete
WP10 Tiphead Revetment				Planning and Design			Construction																			Project Complete

## Financials (30 April 2024)

## Budget and Expenditure Summary.

NEMA Tranche 2 Programme For Period 2023/24- April							
	CURRENT BUDGET (Total)	TOTAL COST TO DATE	TOTAL REVENUE TO DATE	Claims	FORECAST COST TO COMPLETE	FORECAST AT COMPLETION	PROJECT VARIANCE
<b>WP1-5 3 Waters Repairs</b>	<b>0</b>	<b>2,233,167</b>	<b>(2,029,665)</b>	<b>203,502</b>	<b>(203,502)</b>	<b>0</b>	<b>0</b>
Expenses	2,511,751	2,233,167	0	0	278,584	2,511,751	0
Revenue	(2,511,751)	0	(2,029,665)	203,502	(482,086)	(2,511,751)	0
<b>WP6 3W Betterment Projects</b>	<b>0</b>	<b>1,212,924</b>	<b>(797,057)</b>	<b>415,866</b>	<b>(415,866)</b>	<b>0</b>	<b>0</b>
Expenses	1,582,000	1,212,924			369,076	1,582,000	0
Revenue	(1,582,000)		(797,057)	415,866	(784,943)	(1,582,000)	0
<b>WP7 Westport Port Repairs</b>	<b>0</b>	<b>353,384</b>	<b>(308,094)</b>	<b>45,290</b>	<b>(45,290)</b>	<b>0</b>	<b>0</b>
Expenses	5,920,000	353,384			5,566,616	5,920,000	0
Revenue	(5,920,000)		(308,094)	45,290	(5,611,906)	(5,920,000)	0
<b>WP8 Westport Dredging Project</b>	<b>0</b>	<b>3,969,000</b>	<b>(3,654,000)</b>	<b>315,000</b>	<b>(315,000)</b>	<b>0</b>	<b>0</b>
Expenses	4,716,000	3,969,000			747,000	4,716,000	0
Revenue	(4,716,000)		(3,654,000)	315,000	(1,062,000)	(4,716,000)	0
<b>WP9 Inangahua Landfill</b>	<b>0</b>	<b>938,228</b>	<b>(938,228)</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
Expenses	1,074,000	938,228			0	938,228	135,772
Revenue	(1,074,000)		(938,228)	0	0	(938,228)	(135,772)
<b>WP9 Reefton Camp Ground</b>	<b>0</b>	<b>59,238</b>	<b>(59,238)</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
Expenses	150,000	59,238			0	59,238	90,762
Revenue	(150,000)		(59,238)	0	0	(59,238)	(90,762)
<b>WP10 Tiphead Repairs</b>	<b>0</b>	<b>759,419</b>	<b>(707,603)</b>	<b>51,816</b>	<b>(51,816)</b>	<b>0</b>	<b>0</b>
Expenses	1,000,000	759,419			0	759,419	240,581
Revenue	(1,000,000)		(707,603)	51,816	(51,816)	(759,419)	(240,581)
<b>Programme Management</b>	<b>0</b>	<b>152,815</b>	<b>(143,214)</b>	<b>9,601</b>	<b>(9,601)</b>	<b>0</b>	<b>0</b>
Expenses	190,440	152,815			37,625	190,440	0
Revenue	(190,440)		(143,214)	9,601	(47,226)	(190,440)	0
<b>TOTAL</b>							
Expenses	17,144,191	9,678,176		0	6,998,901	16,677,076	467,115
Revenue	(17,144,191)		(8,637,100)	1,041,076	(8,039,977)	(16,677,076)	(467,115)
Deductions	0				0		
<b>Total</b>	<b>0</b>	<b>9,678,176</b>	<b>(8,637,100)</b>	<b>1,041,076</b>	<b>(1,041,076)</b>	<b>0</b>	<b>0</b>



**Claims to NEMA**

	Costs	Threshold	on Hold	Ineligible	Invoiced	Paid	Paid from \$1mil advance
Pre Tranche 2 (60%)	457,843.15	- 173,850.00	-	-	-	-	283,993.15
Claim 1	957,121	- 174,914			782,207	782,207	-
Claim 2 (40%)	441,549				179,231	179,231	262,317.83
Claim 3	632,903		- 91,028	- 4,297	537,578	537,578	-
Claim 4	1,104,415		- 18,088	- 1,354	1,084,973	1,084,973	-
Claim 5	730,721				730,721	730,721	-
Claim 6	55,405				55,405	55,405	-
Claim 7	938,899		24,009*		962,908	962,908	-
Claim 8	661,351		- 13,495	- 285	647,571	647,571	-
Claim 9	578,430		- 4,028		574,402	574,402	-
Claim 10	590,520		- 32,499		558,021	558,021	-
Claim 11	587,976		- - 17,706	-	570,271	570,271	-
Claim 12	191,734				191,734	191,734	-
Claim 13	109,185				109,185	109,185	
Claim 14	675,573				675,573		
Claim 15	637,286				637,286		
To claim	785,106		-	-	-	-	-
	<b>9,678,176</b>	<b>- 348,764</b>	<b>- 152,834</b>	<b>- 5,936</b>	<b>8,297,067</b>	<b>6,984,208</b>	<b>262,318</b>
	-	* includes \$52,170 resolved from Claim 3					

NEMA T2 Programme Surplus Report April 2024	Budget	Final Cost	Surplus	40%
<b>Completed Project</b>				
Tiphead (final report July 2023)	\$ 1,000,000	\$ 759,419	\$ 240,581	\$ 96,232
Reefton Campground (financial report updated September 2023)	\$ 150,000	\$ 59,238	\$ 90,762	\$ 36,305
Reefton Landfill (financial report January 2024)	\$ 1,074,000	\$ 938,228	\$ 135,772	\$ 54,309
WP 1-5 3 Waters (financial report March 2024)subject to final report	\$ 2,511,751	\$ 2,250,305	\$ 261,446	\$ 104,578
Betterment (financial report March) surplus of Alt Water options (100% - out of policy)				\$ 36,776
<b>Total surplus available for recommendation for reappropriation to another T2 project</b>				<b>\$ 328,200</b>

## Communications

### An update on media, marketing and communication activity for the programme/project

A media release is planned for the completion of WP1-5 \$2.5m programme at completion of Brougham Street Brick Arch and for the Coates Street Stormwater work, including letters to affected residents

A media release will be drafted on contract confirmation of the Westport Wharf repairs

## Project Status Report – Better Off Funding Projects overview – May 2024



### Programme/Project Details

<b>Location and Region:</b>	Buller District
<b>Contracted Amount:</b>	\$3,500,000
<b>Reporting Period:</b>	May 2024 (April 2024 financials)
<b>Project Principal:</b>	Buller District Council (BDC)
<b>Project Partner(s):</b>	DIA (Crown Infrastructure)
<b>Programme Manager:</b>	Penny Bicknell
<b>Programme Outcomes:</b>	The scope is made up of 13 projects approved by DIA that meet the funding criteria and demonstrate wellbeing outcomes.

Project Overview/traffic Light Status/High-Level Summary (G = Green; A = Amber; R = Red)		
Aspect	Status	Comments
<b>Overall:</b>	G	The programme was prioritised by Council and approved by Crown Infrastructure and DIA
<b>Budget:</b>	G	\$3,500,000
<b>Scope:</b>	G	<p>The Programme of works includes the following approved projects:</p> <ul style="list-style-type: none"> <li>• Three Waters projects</li> <li>• Reefton Wastewater/Stormwater modelling</li> <li>• Climate Change Adaptation and Master Planning</li> <li>• Community Hub Feasibility Study and Concept Designs</li> <li>• Civil Defence Procurement</li> <li>• Airport Relocation options study (completed)</li> <li>• Karamea Reserve Water Supply (completed)</li> <li>• Westport Emergency Water supply</li> <li>• Reefton Campground Accommodation</li> <li>• Westport Stormwater/wastewater work</li> <li>• Test bore and sampling for non-compliant water supplies - Little Wanganui and Mokihinui</li> <li>• Granity Fundraising Centre</li> <li>• Ngakawau Swimming Pool improvements</li> </ul>
<b>Resource:</b>	G	Resource to be assigned to each project as required
<b>Schedule:</b>	G	Schedule for each project to be determined. Final deadline for Crown Infrastructure projects programme is 30 June 2027
<b>Risks / Issues:</b>	A	Scope of works may need to be reduced in some projects to ensure they remain in budget
	R	Crown Infrastructure reimbursement payments on hold until receipt of KPMG report

State of Play	
Last Month (May)	Next Month (June)
<ul style="list-style-type: none"> <li>• 4 claims approved</li> <li>• 3 Waters – Westport WaStops and Henley Street stormwater outfall upgrade projects complete</li> <li>• Reefton stormwater/wastewater modelling – Project handed over to Project Manager who is completing documentation and held meeting with Davis Ogilvie to discuss scope.</li> <li>• Climate Change Adaptation – Focus on data collection for Risk Explorer and future community engagement</li> <li>• Master Planning - Stage 1 – Vision - Complete</li> <li>• Community Hub Feasibility Study - Feasibility study completed, and Buller Resilience Trust funding paid to Homebuilders Trust for cofounding of Concept study</li> <li>• Civil Defence – Bulk of procurement complete</li> <li>• Airport Relocation Options study - Report completed –submitted to SLT</li> <li>• Westport Critical Water supply – Tanks installed</li> <li>• Reefton Campground cabins - Consult with ICB and full Council re public notification. Progress external funding discussions. Met 3 waters team to confirm design and proposed upgrades to campground SW and WW systems</li> <li>• Test bore and sampling for non-compliant water supplies - Little Wanganui and Mokihinui – Bores drilled in both locations. Groundwater found in Mokihinui, none in Little Wanganui. Water quality poor.</li> <li>• Westport Wastewater/Stormwater separation work – Quote received from WestReef for 2 Bright and 14 Palmerston SW separation</li> <li>• Ngakawau Swimming Pool improvements – Completed funding agreement and EPO.</li> <li>• Granity Fundraising Centre – awaiting final cladding</li> </ul>	<ul style="list-style-type: none"> <li>• Submit further claims for reimbursement.</li> <li>• 3 Waters – Finalise construction scope for Inangahua projects.</li> <li>• Procurement of Consultant to be progressed. Possible risk of insufficient budget to complete scope</li> <li>• 3-way budget with WCRC and BDC BAU for ground water investigations stage 2 with Aqualinc underway – meeting June</li> <li>• Complete</li> <li>• Finalise project plan for the additional \$50k concept funding with additional funding approved from Buller Resilience Trust. Prepare workshop for Council to be held in July.</li> <li>• Funding on EOC equipment and community groups. Project completion by end June</li> <li>• Complete</li> <li>• Westport Critical Water supply – Completion of all installations by end June</li> <li>• Reefton Campground cabins – Prepare Public consultation. complete site plan and upload to campground website. Follow up with planners/Dextera. Project group meeting.</li> <li>• No further action - Completed</li> <li>• Procurement plan and docs to be completed. WestReef managing construction phase</li> <li>• Works set to commence 1 July with completion end November.</li> <li>• Granity Fundraising Centre to be completed.</li> </ul>

**Project Road Map/Schedule - (Deadline for completion 30 June 2027)**

Project task	Feb 2023	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan 2024	Feb	Mar	Apr	May	Jun	Jul	Comments
3 Waters																			Construction to be complete by July 2024
Reefton WW/SW modelling																			Completion date to be confirmed
Climate Change Adaptation																			Ongoing – linked to other funding. Final \$20k to be committed to Aqualink ground water study
Master planning (Stage 1)																			Completed – on budget
Community Hub feasibility study																			Feasibility study completed. Project plan to be developed for concept design \$50k
Civil Defence																			Complete by end June
Airport relocations options study																			Study completed. Surplus funding to be reallocated to water project
Karamea Reserve Water																			Completed – final report to DIA
Westport critical Water Supply																			Site installation
Reefton Campground																			➔ Public consultation. Project to tender stage approx. Aug/Sept 24
Westport Stormwater/Wastewater																			➔ Procurement plan and docs being completed. Estimated completion end Sept
Test Bores & Sampling																			Completed. Surplus funding to be reallocated



## Communications

### An update on media, marketing and communication activity for the programme/project

Westport News reported on the request to reprioritise funding from Waimangaroa and Westport smoke testing projects and the subsequent discussions at the April Council meeting. Better off Funding Tranche 2 funding has been withdrawn by Government.

Westport News reported on the additional funding available of \$950k from the Westport Wastewater/stormwater smoke testing project and Waimangaroa water project discontinuation.

Westport News reported on the allocation of \$300k to Reefton Campground Accommodation

Westport News reported on the Council workshop in September and the outcome of the Council meeting for the unallocated funding of \$650k

Cultural Community Hub working group met with Westport News Reporter in November to ensure correct facts are in the public domain

Westport News reported on DIA directive of expenditure on water infrastructure rather than Community projects.

Emergency Water - Comms to Westport Community w/c 12 April after first tank installed

Media release being developed for WaStops completion under the 3 Waters BoF funding



**BULLER DISTRICT COUNCIL - Commercial infrastructure - Infrastructure Strategy - IAF - Stage 2 Pre-Implementation**

Programme/Project Details	
<b>Location and Region:</b>	Alma Road Westport
<b>Project Budget:</b>	\$1,300,500
<b>Reporting Period (ending):</b>	May-2024
<b>Financial Period End</b>	April-2024
<b>Project Principal:</b>	Buller District Council
<b>Project Partner(s):</b>	Kainga Ora
<b>Project Manager:</b>	Steve Garner
<b>Programme Outcomes:</b>	The IAF stage 1&2 programme will manage the procurement and delivery of detailed design for the Transport, Water Supply & Wastewater and Stormwater IAF projects. The programme will deliver detailed designs for each project by December 2024.



**Project Overview/traffic Light Status/High-Level Summary ( G = Green- Good ; A = Amber- Warning; R = Red - Issue)**

Aspect	Status	Comments
<b>Overall:</b>	G	Delivery Plan executed December 2023
<b>Budget:</b>	G	Second claim lodged, third claim being prepared
<b>Scope:</b>	G	Scope agreed
<b>Resource:</b>	G	No issues
<b>Schedule:</b>	G	Revised schedule agreed
<b>Risks / Issues:</b>	G	No new risks or issues

Current Updated Programme	
Previous Reporting Period	Next Reporting Period
Transport RFP evaluated and contract awarded. Policy research to support implementation of low pressure sewer underway. TToP pre hearing documentation preparation. Wastewater design projects continue on track. Fast Track consenting research	Commence Transport design. Establish community reference group for IAF projects. Attend TToP pre hearing. WWTP Safety in Design review workshop.

**Updated Project Road Map/Schedule**

Project task	2024												Comments	
	Jan	Feb	March	April	May	June	July	August	Sept	Oct	Nov	Dec		
Planning and BDC Approvals	Yellow													Budget and PMO documents approved
Design contracting	Yellow	Yellow	Yellow											
Design		Yellow	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow	Water main design complete, Wastewater design commenced, WWTP design now due for completion in July, Transport RFP closed with 2 tenders received and contract for design let
Asset Manager accepts designs											Yellow	Yellow		
Construction tender documents complete												Yellow		
Handover and Asset Manager Acceptance												Yellow		

Milestones				
Milestone / Task	Baseline Finish	Forecast/Actual Finish	% completion	Comments
Sponsor approves PMO documents	24-Jan-24	31-Jan-24	100%	
Programme procurement plan approved by sponsor	24-Jan-24	31-Jan-24	100%	
Programme budget approved by sponsor	24-Jan-24	31-Jan-24	100%	
Water Main detailed design	31-Mar-24	31-Mar-24	100%	
Cycleway preliminary design	30-Jun-24	9-Aug-24	5%	
Cycleway detailed design	1-Nov-24	25-Nov-24	0%	
Road and bridge preliminary design	1-Jul-24	9-Aug-24	0%	
Road and bridge detailed design	4-Nov-24	25-Nov-24	5%	
Stormwater detailed design	4-Nov-24	4-Nov-24	5%	
Wastewater stage 1 preliminary design	31-Jul-24	31-Jul-24	50%	
Wastewater stage 1 detailed design	31-Oct-24	31-Oct-24	0%	
Wastewater treatment plant detailed design	31-Mar-24	30-Jun-24	80%	

Financials									
Budget and expenditure summary									
Programme/Project Item	Approved Original Budget	Current Budget	Cost to Date (CTD)	Forecast Cost to Complete (FCC)	Final Forecast Cost (FFC)	FFC to Current Budget Variance	Reported Contingency	Status	Commentary
Transport -Pedestrian Cycleway - 10253	\$ 131,437	\$ 132,047	\$ 30,983	\$ 101,064	\$ 132,047	\$ 0	\$ -	Design Procurement	0
Transport-Intersection upgrade - 10254	\$ 262,866	\$ 262,256	\$ 58,563	\$ 203,692	\$ 262,256	\$ 0	\$ -	Design Procurement	0
WWTP Upgrade - 10257	\$ 142,500	\$ 130,439	\$ 82,286	\$ 48,153	\$ 130,439	-\$ 0	\$ -	In Design	0
WW Pressure Lines - 10258	\$ 247,000	\$ 259,061	\$ 53,064	\$ 181,535	\$ 234,599	\$ 24,462	\$ 24,462	In Design	0
Water Supply - Watermain Ext - 10261	\$ 64,550	\$ 64,550	\$ 69,028	\$ -	\$ 69,028	-\$ 4,478	\$ -	In Design	Water supply investigations for WWTP to be reimbursed by BAU.
Stormwater - 10259	\$ 81,599	\$ 81,599	\$ 35,312	\$ 46,287	\$ 81,599	-\$ 0	\$ -	design procurement	0
IAF Programme Management - 10252	\$ 370,548	\$ 370,548	\$ 267,413	\$ 103,135	\$ 370,548	\$ 0	\$ -	design procurement	0
<b>Total</b>	<b>\$ 1,300,500</b>	<b>\$ 1,300,500</b>	<b>\$ 596,649</b>	<b>\$ 683,866</b>	<b>\$ 1,280,516</b>	<b>\$ 19,984</b>	<b>\$ 24,462</b>		

Note that the budget above includes BDC contribution of \$200,468

Note: FCC and FFC exclude contingency

Risks/Issues/Outcomes		
Key risks and/or issues arising are detailed below (NB level of risk is relative to this project)		
Risk ID - Risk/Issue	Mitigation	Residual Risk
IAF - Stage 2 Pre-Implementation / 12 - Construction funding not available until TToP condition satisfied meaning BDC on risk for construction inflation	Negotiate earlier access to construction funding	9
IAF - Stage 2 Pre-Implementation / 9 - operating costs likely to be recovered in rates.	Include in community consultation with developers	6

**Communications**  
 An update on media, marketing and communication activity for the programme/project  
 March Community "drop in " session well supported. Connect article and BDC webpage under development for April release.

**Risk Key**

Risk Rating	Action, Escalation & Review Timeframe Needed	
20 – 25 <b>Extreme</b>	Risk Owner must immediately escalate risk to the SLT who considers escalating it to the Finance, Risk and Audit Committee.	
10 – 16 <b>High</b>	Risk Owner immediately escalates risk to the Risk Leader, and to the SLT if required.	
4 – 9 <b>Moderate</b>	Risk Owner monitors and reviews the effectiveness of risk controls and whether the risk rating has changed, on a monthly basis.	
1 – 3 <b>Low</b>	Retain all risks on the risk register and review those with a combined score of 1 or 2 on a 6-monthly basis and those with a combined score of 3 on a quarterly basis to ensure that the risk rating has not changed.	

Table 5: Likelihood of Occurrence

Likelihood	Score	Description
Almost certain	5	Event is expected to occur more than once in the next year
Likely	4	Event is expected to occur once in the next year
Possible	3	Event could occur at least once in the next two years
Unlikely	2	Event could occur at least once in the next 3 to 5 years
Rare	1	Event is unlikely to occur in the next 5 years

		Risk Assessment Matrix				
Consequence	Catastrophic (5)	5	10	15	20	25
	Major (4)	4	8	12	16	20
	Moderate (3)	3	6	9	12	15
	Minor (2)	2	4	6	8	10
	Insignificant (1)	1	2	3	4	5
		Rare (1)	Unlikely (2)	Possible (3)	Likely (4)	Almost certain (5)
		Likelihood				

**Projects in Partnership Meeting – Minutes**  
**Monday 10 June 2024**  
**4.00 – 5.00 pm, Clocktower Chambers and via Zoom**

**Present:**

- Chairperson and Mayor Jamie Cleine; Councillor Phil Grafton; BDC CEO Simon Pickford; Minute Taker Kirstin McKee
- Attending via Zoom; BDC GM Infrastructure Services Mike Duff; BDC Programme Manager - Recovery Penny Bicknell; NEMA Suzy Paisley; Kainga Ora Suresh Ram; BDC Contractor Steve Garner
- Apologies; Ngāti Waewae Ned Tauwhare; BDC GM Corporate Services Paul Numan

**1. Welcome and Introduction**

Meeting started at 4.01 pm.

**2. Previous Meeting Minutes**

Minutes from 13 May, Public and Public Excluded  
 No issues raised, clarified, or corrected.

**Minutes accepted as tabled**

**3. NEMA Tranche 2 Funding****NEMA Financials**

P Bicknell spoke to the report. A slight change on Tiphead repairs with \$1800 extra around retentions process to NEMA went through this month. Minor change to the amount that flows through to the surplus. Claim 16 currently with NEMA - \$648,570 .

**NEMA T2 Programme Surplus Report**

P Bicknell spoke to the report. Tiphead has reduced slightly. No change to Reefton landfill

3 Waters is now \$259K, (this is \$1K more in the finance in the PiP report as P Bicknell has recommended to keep \$1K as contingency payment retentions etc.).

Betterment projects – potential of 3 surplus areas here. Again slight difference to today's PiP report as the invoice this week from Davis Ogilvie was slightly below than what was forecast. Total surplus \$330,058. \$305,355 to go to wharf repair, request in with NEMA of \$25K to enable BDC to have additional programme management through to the end of the wharf repair next May.

**4. NEMA FUNDED PROJECTS****Work package 1-5 - 3 Waters repairs**

P Bicknell spoke to the reports.

**Brougham Street Brick Arch** – waiting for contractor to finalise.

**Betterment Projects WP 6**

**Pump Stations** – Final pump station due to be installed this week

**Alternative Water Options** Final report from Davis Ogilvie received yesterday.

**Grit and Sediment** – delivery is out to August, with final invoice from them this month as agreed with NEMA.

P Bicknell – BDC have requested from NEMA ~\$5K to be carried on for project management into this financial year so that the project manager signs off and does this final piece of reporting, also ensuring that the screen is to spec. Installation then goes over to the IAF funded portion.

To discuss in other business future of PiP meetings or do the remainder of reports go to Risk & Audit.

#### **Wharf Repair**

P Bicknell spoke to the report – Contractor signed up. Currently working with NEMA re payment planning and how quickly BDC can receive reimbursement on invoices.

Fortnightly meetings to be set up with NEMA, including Phil Rossiter, to ensure NEMA are aware of wharf repair progress.

Will be doing project change notices to move that funding around from each of the surpluses into the wharf to ensure the funding is in the correct budgets i.e. formalising the internal process to ensure budget in the right places. This has been confirmed via letter to John Price (NEMA) which has been responded too. J Price to visit Westport on 2 August.

P Grafton queried if the outstanding monies was resolved.

P Bicknell replied this is still being resolving, waiting until NEMA are comfortable with the KPMG report. There have been discussions ensuring this funding is available into the next financial year and is all in the costs to date.

S Pickford confirmed the KPMG report is a work in progress with all funders to receive a copy.

P Bicknell has discussed with NEMA (R Grounder, J Liu, S Chambers) re the fortnightly meetings with Rau Paenga and P Rossiter, have also floated the idea of moving any remaining PiP reports into RAC.

Keep S Paisley updated with decision re meetings i.e.. if required at RAC.

#### **S Paisley left meeting at 4.15pm**

#### **Dredging (verbal update)**

P Bicknell - some issues with bar becoming shallow, haven't managed as many shifts, however still confident to be completed end of June.

**The reports were accepted as tabled**

### **5. BOF FUNDING - DIA**

P Bicknell spoke to the reports. Claims update – letter received from Crown Infrastructure Partners last week that April/May claim for \$138,131 is on hold until they are satisfied with the KPMG report. BDC have responded that all of the claims were not run through the Project Management Office (PMO), currently waiting for a response.

Discussion re whether this needs to be reflected in the risk register, what are the next steps if CIP/DIA is not happy with the forensic audit. Also to consider with the uncertainty around the funding, is whether to reassess/stop spending on these community projects.

Discussion re funding already reimbursed to BDC, whether there was a possibility that this money would be asked to be paid back if CIP/DIA are not satisfied with the forensic report. P Bicknell

advised that NEMA had been asked this question, NEMA responded once it has been claimed and approved it wouldn't be revisited. Penny to check with S Apeldoorn at CIP.

### **3 Waters**

**Reefton Wastewater/Stormwater Modelling** – underway, being scoped, discussing with Davis Ogilive. There is a risk the scope might be bigger than budget.

**Community Hub Feasibility study** - concept study, received scoped document today.

**Civil Defence** – catch up with J Lennon to complete spending.

**Westport emergency water supply** – completed installations by end of month. Budget to be assessed as there may be a surplus available.

**Reefton Campground Cabins** – public consultation is underway.

**Little Wanganui & Mokihinui** – test bore and sampling shows poor water quality so drilling has been discontinued. \$15K in this budget awaiting final financial report.

\$30 K left over from the airport relocation and bore water testing.

Discussion re West Coast councils potentially setting up a CCO redeploying unspent Better off Funding to 3 Waters. CEO's meeting on Friday to scope out a Terms of Reference for this Tonkin & Taylor work. BDC have committed \$15.6K to this project.

M Duff – update re Northern Buller Water Supplies and finding alternatives – ground water option to Mokihinui and Little Wanganui is not available, therefore back to water catchment options.

### **3 Waters BOF**

P Bicknell spoke to the report, most projects completed. 2 Inangahua projects are in preliminary engineering work with access requirements being looked at, looking at finalising construction scope, this month going to tender. Westport stormwater upgrade -go through final scoping ready for design.

Looking at a contingency of around \$49K, with a better idea of this over the next two months. Overall will potentially have \$40 - \$60K worth of contingency available for other water projects.

**The reports were accepted as tabled**

## **6. IAF Funded projects**

S Garner spoke to the report - Design projects on track, need to do some additional hydrographic work re Lagoon Creek to determine the bridge deck height on Alma Road. The bridge design can't start until this information is available. A PCN has been approved for the additional work. This will be a variation to the current contract, which will delay the bridge design by approx. 3 months, should still finish within the delivery agreement with KO.

### **S Ram joined the meeting at 4.30pm**

Council has construction funding on risk if new residential zoning is not approved.

S Ram - residential zoning is specifically in the housing outcomes agreement to either go through a private plan change for residential zoning, or approach West Coast Regional Council to seek an assurance that land will be zoned residential, or that TTPP would be operating by the first quarter.

J Cleine queried if there could be a third option i.e. Resource consent under fast track application that BDC has already applied for.



S Ram confirmed that a resource consent which means the land can be used for residential purposes would have the same effect.

S Garner – discussion re pre-hearing with WCRC a fortnight ago, we presented a revised zoning map from what was in the original plan. That was done based on community feedback and also to try and mitigate any objections. A noise assessment report is being carried out to look at effects of rezoning that piece of land, currently working on this outcome. N Riley has also contracted a planning consultant to prepare and present expert evidence at the Hearing in July.

Further pre-hearing on 27 June, with hearings mid-July for 3 days. Working closely with WCRC to see if there is any potential for fast track or identify a specific piece of land that will go through the rezoning with some certainty to provide that reassurance to KO.

Discussion around potential for one or more super lot consent for residential development.

S Ram commented if BDC went through fast track and got a resource consent, along with a developer willing to take on staged development work, this would tick all the boxes.

**SR left the meeting at 4.40 pm**

**The report was accepted as tabled**

## **7. Other business**

PiP vs RAC - discussion Better off Funding and Wharf reports going to Risk & Audit Committee and discontinuing PiP meetings.

Wharf - fortnightly working progress meetings with NEMA, P Bicknell, P Rossiter and Rau Paenga, with monthly reports to go to NEMA and Rau Paenga, (also PiP). Query whether NEMA could come to Risk & Audit meeting for PiP section.

Decision to continue with PiP meetings at the moment.

**Information noted**

**No other matters were raised. The meeting closed at 4.50 pm**

# RISK AND AUDIT COMMITTEE

14 AUGUST 2024

AGENDA ITEM: 8

**Prepared by** Francesca Welte  
Health & Safety Advisor

**Reviewed by** Shantha Maharaj  
Human Resource Manager

## HEALTH AND SAFETY QUARTERLY REPORT 01 APRIL 2024 – 30 JUNE 2024

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### 1. REPORT SUMMARY

This Health and Safety report is intended to provide the Committee with insight into initiatives and activities including their progress as part of our organisational commitments to providing a safe and healthy workplace.

### 2. RECOMMENDATION

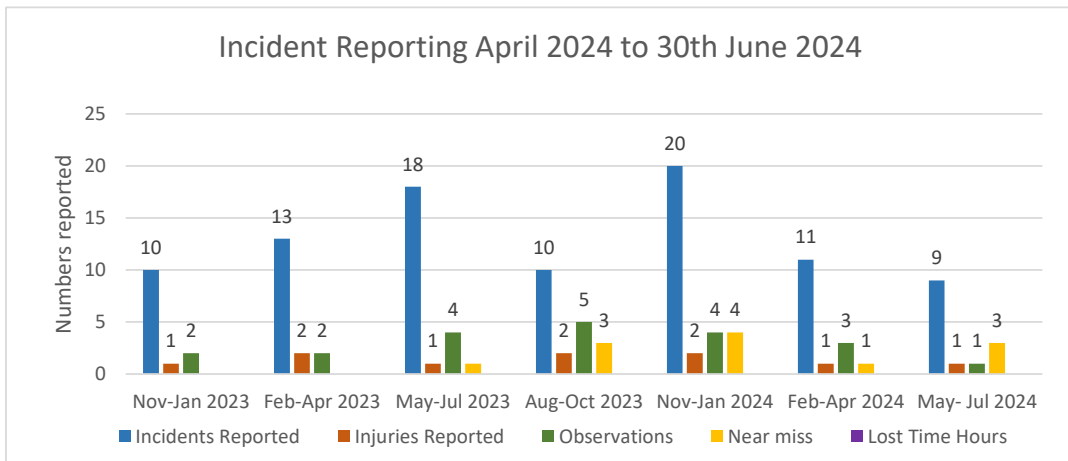
**The Risk and Audit Committee receive the Health and Safety Quarterly report for information.**

### 3. ISSUES & DISCUSSION

#### Health, Safety and Wellbeing in the Workplace:

Council adopted the new Health and Safety Management System - Damstra in July 2021, with implementation occurring across all of the Council's operations. Health and Safety and Human Resources are working together to ensure all staff go through a refresher training of Damstra and that all new staff are correctly inducted to Damstra and the incident reporting process.

From April 2024 to July 2024, there has been a range of incidents reported:



#### **4. DAMSTRA Reporting**

##### **Observations**

- Abusive member of public

##### **Incidents**

- Personal Safety for staff from members of the public
- Airport incidents
  - Equipment defective
  - Aircraft flying in no-fly zone
  - Gravel and stone chip build-up on the driveway
  - No radio calls used
  - Flat tyre on runway inspection vehicle
  - Powerline mains require maintenance

##### **Near Misses**

- Motorbike on fire at a nearby farmland (leaseholder) – Airport
- Personal Safety for staff from members of the public
- Report from councillor that playgrounds/reserves not meeting compliance -Infrastructure

##### **Injuries**

- Minor Cut / Laceration to leg – unstable fence at a property onsite visit

#### **5. Employee Welfare:**

We encourage all employees to actively participate in maintaining our positive work environment and report any concerns promptly. Our focus is to sustain a safe work environment including addressing bullying and harassment in compliance with health and safety laws and clearly defined policies.

Employees are encouraged to report incidents through various channels, and investigations into reported cases are conducted promptly, leading to appropriate actions and disciplinary measures if needed.

To further support the management of behaviours in our workplace, we are placing greater focus on continuous improvement through current policies, ongoing training, and awareness programs. These initiatives are designed to equip our employees with the knowledge and tools to recognise, prevent, and address any form of inappropriate behaviour, fostering a culture of respect and safety.

We partnered a couple of years ago with Workplace Support Services to enhance employee well-being and productivity by offering various support mechanisms within the workplace. These services typically include:

- Employee Assistance Programs (EAPs): Confidential counselling services to help employees deal with personal or work-related issues.
- Wellness Programs: Initiatives promoting physical and mental health, such as fitness activities, mindfulness sessions, and health screenings.
- Training and Development: Opportunities for professional growth and skill enhancement through workshops, courses, and on-the-job training.
- Support for Diversity and Inclusion: Programs to foster a diverse and inclusive workplace, ensuring all employees feel valued and respected.

## **6. Health & Safety Committee**

The Health & Safety Committee has resumed and will be held monthly. We have appointed a new Health & Safety Advisor to help drive and support the safety culture at Buller District Council. The Health & Safety Committee will be focusing on the following:

- Identifying and addressing workplace hazards
- Developing and reviewing safety policies and procedures
- Facilitating H&S communication between management and employees
- Providing training and resources
- Monitoring compliance
- Supporting employee wellbeing

## **7. Site Audits**

Every Manager and Team Leader, with support from the Health & Safety committee, will conduct site audits in the upcoming months. Identified issues will be addressed in subsequent Health & Safety meetings.

A new template will be created on Vault Check for easy mobile audits, with training sessions provided for required staff.

## **8. Health and Safety Organisational Next Steps**

- *Refresher and New Starter Induction to Damstra*: Ensuring all staff are correctly inducted and trained on incident reporting and the use of Damstra. Enhancements will ensure comprehensive safety training for new employees.
- *QR Code Rollout for Incident Reporting*: Ensuring all staff know how to report incidents easily at work and onsite.
- *Vehicle Policy*: Review the vehicle policy and booking system with the asset team and management with the view to streamline procedures.
- *First Aid/Fire Warden Training*: Conducting training and refresher sessions on emergency procedures, first aid, and fire safety. Designated fire wardens/first aiders will ensure safety during emergencies.

## **9. Training**

The following training will be delivered across the rest of this calendar year for key staff, including:

- First Aid training (including refresher training)
- Mental Health First Aid
- Situational Awareness Safety Training
- Health and Safety Representative training

## **10. Overview of Document Systems**

Key documents under review:

- Health & Safety Management Plans
- Health & Safety Policy
- Health & Safety Induction for new starters
- Emergency and Evacuations Plans
- Working alone Procedure
- Vehicle Policy

## RISK AND AUDIT COMMITTEE

14 AUGUST 2024

AGENDA ITEM: 9

**Prepared by** Jason Sellaiah  
Subcommittee Liaison Officer

**Reviewed by** Krissy Trigg  
Group Manager Community Services

**Public Excluded:** No

### APPOINTMENTS TO RESERVE AND HALL SUBCOMMITTEES

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#### 1. REPORT SUMMARY

This report asks the Risk and Audit Committee to appoint new members to the Little Wanganui Reserve & Hall, Karamea Reserve, Waimangaroa Reserve, Mokihinui Reserve & Hall and Ngakawau/Hector Reserve Subcommittees from their respective communities.

#### 2. DRAFT RECOMMENDATION

That the Risk and Audit Committee makes the following appointments to Reserve & Hall Subcommittees:

Subcommittee	Appointment
Little Wanganui Reserve & Hall	Donna Hills Jane Murphy
Karamea Reserve	Val Moynihan
Waimangaroa Reserve	Amba Waghorn
Mokihinui Reserve & Hall	Andrea Aitcheson Carol Woodward
Ngakawau/ Hector Reserve	Marie Standing

### **3. ISSUES & DISCUSSION**

#### **BACKGROUND**

Appointments to Reserve and Hall Subcommittees are made by the Risk and Audit Committee following recommendations from the individual Subcommittees. Recently a number of Subcommittees have recommended the appointment of new members. This report seeks the endorsement and formal approval of the Risk and Audit Committee for these appointments.

It is important to remember the Subcommittee members are volunteers from Buller communities who give their time for the betterment of their local reserves and halls. Council staff continue to provide ongoing support to the Subcommittees and Subcommittee members.

#### **RECOMMENDED NEW APPOINTMENTS**

- a) The Little Wanganui Reserve & Hall Subcommittee held a General Meeting on Tuesday 5 March 2024 at the Little Wanganui Hall. A motion was made to appoint 2 new members to the Subcommittee (Donna Hills and Jane Murphy). All members agreed that it would be the best way forward for the Subcommittee. The resolution was carried unanimously.
- b) The Karamea Reserve Subcommittee held a General Meeting on Tuesday 27 February 2024 at the Karamea RSA. A motion was made to appoint 1 new member to the Subcommittee (Val Moynihan). All members agreed that it would be the best way forward for the Subcommittee. The resolution was carried unanimously.
- c) The Waimangaroa Reserve Subcommittee held a General Meeting on Sunday 12 May 2024 at the Waimangaroa Reserve. A motion was made to appoint 1 new member to the Subcommittee (Amba Waghorn). All members agreed that it would be the best way forward for the Subcommittee. The resolution was carried unanimously. It is also noted that the resignation of one of the members has been received.
- d) The Mokihinui Reserve and Hall Subcommittee held a General Meeting on Saturday 6 April 2024 at the Mokihinui Hall. A motion was made to appoint 2 new members to the Subcommittee (Andrea Aitcheson and Carol Woodward). All members agreed that it would be the best way forward for the Subcommittee. The resolution was carried unanimously. It is also noted that the resignation of one of the members has been received.
- e) The Ngakawau/Hector Reserve Subcommittee held a General Meeting on Sunday 28 July 2024 at the Ngakawau Information Centre. A motion was made to appoint 1 new member to the Subcommittee (Marie Standing). All members

agreed that it would be the best way forward for the Subcommittee. The resolution was carried unanimously.

#### **4. CONSIDERATIONS**

##### **4.1 Strategic Impact**

The appointment of members to Subcommittees ensures that the management and maintenance of reserves and halls are aligned to the Council's policy and direction. Subcommittees made up of local community members allows for decisions to be made at a more localised level.

##### **4.2 Significance Assessment**

"Reserves" are listed as a strategic asset in Council's Significance and Engagement Policy. Appointing reserve and/or hall Subcommittees is not considered to be transferring control of these assets as they are Subcommittees of Council itself, and the ultimate responsibility, liability and control sits with Council. The decisions in this report are not considered to meet the threshold to be considered significant decisions under the Policy.

##### **4.3 Risk Management Implications**

Strategic – the appointment process is in line with the Council's overall Governance Structure.

##### **4.4 Values**

Subcommittees made up of local community members allows for decisions to be made at a more localised level this aligns with The Buller District Value Community Driven.

##### **4.5 Policy / Legal Considerations**

There is no legal context, issue or implication relevant to this decision

##### **4.6 Tangata Whenua Considerations**

The decision does not involve a significant decision in relation to ancestral land or a body of water or other elements of intrinsic value, therefore this decision does not specifically impact Tangata Whenua, their culture and traditions.

##### **4.7 Views of Those Affected**

This decision does not require consultation with the community or stakeholders.

##### **4.8 Costs**

There is no financial implication relevant to this decision.

**4.9 Benefits**

Provides an opportunity for the council and community to work together to ensure that public assets are used in the best way for the local community.

**4.10 Media / Publicity**

It is not expected that there will be any media interest in this report.



## RISK AND AUDIT COMMITTEE

14 AUGUST 2024

AGENDA ITEM: 10

**Prepared by** Michael Aitken  
Interim Group Manager Infrastructure

**Reviewed by** Simon Pickford  
Chief Executive Officer

**Attachments** 1. Update On Morrison Low Recommendations On Improvements

**Public Excluded:** No

### MORRISON LOW FOLLOW-UP UPDATE

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#### 1. REPORT SUMMARY

This report provides an update on progress in implementing the recommendations of the Morrison Low report from the PMO Review and the Infrastructure Health Check.

#### 2. DRAFT RECOMMENDATION

**That the Risk and Audit Committee:**

- 1. Receives the report on progress in implementing the recommendations of the Morrison Low report from the PMO Review and the Infrastructure Health Check.**
- 2. Notes that, with the disbanding of the PMO from 1 July 2024, the key recommendations of the PMO review are now complete.**
- 3. Notes that further reporting on progress against the Infrastructure Health Check will be included in the regular reporting on the Infrastructure Services.**

#### 3. ISSUES & DISCUSSION

##### BACKGROUND

The Risk and Audit Committee received reports from Morrison Low at its meeting of 11 October 2023. The report was released to the public and an initial update on

progress against the issues raised in the PMO Review and the Infrastructure Health Check was received by the Risk and Audit Committee at its meeting of 17 April 2024.

**Attachment 1** of this report has the key recommendation from the PMO review and staff comments as of 31 July 2024. Of critical note is the disbanding of the PMO office and the creation of a Capital Works Team as of 1 July 2024.

Also attached are notes on progress on the recommended improvements from the Infrastructure Health Check.

## **Discussion**

The Morrison Low report was instrumental in generating a series of improvements in the PMO and the wider Infrastructure Services.

With the disbanding of the PMO and the creation of the Capital Works Team within Infrastructure Services, the response to the key recommendations of the PMO Review is now complete with good practice incorporated into the working policies and procedures of the team.

The recommended improvements from the Infrastructure Health Check are well advanced and ongoing. These improvements are now part of the “business as usual” of the Infrastructure Services team.

Because of this, staff are recommending that this be the final specific report on the Morrison Low recommendations and that RAC and Council monitor the performance of the Infrastructure Services through existing reporting mechanisms.

## **4. CONSIDERATIONS**

### **4.1 Strategic Impact**

One of Council’s key strategies to achieve the vision of Council is Quality Infrastructure - providing reliable and sustainable infrastructure that meets the needs of current and future generations. The improvements in the PMO and in Infrastructure Health are vital to achieving that goal.

### **4.2 Significance Assessment**

The content included in this report is not considered significant because the matters disclosed are of a routine nature.

### **4.3 Risk Management Implications**

These decisions do not provide Council with a significant risk.

**4.4 Values**

These decisions align strongly with The Buller District Values, which are: Community Driven, One Team, Future Focussed, Integrity and We Care.

**4.5 Policy / Legal Considerations**

There is no legal context, issue or implication relevant to this decision.

**4.6 Tangata Whenua Considerations**

These decisions do not involve a significant decision in relation to ancestral land or a body of water or other elements of intrinsic value, therefore this decision does not specifically impact Tangata Whenua, their culture and traditions.

**4.7 Views of Those Affected**

These decisions do not require consultation with the community or stakeholders.

**4.8 Costs**

There is no financial implication relevant to these decisions.

**4.9 Benefits**

Good practice has been incorporated into the Capital Works Team programme of work and the wider Infrastructure Services team management of those assets in its portfolio leading to better outcomes for the community

**4.10 Media / Publicity**

The media may wish to report on this report. Staff do not believe there is any need for a publicity statement to be made.

## Attachment 1: Update on Morrison Low recommendations on improvements

The following are the key recommendations for the PMO as identified and reported to the Risk and Audit Committee in October 2023

### PMO Review

Item #	Key recommendation	Update as of 31 July 2024
1	An annual Business Plan for the PMO should be prepared to review objectives and purpose of the PMO, forecast works and identify resources.	PMO disestablished from 1 July 2024 with work picked up by Capital Works Team. Business plan will be prepared by 31 August 2024 documenting how the 2024/2025 enhanced annual plan projects allocated to it will be completed.
2	Capability and capacity of BDC and PMO resources to meet forecast demand (BAU and capital works) should be regularly reviewed.	Resources under ongoing review by Capital Works Team.
3	Council should seek to employ BDC staff in key roles such as the PMO Lead and project management while ensuring the processes and practices are maintained and enhanced.	Manager of Capital Works appointed 20 May 2024
4	Systems and processes for each project must be fit-for-purpose and right-sized (using those templates already developed as far as possible).	Programme and Project Management Procedure in pilot phase for 6 months. Template review also underway based on existing templates.
5	The Contractor panel should be reviewed regularly to ensure it is right sized for the known pipeline of work	Contractor panel review underway by the Capital Works Manager.

## Infrastructure Health Check

Area	Key recommendation	Update as at July 2024
<b>All Activities</b>	<ol style="list-style-type: none"> <li>1. Policy – Update the 2015 AM Policy to cover all infrastructure asset groups as part of the 2024 LTP.</li> <li>2. Systems – ensure that new processes, systems and templates developed through the PMO are implemented as appropriate across all activities.</li> </ol>	<ol style="list-style-type: none"> <li>1. Commencing as part of IS Management changes from 1-Jul-24</li> <li>2. Programme and Project Management Procedure in pilot phase for 6 months. Templates to follow through over the remainder of the year.</li> </ol>
<b>Three Waters</b>	<ol style="list-style-type: none"> <li>1. Demand:               <ol style="list-style-type: none"> <li>a. Implement the proposed zone metering and installing pressure reducing vales to reduce water leakage and to better understand demand.</li> <li>b. Continue with the resilience programmes to address stormwater infiltration into Westport’s wastewater network.</li> </ol> </li> <li>2. Data:               <ol style="list-style-type: none"> <li>a. Continue with the good data management processes so BDC’s are not stopped through the proposed transition phase.</li> <li>b. Ensure the significant asset condition data captured after the two storm events are adequately stored and managed in the asset management system.</li> </ol> </li> <li>3. Decision making processes – Apply Te Mana o te Wai and the hierarchy of obligations into BDC’s three water decision making processes.</li> <li>4. Risk – Finalise the Source Water Risk Management Plans in 2023 as scheduled.</li> <li>5. Operational planning – Review BDC’s trade waste processes to ensure it is metering its own bylaw. Explore a regional approach with shared services.</li> <li>6. Financial planning – Refine the three waters financial forecasts as part of the 2024 LTP to ensure these are up to date, accurate and meet asset and community needs.</li> </ol>	<ol style="list-style-type: none"> <li>1.a. Pressure Reduction programme commenced late 2023. Paused at 700Kpa (down form 850kPa) due to low pressure for fire hydrants and the Westport Wastewater Treatment Plant</li> <li>1.b. Smoke testing complete, remediation of BDC assets underway. 20 connections repaired, 9 scheduled and 31 unplanned.</li> <li>2.a. 3Waters reform has stopped, but asset capture and maintenance ongoing to best standards</li> <li>2.b. Considerable amount of work tagging CCTV to network assets. Structural ratings assessments now linked to asset register.</li> <li>3. Te Mana o te Wai remains at forefront of decision making. Iwi brought into discussions early.</li> <li>4. Water safety plans reviewed and updates late 2023.</li> <li>5. Issue found with Trade Waste Bylaw during re-evaluation process in mid-2023. Bylaw being rewritten and planned to be reintroduced to Council Oct-24.</li> <li>6. Ongoing as part of IS management changes.</li> </ol>

	<p>7. Audit and improvement – Start proactively monitoring the improvement programmes for BDC’s infrastructure assets (three waters, roading, parks and property, solid waste) as good industry practice.</p>	<p>7. Commencing as part of IS Management changes from 1-Jul-24</p>
<p><b>Roading and Transport</b></p>	<p>1. Demand:</p> <ul style="list-style-type: none"> <li>a. Monitor growth and demand on existing networks post COVID as visitors return and the district grows.</li> <li>b. Monitor networks and structures for HV volumes and loadings – impact on networks.</li> <li>c. Forecasting assumptions to be assessed further in general.</li> </ul> <p>2. Data:</p> <ul style="list-style-type: none"> <li>a. Continue with the good data management processes through RAMM and OBIS.</li> <li>b. Ensure the asset condition data captured after the two storm events are adequately stored and managed.</li> <li>c. Continue to work on filling gaps in asset data, including condition.</li> <li>d. Collection of footpath data to inform annual report LOS</li> </ul> <p>3. Decision making:</p> <ul style="list-style-type: none"> <li>a. Continue to work with the other West Coast Councils in delivering ‘joined up’ thinking and planning through the combined Activity Management Plan</li> <li>b. Continue to work towards an increased in-house team to enable more ownership and control in future planning and decision-making</li> </ul> <p>4. Risk – critical assets to be identified and managed appropriately.</p> <p>5. Financial planning – Ensure valuations and financial forecasts are up to date and incorporate any flood recovery/resilience works.</p>	<p>1.a. Monitoring average daily traffic via AgFirst traffic counts. Includes normal traffic and heavy traffic.</p> <p>WSP undertaking regular, scheduled inspections and proving assessment and recommendation reports.</p> <p>Continuing within new AMDS project and existing WSP contract</p> <p>Post storm RTS work identified and being updated in RAMM when completed</p> <p>RAMM data is monitored and regularly checked/audited.</p> <p>Footpath condition ratings reassessed in 2024 and RAMM has been updated</p> <p>Regular meetings held with the West Coast Regional Transport Partnership Group. Developed Joint West Coast Programme Business Case and Combined West Coast Activity Management Plan for Land Transport including roads.</p> <p>A Roding &amp; Transport Team Leader position has been created and being recruited for and will improve the planning and decision-making processes.</p> <p>WSP supplying bridge condition assessments and recommendations.</p> <p>AMDS project, when complete, should improve this process for 25/26, valuations almost concluded for 23/24 FYE.</p>

	<p>6. Audit and improvement – Proactively monitor and implement the improvement plan in the AMP.</p>	<p>R&amp;T have improved financial management systems and tracking performance monthly.</p>
<p><b>Other Asset Portfolios</b></p>	<p>1. Operational planning:</p> <ul style="list-style-type: none"> <li>a. Reset the rolling work programme for Housing for Seniors portfolio.</li> <li>b. Investigate a joint waste collection services contract with Grey and Westland District Councils in anticipation of BDC’s contract expiring and to response to the Government’s mandates and sector changes.</li> </ul> <p>2. Data:</p> <ul style="list-style-type: none"> <li>a. Complete the discovery process for improving the accuracy of the parks and property asset inventories.</li> <li>b. Start collecting asset condition of the parks and property portfolio to understand the current state.</li> </ul> <p>3. Systems – Select a suitable asset management system for parks and property assets as an alternative to Unity with three water assets removed.</p>	<p>1.a. Not started. Repairs and Maintenance being done as required. Property management requires appropriate staffing. Units being brought up to Healthy Homes standard and mostly complete and externally assessed,</p> <p>1.b. Meetings took place with Grey and Westland, each Council decided to put out three separate contracts at around the same time, to not discourage competition but also allow for the potential for one contractor to bid for all three contracts.</p> <p>2.a. BDC Subcommittee Liaison Officer has commenced work on this</p> <p>2.b. Will be picked up by the vacant Property Manager role.</p> <p>3. Budget approved for FYE 2025. Options being considered and evaluated. RAMM looking likely as the platform for this.</p>

## RISK AND AUDIT COMMITTEE

14 AUGUST 2024

AGENDA ITEM: 11

**Prepared by** Simon Pickford  
Chief Executive Officer

**Attachments** 1. Draft LGOIMA Charging Policy  
2. Charging - A guide to charging for official information under the OIA and LGOIMA

**Public Excluded:** No

### DRAFT LGOIMA CHARGING POLICY

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#### 1. REPORT SUMMARY

The purpose of this report is to provide the Risk and Audit Committee with a draft LGOIMA Charging Policy for consideration.

#### 2. DRAFT RECOMMENDATION

**That Risk and Audit Committee:**

- 1. Provide feedback on the Draft LGOIMA Charging Policy.**
- 2. Recommends to the Council that it adopt the Draft LGOIMA Charging Policy.**

#### 3. ISSUES & DISCUSSION

##### BACKGROUND

The Local Government Official Information Management Act (LGOIMA) allows people to request official information held by local government agencies. It contains rules for how such requests should be handled and provides a right to complain to the Ombudsman in certain situations.

The key purposes of the LGOIMA are to:



- progressively increase the availability of official information held by agencies, and
- promote the open and public transaction of business at meetings, in order to:
  - enable more effective public participation in decision making; and
  - promote the accountability of members and officials;
  - and so, enhance respect for the law and promote good local government; and
- protect official information and the deliberations of local authorities to the extent consistent with the public interest and the preservation of personal privacy.

The key purposes of the LGOIMA reflect competing interests between making information available and protecting it where necessary. In line with these competing interests, councils need to balance:

- considerations which favour releasing information; and
- considerations which favour refusing requests for information.

Council's legal requirement is to reply to requests for information made under the LGOIMA process within 20 working days.

At its meeting on 26 June 2024, the Risk and Audit Committee requested staff draft a LGOIMA Charging Policy for consideration (**Attachment 1**).

## **DISCUSSION**

From 1 January - 30 June BDC has received 79 LGOIMA requests. The average (staff) time it has taken to respond to the requests is 2.3 hours, with the shortest being 15 minutes and the longest being 14.5 hours.

Staff have spent approximately 175 hours to date responding to requests (8.75 weeks annualised). Staff are considering the charge out threshold for LGOIMA requests, whether it is based on hours and / or an assessment of public interest or both.

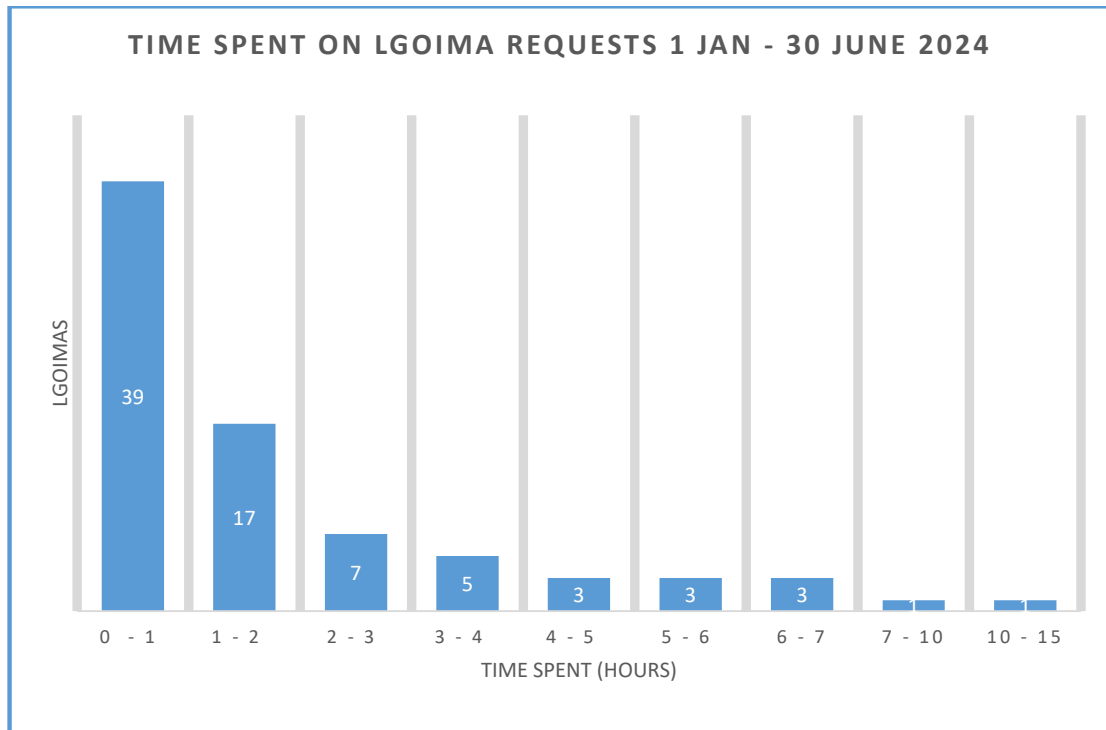
LGOIMA Increases from Previous Financial Years:

1 July 2020 – 30 June 2021	78
1 July 2021 – 30 June 2022	94
1 July 2022 – 30 June 2023	114
1 July 2023 – 30 June 2024	122

Since 2020/2021 there has been a 56% increase in LGOIMAs.

LGOIMA requests have also increased in their complexity and can also have a large financial element. For example, often the questions asked do not follow how

Buller District Council ledger structures are set up leading to an increase in staff time to collate a suitable response.



### Charging

Across the Local Government sector there is a range of views as to the benefit of charging for the requests. A guiding principle of LGOIMA is the 'principle of availability.' Charging could be an impediment to access to information and for this reason there has been a general reluctance to charge for collating information. However, there are some requests that have taken considerable time and effort and have diverted staff resource from progressing other key work.

The Ombudsman has provided a guide (the Guidelines) to charging for official information under the OIA and LGOIMA (**Attachment 2**).

LGOIMA mentions charging in the section dealing with decisions on requests (section 13 of the LGOIMA).

- An agency 'may charge for the supply of official information' (s 13(1A) LGOIMA)
- An agency that receives a request for official information must, within the statutory or extended timeframe, make and communicate its decision 'whether the request is to be granted and [if so] in what manner and for what charge (if any)' (s 13(1)(a) LGOIMA.)

- Any charge fixed must be 'reasonable,' and regard may be had to the cost of labour and materials involved in making the information available, and any costs incurred in meeting an urgent request (s 13(3) LGOIMA)
- An agency can require the whole or part of any charge to be paid in advance (s 13(4) LGOIMA)
- Complaints about charges can be investigated by the Ombudsman (s 27(1)(b) LGOIMA)

Council is therefore able to impose a reasonable charge to recover some of the costs of making the information available. The Guidelines state that it is not generally reasonable to charge for complying with 'simple' requests. However, it may be reasonable to recover some of the costs associated with requests for information that would require 'considerable labour and materials.'

The Guidelines note that what may be 'considerable' for a small organisation (e.g. BDC) will be different from a larger organisation with many more staff and resources. Therefore, it may be reasonable to charge if a request will have a significant impact on the ability to carry out other key work.

Charges cannot achieve full cost recovery as this would be inconsistent with the purpose of LGOIMA. Charges can be made for labour (searching for and collating information) and materials (paper, discs etc.) Charges cannot be made for decision making time, poor administration / record keeping etc.

The Government has issued Charging Guidelines to be followed by agencies subject to the OIA. The Charging Guidelines do not apply to local government but the Ombudsman states that Council are able to make their charging decisions in accordance with the guidelines if they choose. When deciding whether to charge, councils must consider any circumstances warranting 'remission' e.g. whether there is a compelling public interest in making the information available; and/or meeting the charge would be likely to cause hardship to the requester.

The attached draft policy is based on the Ministry of Justice Charging Guidelines for Official Information Act Requests.

## **4. CONSIDERATIONS**

### **4.1 Strategic Impact**

The effective management of the LGOIMA process is a critical component of public accountability and therefore is a cornerstone of Council's services

### **4.2 Significance Assessment**

This approach does not exceed the test for the Significance and Engagement Policy. There is no consultation required but it is worth noting the themes under which the questions are raised

**4.3 Risk Management Implications**

The failure to release information would be considered a key risk for the organisation. Every effort is made to release this information, under the specific requirements of the LGOIMA.

**4.4 Values**

The Buller District Values are Community Driven, One Team, Future Focussed, Integrity and We Care.

**4.5 Policy / Legal Considerations**

The legal considerations and policy are outlined above.

**4.6 Tangata Whenua Considerations**

There are no specific implications to our ongoing partnership with Iwi, save that for the enduring ability to work together as trusted partners.

**4.7 Views of Those Affected**

This decision does not require consultation with the community or stakeholders.

**4.8 Costs**

The cost of providing LGOIMA information is currently expected to be contained within existing operating budgets. This is largely staff time (approximately 350 hours / 8.75 weeks per annum) but there are occasions where third-party advice is sought, in particular legal advice, to ensure that any information released does not create any further or additional risk to Council by sharing private or commercially sensitive information.

An agency can charge for the supply of information under the LGOIMA, and any charge must be 'reasonable' and 'regard may be had to the cost of the labour and materials involved in making the information available'.

**4.10 Media / Publicity**

If Council resolves to implement a LGOIMA charging policy, communication will be undertaken with the media and community.



## CHARGING FOR LGOIMA REQUESTS POLICY

<i>Creation Date:</i>	<i>August 2024</i>	<i>Consulted on:</i>	<i>n/a</i>
<i>Approved Date:</i>		<i>Date for Review:</i>	<i>August 2027</i>
<i>Author:</i>	<i>Simon Pickford</i>	<i>Authorised by:</i>	
<i>Version:</i>	<i>1.0</i>		
<i>Also Refer to:</i>	<a href="http://www.legislation.govt.nz/act/public/1987/0174/latest/DLM122242.html">http://www.legislation.govt.nz/act/public/1987/0174/latest/DLM122242.html</a> <a href="https://www.justice.govt.nz/about/official-information-act-requests/directory-of-official-information/charging-guidelines-for-oia-requests/">https://www.justice.govt.nz/about/official-information-act-requests/directory-of-official-information/charging-guidelines-for-oia-requests/</a> <a href="https://www.ombudsman.parliament.nz/search?query=GUIDELINES+FOR+CHARGING">https://www.ombudsman.parliament.nz/search?query=GUIDELINES+FOR+CHARGING</a>		

### Overview:

LGOIMA aims to make official information held by local authorities more freely available. It allows for effective participation by the public in actions and decisions of the local authority and promotes open and public transparency of business of the council. It also promotes the accountability of council members and staff. There are protections from disclosure where non-disclosure is in the public interest or to protect personal privacy.

If the reply to a request for information is likely to take a significant amount of research, collation and copying, the Buller District Council is entitled under LGOIMA, to impose a charge for the provision of information.

### Objective:

This policy details the amount that we may charge for the supply of information and is based on the Ministry of Justice Charging Guidelines for Official Information Act Requests.

### Procedure:

#### 1. Charges

- 1.1. The first 1 hour of time spent on fulfilling official information requests will be free; and then all additional time will be charged at \$38/half hour;
- 1.2. The first twenty (20) pages of black and white photocopying will be free, with a charge of 20c per page for all additional black and white pages.
- 1.3. All other charges incurred shall be fixed at an amount that recovers the actual costs involved. This includes:
  - 1.3.1. Producing a document by computer or other like equipment;
  - 1.3.2. Colour photocopies
  - 1.3.3. Reproducing a photograph, film, video or audio recording;
  - 1.3.4. Arranging for the requestors to hear or view an audio or visual recording;
  - 1.3.5. Providing a copy of any maps, plans etc.



- 1.4. These rates are as outlined in the Ministry of Justice Guidelines and this policy will be amended to reflect any changes in the Ministry Guidelines.
- 1.5. We will notify the requestor of the estimated cost of their request before we begin working on the request. The requestor then has the option of proceeding, withdrawing or refining their request.
- 1.6. In accordance with section 13(4) of LGOIMA, we may require that the whole or part of any charge be paid in advance. A deposit will only be requested when the decision has been made to release the information.
- 1.7. Charges can be made for making the information available; including time spent retrieving and collating the information and preparing it for release. However, charges will not be made for the time spent or any expenses incurred in deciding whether or not to release the information.
- 1.8. In addition, it may not be reasonable to charge for locating or retrieving information if there are record keeping practices in place that means the information is not stored where it should be in accordance with our normal prudent business practice.
- 1.9. We will not consider whether and how much to charge for the release of information until it has been decided whether (and to what extent) the information can be made available. At the same time consideration will be given to whether reduction or waiver of any proposed charge may be made in recognition of the public interest and/or potential hardship.
- 1.10. Requestors are able to make a complaint to the Office of the Ombudsman in regard to the proposed charge.
- 1.11. Charges may be waived in whole or in part at the discretion of the Chief Executive Officer. This will generally be in a situation where there is an agreed public interest in the disclosure of the information requested.
- 1.12. This policy will be formally reviewed every three years.

**Applicable to:**

- ✓ All employees of Buller District Council.

Note: Manager refers to Group Manager, Manager, Team Leader and/or Supervisor

## Charging

A guide to charging for official information under the OIA and LGOIMA

*Agencies can make reasonable charges for supplying official information under the OIA and LGOIMA.*

*This guide explains:*

- *when it is reasonable to charge;*
- *what an agency can charge for;*
- *what is a reasonable charge; and*
- *how to charge.*

*It also has practical resources including a step-by-step work sheet for charging, a template charging letter and a sample estimate of costs.*

## Contents

<b>What the Acts say</b>	<b>3</b>
<b>When is it reasonable to charge?</b>	<b>4</b>
<b>What can an agency charge for?</b>	<b>5</b>
Activities that can be charged for	6
Activities that can't be charged for	6
<b>What is a reasonable charge?</b>	<b>7</b>
Charging Guidelines	7
Remission of charges	8
Remission in the public interest	8
Remission due to hardship	9
Is it reasonable to charge MPs and parliamentary research units?	9
Is it reasonable to charge the news media?	10
Charging for commercially valuable information	11
<b>How to charge</b>	<b>11</b>
Some basics	12
Calculating the charge	13
Communicating the decision to charge	15
Engaging with the requester	15
Options for reducing or removing the need to charge	16
<b>Developing a charging policy</b>	<b>17</b>
<b>Other types of charge</b>	<b>18</b>
Charges set by other enactments	18
Information for sale	18
Official information available for purchase	19
Information that can be created for a fee	19
<b>Further guidance</b>	<b>19</b>
<b>Appendix 1. Step-by-step work sheet for charging</b>	<b>20</b>
<b>Appendix 2. Case studies</b>	<b>22</b>
Index	22
<b>Appendix 3. Template charging letter</b>	<b>38</b>
<b>Appendix 4. Sample estimate of costs</b>	<b>40</b>



## What the Acts say

There is no specific charging provision in the OIA and LGOIMA. What they say about charging is found in the section dealing with decisions on requests ([section 15 of the OIA](#) and [section 13 of the LGOIMA](#)). In essence:

- An agency ‘*may charge for the supply of official information*’.<sup>1</sup>
- An agency that receives a request for official information must, within the statutory or extended timeframe,<sup>2</sup> make and communicate its decision ‘*whether the request is to be granted and [if so] in what manner and for what charge (if any)*’.<sup>3</sup>
- Any charge fixed must be ‘*reasonable*’, and regard may be had to the cost of labour and materials involved in making the information available, and any costs incurred in meeting an urgent request.<sup>4</sup>
- An agency can require the whole or part of any charge to be paid in advance.<sup>5</sup>
- Complaints about charges can be investigated by the Ombudsman.<sup>6</sup>

This means that agencies can impose a **reasonable** charge—subject to external review by the Ombudsman—to recover some of the costs of actually making the information available.

### Charge means release

In order to charge, an agency must have already decided to release at least some of the information at issue. This is because the legislation **only authorises a charge to be made:**

- at the same time as a **decision to grant the request;**<sup>7</sup>
- for the **supply** of official information.<sup>8</sup>

No charge can be made in respect of information that is withheld.

<sup>1</sup> See s 15(1A) OIA and s 13(1A) LGOIMA.

<sup>2</sup> For more information about timeframes, see our guides [The OIA for Ministers and agencies](#) and [The LGOIMA for local government agencies](#).

<sup>3</sup> See s 15(1)(a) OIA and s 13(1)(a) LGOIMA.

<sup>4</sup> See s 15(2) OIA and s 13(3) LGOIMA. Note also s 13(2) LGOIMA, which provides that any charge ‘*shall not exceed the prescribed amount*’. However, no prescribed amount has ever been set.

<sup>5</sup> See s 15(3) OIA and s 13(4) LGOIMA.

<sup>6</sup> See s 28(1)(b) OIA and s 27(1)(b) LGOIMA.

<sup>7</sup> An agency must decide ‘*whether the request is to be granted and [if so] in what manner and for what charge*’—see s 15(1)(a) OIA and s 13(1)(a) LGOIMA.

<sup>8</sup> An agency ‘*may charge for the supply of official information*’—see s 15(1A) OIA and s 13(1A) LGOIMA.

## When is it reasonable to charge?

It is not generally reasonable to charge for complying with **simple requests**. However, it may be reasonable to recover some of the costs associated with requests for information that would require **considerable labour and materials**. As the Committee that recommended the enactment of the OIA (the Danks Committee) noted:<sup>9</sup>

*Doubtless many enquiries, as at present, will be capable of ready and convenient response. To levy fees or charges other than for copying at the ‘easy’ end of answering would be seen as obstructive, and would frustrate the openness we seek. But some enquiries will doubtless engage **considerable** time and attention when less obviously available answers are sought. Search, abstraction, collation and copying could combine into formidable workloads. Even if research or quasi-research activities are firmly ruled out and the simpler enquiries are allowed to be free, there is left a middle ground where charging will be warrantable. (Emphasis added).*

What is ‘*considerable*’, in terms of the labour and materials required, will depend on the circumstances of the case, including the extent of resources available to the agency to deal with the request. What is ‘*considerable*’ for a small agency with few resources will not be the same as what is ‘*considerable*’ for a large agency with lots of resources. It may be reasonable to charge if a request will have a **significant impact** on the agency’s ability to carry out its other operations.

When a request is so considerable that it would require ‘*substantial collation or research*’ to make the information available, agencies are expressly required to consider whether charging would enable the request to be met.<sup>10</sup>

It may also be relevant to consider the requester’s recent conduct. If the requester has previously made a **large volume of time-consuming** requests to an agency, it may be reasonable to start charging in order to recover some of the costs associated with meeting further requests.

Note, however, that some requesters (for example, MPs and members of the news media), may have good reasons for making frequent requests for official information, and they should not be penalised for doing so (see [Is it reasonable to charge MPs and parliamentary research units](#) and [Is it reasonable to charge the news media?](#)).

<sup>9</sup> Committee on Official Information. *Towards Open Government: Supplementary Report* (July 1981) at 35, available at <http://www.ombudsman.parliament.nz/resources-and-publications/general-information/danks-committee-reports>.

<sup>10</sup> See ss 18(f) and 18A(1)(a) OIA and ss 17(f) and 17A(1)(a) LGOIMA.

## What can an agency charge for?

Charging under the OIA and LGOIMA is not generally about full cost-recovery.<sup>11</sup> Full cost-recovery would be inconsistent with the purpose of the legislation, which is to progressively increase the availability of official information to the people of New Zealand. As the Law Commission has noted:<sup>12</sup>

*The role of charging in the official information process has never been a full cost-recovery exercise. Where charges are applied they represent a **partial** recovery of **some** aspects of agency time and other costs incurred in responding to requests (emphasis added).*

Hence there are:

- [activities that can be charged for](#); and
- [activities that can't be charged for](#).

The key restriction is that agencies cannot charge for **time spent deciding** whether or not to release information. This is because charges are only authorised for the **supply** of official information, in the context of a decision having **already been made** to grant the request (see [Charge means release](#)).

There is a cost associated with agency compliance with the official information legislation. However, as the Danks Committee observed, that cost is **part of the government's responsibility** to keep people informed of its activities (the term 'government' being read in the widest possible sense).<sup>13</sup>

The official information legislation is an **important part of New Zealand's constitution**,<sup>14</sup> and processing official information requests is a **core agency function**. Costs that cannot be passed on to the requester must be carried by the agency, both in infrastructural terms, and in its administrative and budgeting arrangements.

<sup>11</sup> It may be reasonable to recover the full costs of supply in some limited circumstances, see [Charging for commercially valuable information](#).

<sup>12</sup> Law Commission. *The Public's Right to Know: Review of the Official Information Legislation*. (NZLC R125, 2012) at 202.

<sup>13</sup> Committee on Official Information. *Towards Open Government: General Report* (December 1980) at 37, available at <http://www.ombudsman.parliament.nz/resources-and-publications/general-information/danks-committee-reports>.

<sup>14</sup> The OIA has been described as 'a constitutional measure' (*Commissioner of Police v Ombudsman* [1988] 1 NZLR 385 (CA) at 391), and 'an important component of New Zealand's constitutional matrix' (*Kelsey v the Minister of Trade* [2015] NZHC 2497 at paragraph 19).

## Activities that can be charged for

Remember, these can only be calculated once the decision on release has already been made (see [Charge means release](#)).

<b>Labour</b>	<ul style="list-style-type: none"> <li>• Search and retrieval</li> <li>• Collation (bringing together the information at issue)</li> <li>• Research (reading and reviewing to identify the information at issue)</li> <li>• Editing (the physical task of excising or redacting withheld information)</li> <li>• Scanning or copying</li> <li>• Reasonably required peer review in order to ensure that the above tasks have been carried out correctly</li> <li>• Formatting information in a way <b>sought by the requester</b></li> <li>• Supervising access (where the information at issue is made available for inspection)</li> <li>• Reproducing film, video or audio recordings</li> </ul>
<b>Materials</b>	<ul style="list-style-type: none"> <li>• Paper (for photocopying)</li> <li>• Discs or other electronic storage devices that information is provided on</li> </ul>
<b>Other actual and direct costs</b>	<ul style="list-style-type: none"> <li>• Retrieval of information from off-site</li> </ul>

## Activities that can't be charged for

<b>Decision making</b> See case <a href="#">178413</a>	<ul style="list-style-type: none"> <li>• Work required to decide <b>whether to grant</b> the request in whole or part, including:             <ul style="list-style-type: none"> <li>- reading and reviewing to decide on withholding or release;</li> <li>- seeking legal advice to decide on withholding or release;</li> <li>- consultation to decide on withholding or release; and</li> <li>- peer review of the decision to withhold or release.</li> </ul> </li> <li>• Work required to decide <b>whether to charge</b> and if so, how much, including estimating the charge.</li> </ul>
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<b>Administrative inefficiencies or poor record-keeping</b>  See case <a href="#">172047</a>	<ul style="list-style-type: none"> <li>• Searching for / retrieving information that is not where it should be because of administrative inefficiencies or poor record-keeping</li> </ul>
<b>Administrative costs associated with the way an agency chooses to process a request</b>  See case <a href="#">177195</a>	<ul style="list-style-type: none"> <li>• Drafting a cover letter</li> <li>• Drafting a briefing for the Minister</li> <li>• Formatting information in a way <b>preferred by the agency</b> but not sought by the requester</li> </ul>
<b>Costs not directly related to supplying the information</b>  See case <a href="#">307851</a>	<ul style="list-style-type: none"> <li>• General overheads, including costs of establishing and maintaining systems and storage facilities</li> </ul>

## What is a reasonable charge?

In most cases, a charge will be reasonable if it has been set:

1. in accordance with the current Government [Charging Guidelines](#) (or **equivalent** charging policy); and
2. with due regard to any circumstances warranting [remission](#).

### Charging Guidelines

The Government has issued *Charging Guidelines* to be followed by agencies subject to the OIA. These can be accessed from the Ministry of Justice website [www.justice.govt.nz](http://www.justice.govt.nz).

Successive Ombudsmen have accepted that charges set in accordance with the *Charging Guidelines* are reasonable, provided due regard has been paid to any circumstances warranting remission (see [Remission of charges](#)).

The *Charging Guidelines* specify standard charges of:

- \$38 per half hour of staff time in excess of one hour; and
- \$0.20 per page for photocopying in excess of 20 pages.

An agency may be justified in charging higher rates for staff time where staff with **specialist expertise** that are **not on salary** (ie, contractors) are **required** to process the request, in which case a rate not exceeding their actual rate of pay per hour may be charged.

Although the *Charging Guidelines* do not apply to **local government agencies**, it is reasonable for such agencies to make their charging decisions in accordance with the guidelines (see cases [176345 and 368207](#) and [307851](#)).

Agencies may develop their own charging policies (see [Developing a charging policy](#)). However, the application of an internal charging policy that is inconsistent with the *Charging Guidelines*, for example, by charging higher rates for staff time or photocopying, risks an Ombudsman's finding on review that the charge in question was unreasonable (also see cases [176345 and 368207](#) and [307851](#)).

## Remission of charges

The setting of a 'reasonable' charge for supplying official information requires due regard to be given to any circumstances warranting remission. Remission means reducing or cancelling the charge that would otherwise be set. Remission may be warranted because:

- there is a compelling [public interest](#) in making the information available; and/or
- meeting the charge would be likely to cause [hardship](#) to the requester.

### Remission in the public interest

Agencies must consider whether there are any circumstances warranting remission of the charge in the public interest.

Read our guide to the [Public interest](#), which sets out some example public interest considerations favouring release of official information, and some factors that can affect the weight of the public interest in release.<sup>15</sup>

The [Charging Guidelines](#) also set out some public interest considerations and questions that should be considered by agencies before imposing a charge. As noted above, these guidelines can be accessed from the Ministry of Justice website [www.justice.govt.nz](http://www.justice.govt.nz).

In addition, the following questions are relevant:

1. Is there is a public interest in making the information **generally available**—that is, not just to the requester? If so, it may be unreasonable to make the requester alone bear the cost of release (see case [274689](#)).
2. Does the information have **special relevance** to the requester? If the personal interests of the requester give rise to a broader public interest in release to that person (for example, to promote procedural fairness), it may be unreasonable to charge, or to charge the full amount.

<sup>15</sup> While this is a guide to conducting the public interest test in section 9(1) of the OIA (section 7(1) of the LGOIMA), the same considerations are relevant in deciding whether remission of charges is warranted in the public interest.

In cases [274689](#), [172047](#) and [W50332](#) the Ombudsman concluded the charge should be remitted wholly or in part due to the public interest. In cases [400121](#), [319893](#), [302392](#), [178468](#) and [177195](#) the Ombudsmen concluded the public interest did not require remission of the charge.

### Remission due to hardship

Agencies must also consider whether meeting the charge would be likely to cause hardship to the requester. Hardship means the charge will be **excessively costly** for the requester to bear, such that the requester will be unable to meet the charge and still afford the essentials for life or business.

Whether hardship is likely to occur will depend on the level of the proposed charge and the financial means of the requester. An agency should consider what it already knows about the financial means of the requester (if anything), as well as any information advanced by the requester in support of an assertion of limited means. It does not have to actively enquire into a requester's financial means before deciding to impose a charge.

In a number of cases, the Ombudsmen have concluded that hardship **on its own** is insufficient reason to remit an otherwise reasonable charge **in full**. There should also be some other public interest factors favouring disclosure of the information (see cases [177195](#) and [178486](#)).

### Is it reasonable to charge MPs and parliamentary research units?

There is nothing in the legislation which says that MPs and parliamentary research units cannot be charged for the supply of official information. However, the usual approach has been to remit any charge that would otherwise have been fixed, in recognition of the public interest in MPs having access to official information to assist in the reasonable exercise of their democratic responsibilities.

The *Charging Guidelines* state:<sup>16</sup>

*Members of Parliament may be exempted from charges for official information provided for their own use. This discretion may be extended to cover political party parliamentary research units when the request for official information has the endorsement of a Member of Parliament. In exercising this discretion it would be appropriate to consider whether remission of charges would be consistent with the need to provide more open access to official information for Members of Parliament in terms of the reasonable exercise of their democratic responsibilities.*

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<sup>16</sup> See paragraph 7.4 of the *Charging Guidelines*.

There are important reasons for not charging MPs and parliamentary research units:<sup>17</sup>

*[These include] the Opposition's limited resources, and the constitutional importance of the [OIA] (and the parliamentary question procedure) as means of keeping the executive accountable to the legislature. Scrutiny and control over the activities of the government have long been recognised as amongst Parliament's most important functions. Indeed, s 4 of the Act expressly refers to 'the principle of the Executive Government's responsibility to Parliament'. Because of the whip system and other forms of party discipline, the scrutiny and control functions in practice fall largely on the Opposition; to exercise them effectively it must have access to information. Replies to Opposition requests for official information and parliamentary questions, published or broadcast in the media, in turn form an important source of information to the public about the activities of government.*

These important reasons mean it will often be unreasonable to charge MPs and parliamentary research units for the supply of official information.

However, charging MPs and parliamentary research units is permissible under the legislation, and may be reasonable in some circumstances. As the Law Commission noted in 2012:<sup>18</sup>

*There is no reason why **unreasonable** political requests should be completely exempt. Voluminous and unrefined requests from parliamentary research units can cause a great deal of expenditure of resources. The charging mechanism should be available to agencies as a defence mechanism in appropriate cases, regardless of the source of the request (emphasis added).*

The Ombudsman has, on occasion, upheld charges against MPs who have made excessively burdensome requests (see case [172047](#)).

## Is it reasonable to charge the news media?

Members of the news media<sup>19</sup> are in the same position as any other requester when it comes to charging. A reasonable charge may be imposed, in accordance with the *Charging Guidelines*, and with due regard to any circumstances warranting remission.

However, when assessing whether remission is warranted in the public interest, agencies should consider the **important democratic and constitutional role of the news media** in informing members of the public. As the courts have recognised (in articulating the rationale

<sup>17</sup> Law Commission. *Review of the Official Information Act 1982* (NZLC R40, 1997) at 57.

<sup>18</sup> Note [12](#) at 211.

<sup>19</sup> Following the definition in [s 68\(5\) of the Evidence Act 2006](#), 'news media' is media for the dissemination to the public or a section of the public of news and observations on news. Following the judgment of the High Court in *Slater v Blomfield* [2014] NZHC 2221, this can include a blogger who regularly disseminates news (ie, new information about recent events or events of interest to the public), or observations on news, to a significant body of the public.



for openness in judicial proceedings), the news media act as the ‘*surrogates of the public*’.<sup>20</sup> The public interest role performed by the news media may make it unreasonable, in the circumstances of the particular case, to charge, or to charge the full amount.

In case [179387](#), the Ombudsman concluded that notwithstanding the media’s important function of informing the public on matters of public interest, it was reasonable to charge for the requested information.

## Charging for commercially valuable information

As noted earlier, charging under the OIA and LGOIMA is not generally about full cost-recovery (see [What can an agency charge for?](#)). However, it may be reasonable to recover the full costs of supplying information of commercial value to the requester. This is on the basis that the cost will generally be able to be recovered as some form of business expense.

The *Charging Guidelines* say:<sup>21</sup>

*It is reasonable to recover actual costs involved in producing and supplying information of commercial value. However, the full cost of producing it in the first instance should not be charged to subsequent requesters.*

Agencies should first be satisfied that the requester:

- has a commercial (ie, profit seeking) motive; and
- is likely to use the information to generate a profit.

As in any case, it will still be necessary to consider the [public interest in remission](#) of the proposed charge. One relevant consideration in this context is the public interest in promoting commercial innovation and economic growth, which is recognised by the Government’s open data initiatives (see [www.ict.govt.nz](http://www.ict.govt.nz)).

For an example of a case where the agency tried to recover the actual cost of supplying information it considered commercially valuable see [172531](#).

## How to charge

This section provides advice on how to charge, including [calculating the charge](#), and [communicating the decision to charge](#). There can be a bit of work involved in charging, and not all requesters are prepared to pay a charge—particularly a large one. This makes it **very important** to [engage with the requester](#) as early as possible, and to consider [options for reducing or removing the need to charge](#).

<sup>20</sup> *R v Liddell* [1995] 1 NZLR 538, 546–547.

<sup>21</sup> See paragraph 6.1 of the *Charging Guidelines*.

## Some basics

The basic order of charging looks like this.

1. Decide to release the information.
2. Calculate the charge. (See [Calculating the charge](#) for details of how to do this.)
3. Communicate the decision to release the information subject to a charge, as soon as reasonably practicable and no later than 20 working days after the day the request was received (unless that timeframe is extended).<sup>22</sup> (See [Communicating the decision to charge](#) for the details that should be included.)
4. Await payment of the deposit (if applicable) and/or confirmation that the requester accepts the charge.
5. Prepare the information for release.
6. Release the information without ‘undue delay’.<sup>23</sup>

The decision to charge has to be communicated at the same time as the decision to release some or all of the requested information (see [Charge means release](#)). This means it must be done within the statutory (maximum 20 working days), or extended timeframe.

It is just the **decision** on the request (including the decision to charge) that has to be communicated within this timeframe. The obligation in terms of **releasing** the information is to do so without ‘undue delay’.<sup>24</sup> A delay occasioned solely by awaiting confirmation that the requester has accepted the charge or paid the deposit (if applicable) will not be undue.

It is necessary to spend some time scoping the request and reviewing the information in order to decide that the request can be granted and calculate the charge. However, an agency **should not start preparing** the information for release until after the requester has accepted the charge or paid the deposit (if applicable). Otherwise the agency will have wasted its time preparing the information for release if the requester does not agree to pay the charge.

### Can an agency charge if it has breached the statutory or extended timeframe for making a decision?

Yes. However, agencies should consider whether their breach of timeframes would make it unreasonable to charge, or to charge the full amount. Where there have been significant delays, or delays resulting from the agency’s own administrative failings, a reduction in the charge may be warranted.

In case 175470, the Ombudsman considered the requester’s argument that a breach of

<sup>22</sup> See ss 15(1)(a) and 15A OIA and ss 13(1)(a) and 14 LGOIMA.

<sup>23</sup> See s 28(5) OIA and s 27(5) LGOIMA.

<sup>24</sup> See s 28(5) OIA and s 27(5) LGOIMA.

timeframes warranted a reduction in the charge. The Ombudsman noted that a significant delay in responding has sometimes prompted other agencies not to charge.

However, the Ombudsman accepted that the delay in that case did not justify a reduction. It was occasioned in part by the requester's changes to the focus and complexity of the requests, and by the need to comply with the requester's specific formatting preferences. In addition, the actual time taken to process the request was significantly more than the requester was charged for.

### Can an agency charge after it has already released the information?

No. Decisions on charges must be made at the same time as the decision to release the information. This gives the requester the opportunity to refine or withdraw their request in order to avoid the charge.

In case W45424, the Airways Corporation sought to impose a substantial charge six weeks after having already made the information available. At no stage had the requester been advised that a charge was contemplated. The Ombudsman found that Airways was not entitled to levy a charge, because it had not done so in accordance with the legislation (section 15(1) of the OIA). You can read the full case note on our website.<sup>25</sup>

In case 299328, a council charged \$38.50 to supply a one page document. The charge was based on aggregating the time taken to respond to this and previous requests for information. The Ombudsman noted that while it is possible to aggregate requests for the purpose of calculating a charge,<sup>26</sup> any charge must be quoted to the requester before the information is provided. A requester cannot be charged by retrospectively aggregating responses to previous requests with a new request.

## Calculating the charge

A charge is calculated by estimating:

- the volume of information at issue, or that needs to be searched through to find the information at issue;
- the time required to complete the [activities that can be charged for](#);
  - search and retrieval;
  - collation (bringing together the information at issue);
  - research (reading and reviewing to identify the information at issue);

<sup>25</sup> Search for 'W45424' using our online library [Liberty](#).

<sup>26</sup> See paragraph 2.2 of the *Charging Guidelines*.

- editing (the physical task of excising or redacting withheld information);
  - scanning or copying;
  - reasonably required peer review in order to ensure that the above tasks have been carried out correctly; and
- the cost of any materials, for example, paper for photocopying.

Estimating the **volume** of information at issue is made easier with modern email and document management systems. These can be interrogated using appropriate search terms to estimate the total number of potentially relevant documents.

The **time required** can be estimated by adopting some reasonable assumptions about how long it will take to complete the [activities that can be charged for](#). The best way of establishing these assumptions is to carry out a sample exercise; that is, by timing how long it takes to do the chargeable activities for a representative sample of the information, and using that to extrapolate an estimated total.

#### Formula for charging

$$(((\text{Estimated hours staff time}] - 1) \times \$76) + (((\text{Estimated pages to be photocopied}] - 20) \times \$0.20) = [\text{Amount agency may wish to consider charging}]$$

Case [302392](#) provides an example of how an agency and the Ombudsman went about estimating the work involved in processing a request and calculating a reasonable charge. There is also a [sample estimate of costs](#) in the appendix to this guide that agencies can use as a basis for calculating charges.

#### Can a charge be increased?

The Acts talk about charges being **'fixed'**. This suggests that the amount of the charge should be **ascertainable** and reasonably **certain** by the time a decision is made on the request.

This makes it important for agencies to **take the time up front** to adequately scope the request. Scoping the request means interpreting the request (what is the requester asking for?), and identifying the information (what do we hold and where?). Adequate scoping is essential for the calculation of accurate charges.

In preference to having to increase a charge, agencies should aim to calculate the **maximum** charge to the requester, and explain that any unused component of that charge will be refunded.

It may be unreasonable to subsequently increase a charge that has already been fixed and agreed to by the requester, particularly if the increase is substantial and/or the requester has not been adequately forewarned of that possibility (see case [176924](#)). It may also be unreasonable for an agency to change its mind, and subsequently seek to refuse a request that was previously granted subject to a charge (see case [304081](#)).

## Communicating the decision to charge

As noted earlier (see [Some basics](#)), the decision to supply information subject to a charge must be communicated as soon as reasonably practicable and no later than 20 working days after the day the request was received (unless that timeframe is extended).

The decision to charge should explain the following:

- that the agency has decided to grant the request (or part of the request) for payment of a charge;
- the maximum amount of the charge;
- how the charge has been calculated (agencies can use the [sample estimate of costs](#) in the appendix to this guide);
- whether all or part payment of the charge is required in advance of release of the information and, if so, how payment can be made;
- the timeframe within which the information will be released once the charge is accepted and (if applicable) the deposit paid;
- that the requester has the right to complain to the Ombudsman about the decision to charge.

Where only part of the request is being granted, the information to be released should be described in sufficient detail to enable the requester to decide whether it is worth paying the charge.

Agencies should also provide the contact details of a subject matter expert who can provide reasonable assistance to the requester if they wish to change or refine their request in a way that reduces or removes the need to charge.

There is a [template charging letter](#) in the appendix to this guide.

## Engaging with the requester

Engaging with the requester is in everyone's best interests. It means the requester is more likely to get what they want in the most efficient way possible.

The purpose of engaging with the requester is to clarify the request and to help them change or refine it in a way that reduces or removes the need to charge. Some requesters simply do not understand how much information is held, and how much effort will be needed to provide it. Some will be content with a narrowed-down request, or to receive only a few key documents among the many available, or to see a list of titles from which they can choose (see [Options for reducing or removing the need to charge](#)).

The earlier engagement takes place the better. Calculating a charge requires adequate scoping and careful estimation. This is wasted time if the requester is not prepared to pay a charge, or

a charge of the magnitude being contemplated. Often the best way of engaging with a requester is a face-to-face discussion or a discussion over the telephone. The following text box has some talking points that agencies could use in a discussion with the requester or adapt for written communications.

### Talking points—Engaging with requesters

Here are some talking points for engaging with requesters.

- *‘It’s a really big request’*: Explain that it will take considerable labour and materials to meet the request as it is currently framed.
- *‘We think it will take this much work’*: Give any early order estimates of the volume of information at issue, the amount of time required to process the request, and the impact on the agency’s other operations.
- *‘We’re thinking of charging’*: Explain that unless the request is changed or refined the agency is likely to impose a charge.
- *‘We want to help you refine it’*: Explain that the agency wants to work with the requester to change or refine the request in a way that reduces or removes the need to charge.
- *‘Here are some of our ideas for how the request could be refined or met without having to charge’*: Canvass any [Options for reducing or removing the need to charge](#).
- *‘Here’s who can help’*: Provide contact details for a subject matter expert who can provide reasonable assistance to the requester to change or refine their request.

Note that in certain circumstances, an agency may be justified in treating any amended or clarified request as a new request for the purpose of calculating the maximum timeframe for response.<sup>27</sup>

### Options for reducing or removing the need to charge

It is important to consider whether there are other ways to meet the request that would reduce or remove the need to charge. For example:

- Identifying relevant information that is readily retrievable and able to be supplied free of charge (see cases [319893](#) and [376161](#)).
- Refining the time period covered by the request.
- Refining the types of document covered by the request. For example, document types can include: emails, draft papers/reports, final papers/reports, reports or briefings to

<sup>27</sup> See ss 15(1AA) and (1AB) of the OIA and ss 13(7) and (8) of the LGOIMA. See also ‘Amended or clarified requests’ in [The OIA for Ministers and agencies](#) or [The LGOIMA for local government agencies](#).

Ministers, aides-memoire, and Cabinet papers. Requesters may be happy to receive key documents (such as final papers/reports, or reports/briefings to Ministers or Cabinet), if they understand that their request for all information on a subject is problematic and may be met with a charge.

- Providing a list of the documents that are potentially in scope of the request, if one can be generated through the agency's document management system.
- Limiting search terms by agreement with the requester, thereby yielding a smaller number of more relevant results.
- Providing the information in electronic form, in order to avoid the need for photocopying charges.<sup>28</sup>
- Providing the information at issue in an alternative form (for example, an opportunity to inspect the information or receive an oral briefing on the information),<sup>29</sup> and/or subject to conditions on publication or dissemination (see case [173607](#)).<sup>30</sup> This is permissible where supplying the information in the way preferred by the requester would 'impair efficient administration' (among other reasons).<sup>31</sup> The requester may prefer to receive the information in an alternative form than to pay a charge.

## Developing a charging policy

Agencies may wish to develop their own charging policies. In addition to being consistent with the law, internal charging policies should meet the following criteria:

- They should be consistent with the *Charging Guidelines*.

Agencies subject to the OIA are generally required to follow the *Charging Guidelines* (the *Guidelines* say they should be followed 'in all cases unless good reason exists for not doing so'). Agencies subject to the LGOIMA are not required to follow the *Charging Guidelines*. However the application of an internal charging policy that is inconsistent with the *Charging Guidelines*, for example, by charging higher rates for staff time or photocopying, risks an Ombudsman's finding on review that the charge in question was unreasonable (see cases [307851](#) and [176345 and 368207](#)). Inconsistency with the *Charging Guidelines* may be justifiable if it works in the requester's favour, for instance,

<sup>28</sup> See s 16(1A) OIA and s 15(1A) LGOIMA.

<sup>29</sup> See s 16(1) OIA and s 15(1) LGOIMA. For more information about the form of release see 'Deciding how to release information' in [The OIA for Ministers and agencies](#) or [The LGOIMA for local government agencies](#).

<sup>30</sup> See s 28(1)(c) OIA and s 27(1)(c) LGOIMA. For more information about imposing conditions on the use, communication or publication of information see 'Conditional release' in [The OIA for Ministers and agencies](#) or [The LGOIMA for local government agencies](#). Note, in particular, that conditions are not enforceable under the official information legislation.

<sup>31</sup> See s 16(2) OIA and s 15(2) LGOIMA.

by charging lower rates for staff time or photocopying, or by allowing a longer free period before the ability to charge kicks in.

- They should be applied on a case by case basis.

The blanket application of a charging policy (for example, by applying a ‘*standard charge*’) without regard to the circumstances of a particular case is unreasonable. Any internal charging policy must retain the flexibility to remit a charge in whole or part where that is warranted in the circumstances of the case. Specific regard must be had to the public interest in making the information available (see [Remission in the public interest](#)), and whether meeting the charge would be likely to cause hardship to the requester (see [Remission due to hardship](#)).

- They should be publicly available.

Agencies that have adopted an internal charging policy should make it available to the public on their website. This is the type of internal decision making rule that people have a right to access under section 22 of the OIA (section 21 of the LGOIMA).

Our staff are able to provide advice and guidance to agencies developing internal charging policies, including reviewing and commenting on draft policies (see [Further guidance](#)).

## Other types of charge

### Charges set by other enactments

Where a charge for access to official information is set by another Act, or by regulations in force immediately before the OIA (or LGOIMA),<sup>32</sup> that Act or those regulations will prevail. This is because there is a savings provision in the OIA and LGOIMA, which provides that nothing in the legislation derogates from any provision in any other Act, or in any regulation in force immediately before the OIA (or LGOIMA), which regulates the manner in which official information may be obtained or made available.<sup>33</sup> See case [319893](#).

### Information for sale

Some agencies are in the business of selling information. This includes:

- official information (that is, information that is already **held** by an agency); and
- information that an agency has the ability to **create**.

<sup>32</sup> 1 July 1983 for the OIA; 1 March 1988 for the LGOIMA.

<sup>33</sup> See s 52(3)(b)(ii) OIA and s 44(2)(b)(ii) LGOIMA.



## Official information available for purchase

Where official information is available to purchase to any person for a set fee, it may be open to an agency to refuse a request for that information under the OIA or LGOIMA on the basis that it is already publicly available.<sup>34</sup> This is provided the purchase price is not patently excessive. See case [177600](#).

## Information that can be created for a fee

Where information can be **created** for a fee the OIA and LGOIMA will not apply; nor will the *Charging Guidelines*. This is because the OIA and LGOIMA only apply to information that is already **held** by an agency.<sup>35</sup> However, an agency will need to be able to demonstrate affirmatively that it would need to create the information, as opposed to collating information that is already held.

Any complaint about the fee for creation of information cannot be considered by the Ombudsman under the OIA or LGOIMA. However, the Ombudsman may be able to consider a complaint about the reasonableness of the fee under the Ombudsmen Act 1975.<sup>36</sup> See case [376161](#).

## Further guidance

For more information about processing official information requests, see our guides [The OIA for Ministers and agencies](#) and [The LGOIMA for local government agencies](#).

Our website contains searchable case notes, opinions and other material, relating to past cases considered by the Ombudsmen: [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz).

You can also contact our staff with any queries about charging, or for advice and guidance on developing an internal charging policy, by email [info@ombudsman.parliament.nz](mailto:info@ombudsman.parliament.nz) or freephone 0800 802 602. Do so as early as possible to ensure we can answer your queries without delaying the response to a request for official information.

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<sup>34</sup> See s 18(d) OIA and s 17(d) LGOIMA.

<sup>35</sup> See s 2 OIA and LGOIMA.

<sup>36</sup> Provided the agency is subject to that Act.

## Appendix 1. Step-by-step work sheet for charging

<p><b>1. Scope the request</b></p>	<ul style="list-style-type: none"> <li>• What is the requester asking for?</li> <li>• What information is held and where?</li> <li>• <a href="#">Engage with the requester</a> as early as possible about any ambiguities or scope for refinement of the request.</li> </ul>
<p><b>2. Decide on release</b></p>	<ul style="list-style-type: none"> <li>• Are you going to release some or all of the information?</li> <li>• Charging is <b>only</b> permissible if information is being released in response to the request, so you may need to read and review the information first in order to decide to what extent it can be made available (see <a href="#">Charge means release</a>).</li> </ul>
<p><b>3. Consider whether it is reasonable to charge</b></p> <p>Relevant part of guide: <a href="#">When is it reasonable to charge?</a></p>	<ul style="list-style-type: none"> <li>• Is it reasonable to recover some of the costs involved in releasing the information?</li> <li>• Relevant questions include: <ul style="list-style-type: none"> <li>- Will it require <b>considerable</b> labour and materials to release the information?</li> <li>- Will it have a <b>significant</b> impact on the agency's ability to carry out its other operations?</li> <li>- Has the requester previously made a <b>large volume of time consuming requests</b>? Note that some requesters (for example, <a href="#">MPs</a> and <a href="#">members of the news media</a>) may have good reasons for making frequent requests for official information, and they should not be penalised for this.</li> </ul> </li> </ul>
<p><b>4. Engage with the requester</b></p> <p>Relevant part of guide: <a href="#">Engaging with the requester</a></p>	<ul style="list-style-type: none"> <li>• Engage with the requester to try and help them clarify the request, and change or refine it in a way that reduces or removes the need to charge.</li> <li>• Our <a href="#">Talking points</a> can assist with this.</li> </ul>
<p><b>5. Consider other options for reducing or removing the need to charge</b></p> <p>Relevant part of guide: <a href="#">Options for reducing or removing the need to charge</a></p>	<ul style="list-style-type: none"> <li>• Are there other ways to meet the request that would reduce or remove the need to charge? For example: <ul style="list-style-type: none"> <li>- providing readily retrievable information;</li> <li>- refining the time period covered by the request;</li> <li>- refining the types of document covered by the request;</li> <li>- providing a list of documents potentially in scope, so that the</li> </ul> </li> </ul>

	<p>requester can refine the request;</p> <ul style="list-style-type: none"> <li>- limiting search terms by agreement with the requester;</li> <li>- providing the information in electronic form;</li> <li>- providing the information in an alternative form (eg, inspection or oral briefing); or</li> <li>- providing the information subject to conditions.</li> </ul>
<p><b>6. Calculate the charge</b></p> <p>Relevant part of guide: <a href="#">Calculating the charge</a></p>	<ul style="list-style-type: none"> <li>• How much information is at issue?</li> <li>• How long will it take to complete the <a href="#">activities that can be charged for</a>?</li> <li>• Calculate the charge in accordance with the rates specified in the <i>Charging Guidelines</i> (see <a href="#">Formula for charging</a>).</li> <li>• Our <a href="#">sample estimate of costs</a> can help with this process.</li> </ul>
<p><b>7. Consider whether the charge should be remitted in full or in part</b></p> <p>Relevant part of guide: <a href="#">Remission of charges</a></p>	<ul style="list-style-type: none"> <li>• Should the charge be remitted in full or part because of the <a href="#">public interest</a> in release?</li> <li>• Should the charge should be remitted in full or part because it would cause <a href="#">hardship</a> to the requester?</li> </ul>
<p><b>8. Communicate the decision to release subject to a charge</b></p> <p>Relevant part of guide: <a href="#">Communicating the decision to charge</a></p>	<ul style="list-style-type: none"> <li>• This must be done as soon as reasonably practicable and within 20 working days of receipt of the request (unless that timeframe is extended).</li> <li>• Our <a href="#">template charging letter</a> can assist with this.</li> <li>• Ensure that someone is available to the requester to assist them to change or refine their request in order to reduce or remove the need to charge.</li> </ul>
<p><b>9. Prepare the information</b></p>	<ul style="list-style-type: none"> <li>• Once the requester has accepted the charge and met any part of it required to be paid in advance, prepare the information for release.</li> </ul>
<p><b>10. Release the information</b></p>	<ul style="list-style-type: none"> <li>• Release the information without undue delay, and within the time period indicated in your letter of decision. Keep the requester up-to-date if unforeseen circumstances delay the release.</li> </ul>

## Appendix 2. Case studies

These case studies are published under the authority of the [Ombudsmen Rules 1989](#). They set out an Ombudsman's view on the facts of a particular case. They should not be taken as establishing any legal precedent that would bind an Ombudsman in future.

### Index

Case number	Year	Subject
178413	2009	<a href="#">Animal usage statistics</a> <i>Cannot charge for decision making time</i>
172047	2005	<a href="#">Request by MP for information about 42 community grants</a> <i>Cannot charge for time required due to administrative inefficiencies or poor record-keeping—Public interest in MPs having access to official information to assist in the reasonable exercise of their democratic responsibilities warranted 10 per cent remission</i>
177195	2009	<a href="#">Seven years of board minutes</a> <i>Cannot charge for administrative costs associated with the way an agency chooses to process a request—no remission of charge in the public interest / due to hardship</i>
307851	2012	<a href="#">Unreasonable photocopying charge</a> <i>\$0.45 per page photocopying charge unreasonable</i>
176345	2007	<a href="#">Unreasonable staff rates</a>
368207	2014	<i>Staff rates in excess of those in the Charging Guidelines unreasonable</i>
274689	2010	<a href="#">Internal decision making rules</a> <i>Full remission of labour component of the charge in the public interest</i>
W50332	2004	<a href="#">Information about international trade agreement</a> <i>Full remission of charge in the public interest</i>
400121	2017	<a href="#">Information about academic misconduct by international students</a> <i>No remission of charge in the public interest</i>
302392	2010	<a href="#">Correspondence regarding proposals to lower the drink-drive limit</a> <i>Example of how to calculate a reasonable charge—no remission of charge in the public interest</i>
319893	2012	<a href="#">Information related to cycling fatalities</a> <i>Provision of readily retrievable information—no remission of charge for supplying the remaining information in the public interest—some information was available pursuant to a charging regime set by statute and the OIA could not override this</i>

Case number	Year	Subject
178468	2009	<a href="#">All information about Treaty claim over three year period</a> <i>No remission of charge in the public interest / due to hardship</i>
179387	2010	<a href="#">Information about self-reported convictions of teachers</a> <i>Charge reduced on review—decision to charge news media requester not unreasonable</i>
172531	2007	<a href="#">Information about a DOC Recommended Area for Protection</a> <i>Charging for commercially valuable information</i>
176924	2009	<a href="#">Information about the Southern Saltmarsh Mosquito Eradication Programme</a> <i>Unreasonable to increase charge that had already been fixed and agreed by the requester</i>
304081	2012	<a href="#">Information about a hospice</a> <i>Unreasonable to refuse request after earlier deciding to supply information subject to a charge</i>
173607	2007	<a href="#">Information about Maori interests in the management of petroleum</a> <i>Charge avoided by allowing inspection subject to conditions</i>
177600	2008	<a href="#">Vehicle registration information available for purchase</a> <i>Request for information available for purchase could be refused on the basis that it was publicly available under section 18(d) OIA</i>
376161	2015	<a href="#">Statistics that could be created for a fee</a> <i>OIA and Charging Guidelines did not apply to request for statistics that were not held but could be created for a fee—fee for the creation of statistics was calculated in accordance with the agency's Sales and Pricing Policy and was not unreasonable</i>

### Case 178413 (2009)—Animal usage statistics

The then Ministry of Agriculture and Forestry (MAF) advised a charge of ‘at least \$3,000’ for supplying animal usage statistics, and the requester complained to the Ombudsman. During the Ombudsman’s investigation it was revealed that the bulk of the charge was for time required to consult with third parties affected by the request. The Ombudsman formed the provisional opinion that this time—which related to the decision whether or not to release or withhold the information—could not be charged for. After considering the Ombudsman’s provisional opinion, MAF reduced the charge to \$583. The Ombudsman concluded that this represented a reasonable charge for supplying the requested statistics.

Back to [index](#).

### Case 172047 (2005)—MP request for information about 42 community grants

An MP made 42 OIA requests for information related to 42 separate grants made by the former Community Employment Group (CEG) of the then Department of Labour. The requested information included copies of contracts, evaluations, communications with the grantees, internal reports, and reports to the Minister. These repeated requests were aggregated for charging purposes, and the Department advised a charge of \$15,197.50. The requester complained to the Ombudsman.

The Ombudsman noted that some of the time required was to cope with a loss of institutional knowledge as a result of the disestablishment of the CEG. Even when the CEG was functioning, it was apparent that its administrative processes were less than robust, with an extremely old and unstable electronic database, which lacked a search function, and was incomplete and inconsistent with the corresponding paper files.

In the Ombudsman’s view, it would not be reasonable to make the requester bear the cost related to these administrative inefficiencies:

*The requester should only have to meet costs that are comparable to those that would be reasonably charged by a properly-functioning administrative organisation where the processing of official information requests is a core output and funded accordingly.*

The Ombudsman still accepted, however, that it would take approximately 3.25 hours to retrieve and collate the relevant information in respect of each of the 42 separate grants, requiring a total processing time of 136.5 hours. The Ombudsman formed the opinion that the charge should be reduced to \$10,298.

The Ombudsman also considered whether the charge should be remitted in recognition of the public interest in MPs having access to official information to assist in the reasonable exercise of their democratic responsibilities. However, he was not persuaded that the public interest justified remission of the entire charge. He concluded the charge should be remitted by 10 per cent, resulting in a reasonable

charge of \$9268.20.

Back to [index](#).

### Case 177195 (2009)—Seven years of board minutes

ACC charged \$3,438 to supply 87 sets of board minutes dating from 2000–2007, and the requester complained to the Ombudsman.

ACC explained that the charge comprised labour costs of \$3,268 and photocopying costs of \$170. This was based on an estimated processing time of 30 minutes per board minute for *‘deleting the protected information, collating the material into a reasonable form, drafting a schedule explaining the grounds for withholding the protected information, and photocopying the altered documents’*. The Ombudsman found that some of these tasks were not activities that can be charged for, and that a revised estimate of 20 minutes processing time per board minute would be more reasonable. He noted that the primary cost of processing would come from decision making, and that the *Charging Guidelines* are clear this cost cannot be passed on to the requester. He did not accept that it was necessary to *‘collate the material into a reasonable form’*. Other than the making of minor deletions, no further work was required to release the board minutes in a *‘reasonable form’*. He also did not accept it was necessary to create a schedule explaining the withholding grounds: *‘This may be a particular agency’s preference, but the cost of creating this should not be passed on to the requester’*. The Ombudsman formed the provisional opinion, which was accepted by ACC, that the labour component of the charge should be reduced to \$2128.

The requester argued the entirety of this charge should be remitted in light of the public interest, and due to personal hardship.

In terms of the public interest, the Ombudsman accepted that disclosure of the minutes would promote transparency and contribute to public understanding of the organisation’s activities. However, the request covered a long time period, and much of the information was by then historic. The Ombudsman was not persuaded that disclosure of the information would represent such a significant contribution to the public interest that ACC should absorb the entire, quite considerable, cost of providing it.

In terms of hardship, the Ombudsman accepted the complainant’s evidence that meeting the charge would consume his annual disposable income. However, the Ombudsman did not regard lack of financial resources by itself as a sufficient reason to merit the waiving of an otherwise reasonable charge. The Ombudsman said he would also expect to be able to identify a general public interest consideration in favour of release and/or an aspect of special relevance to the requester.

The Ombudsman did not accept that the charge of \$2128 should be remitted due to the public interest or personal hardship to the requester.

Back to [index](#).

### Case 307851 (2012)—Unreasonable photocopying charge

A council charged \$0.45 per page for photocopying building information, and the requester complained to the Ombudsman. The council explained that the \$0.45 per page charge reflected the additional cost to council of complying with the statutory requirement to keep building information for the life of the building (estimated to be 50 years minimum), as well as the ongoing maintenance costs associated with electronic storage of the files.

The Ombudsman was not persuaded there was any justification for exceeding the standard photocopying charge prescribed in the *Charging Guidelines* (\$0.20 per page for photocopying in excess of 20 pages).

The Ombudsman noted that section 13(3) of the LGOIMA talks about charges being set with regard to the cost of labour and materials involved in making the information available. While these are not the only matters to which regard may be had, establishment and maintenance costs for systems and storage facilities are not the kinds of costs contemplated by section 13(3). If that were the case, a cost for a service that is for the benefit of the entire community would be being passed on to an official information requester. The Ombudsman considered that a requester can be charged (within reason) for the extra costs generated by meeting a request, but that it is not reasonable to go beyond this.

The per page charge was reduced to \$0.20 in light of the Ombudsman's view, and the revised charge was found by the Ombudsman to be reasonable.

Back to [index](#).

### Cases 176345 (2007) and 368207 (2014)—Unreasonable staff rates

Cases 176345 and 368207 involved councils charging higher hourly rates than those specified in the *Charging Guidelines*. The hourly rates were derived from their LGOIMA charging policies, adopted in the councils' annual plans. The rates varied depending on the seniority of the staff involved (in one case, the charge ranged between \$45/hour and \$125/hour, and in the other, the charge ranged between \$75/hour and \$121.83/hour).

In both cases, the Ombudsmen compared the proposed staff rates with those in the *Charging Guidelines*, noting that the latter rates applied irrespective of the seniority of the staff members involved. The Ombudsmen also noted there was no suggestion in either case that staff with specialist expertise were required to process the request. The higher staff rates were found to be unreasonable, as was the decision to charge different rates depending on the seniority of the staff members involved.

In case 176345, the Ombudsman suggested that the Council consider amending its current scale of charges for the supply of official information to bring them in to line with the *Charging Guidelines*. In case 368207, the Ombudsman noted that the official information legislation does not contemplate full cost recovery for providing information,



and that adequate funding should be provided for in agency budgets in order to perform their statutory functions.

Back to [index](#).

#### Case 274689 (2010)—Internal decision making rules

The Customs Service (Customs) charged \$2,037.80 to supply a copy of its policies on checking passengers and their baggage, and the requester complained to the Ombudsman. The Ombudsman noted that this type of information is covered by section 22 of the OIA, which provides a right of access to the internal rules that agencies use to make decisions affecting people. He considered that release of policies and procedures about how searches are carried out, and the rights afforded to those whose person and baggage is searched, would be likely to enhance public awareness of Customs' role at the border and help ensure that that role is carried out properly and that Customs is accountable for its actions. The Ombudsman found that the public interest in general availability of the information made Customs' decision to charge one requester a substantial amount unreasonable. In the Ombudsman's view, Customs was only justified in charging reasonable photocopying costs, which were calculated in accordance with the *Charging Guidelines* to be \$18.20. The Ombudsman also encouraged Customs to make the information available to the public online.

Back to [index](#).

#### Case W50332 (2004)—Information about international trade agreement

The Minister for Trade Negotiations charged an academic requester \$620 to supply information about the *General Agreement on Trade in Services* (GATS). The requester complained to the Ombudsman. The Ombudsman recommended full remission of the charge in the public interest. He noted that the GATS was a matter of substantial public interest in terms of New Zealand's economic concerns. He considered that public understanding of this major public issue was best served by maximising the availability of information so that source material may be analysed for public discussion by a variety of parties. Members of the public are entitled to take a contrary view to the government and the OIA envisages that individuals may access information in order to participate in debate in their own way. In this case, the complainant sought the information in order to undertake research which ultimately would be made publicly available for discussion and debate, and the Ombudsman was of the view that any charge would hinder such access. You can read the full case note on our website.<sup>37</sup>

Back to [index](#).

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<sup>37</sup> Search for 'W50332' using our online library [Liberty](#).

### Case 400121—Information about academic misconduct by international students

Victoria University supplied a requester with statistics on instances of academic misconduct, but imposed a charge of \$1064 to provide a breakdown of whether those instances involved domestic or international students. The University advised that the domestic/international status of students was not recorded within its academic misconduct register and would need to be collated by cross-checking that register against its central student record system. It calculated that 14 hours of staff time would be required to complete this task, based on an estimated 1 minute for each of the 625 instances of misconduct, plus three hours contingency time.

The Ombudsman noted that the first hour of staff time had not been allowed free of charge, but in other respects the estimated staff time was reasonable, and the charge was calculated in accordance with the *Charging Guidelines*. He went on to consider whether the charge should be remitted in the public interest.

He noted the University's decision to charge might appear unsatisfactory when set against the decision of other universities to supply the same or similar information for free. This could have been because there was less information at issue or different systems for recording it, or because the university opted to bear the cost itself.

However, the Ombudsman considered that the fact other universities had no reason to charge or opted not to do so did not automatically mean that the decision of the University in this case was therefore unreasonable. If the University's academic misconduct register included the students' domestic / international status, collating the information requested would have been less time-consuming. However, with no reason to conclude that the University should have been recording that information in its register, the Ombudsman did not consider that it could be criticised for not doing so.

The Ombudsman found that there is a public interest in ensuring that instances of academic misconduct are identified, investigated and concluded appropriately, but that it is not necessary for those purposes to identify whether the students involved are domestic or international.

The Ombudsman considered whether there is a public interest in the University itself knowing the domestic / international breakdown of students involved in academic misconduct, to determine whether its efforts to prevent misconduct are appropriately targeted. However, he accepted that the University had other mechanisms for addressing academic misconduct, and services that could potentially pick up on, and respond to, particular concerns or trends.

The Ombudsman concluded that there was no countervailing public interest in making the information available, such that, in the circumstances of this case, it was unreasonable for the University to decide against reducing or cancelling the charge.

You can read the full case note [here](#).

### Case 302392 (2010)—Correspondence regarding proposals to lower the drink-drive limit

The Ministry of Transport charged \$9,220 to supply all correspondence received by the Minister from July 2009–November 2010 regarding proposals to lower the drink-drive limit and the Land Transport Amendment Bill. The requester complained to the Ombudsman. The charge was revised down to \$3,262.20 during the Ombudsman’s investigation.

The Ministry and the Ombudsman’s investigator together searched the Ministry’s database for correspondence received between July 2009 and November 2010 with the following search terms:

- ‘blood alcohol concentration limit’; or
- ‘lowering of the BAC’; or
- ‘drink driving’; or
- ‘BAC limit’; or
- ‘Land Transport (Road Safety and Other Matters) Amendment Bill’.

The search returned 1180 potentially relevant documents.

The Ministry and the Ombudsman’s investigator then reviewed a sample of the documents, and agreed upon the following assumptions regarding the chargeable activities required to process the request:

- Search database: 15 minutes;
- Review document to confirm within scope: 5 hours (15 seconds per document);
- Open and print each letter/email: 10 hours (30 seconds per document);
- Prepare documents for photocopying: 20 hours (1 minute per document); and
- Time spent photocopying: 5 hours (15 seconds per document).

This came to an estimated maximum of 40.25 hours processing time, plus photocopying for 1416 pages. Applying the [charging formula](#) ( $40.25 - 1 \times \$76 + 1416 - 20 \times \$0.20$ ) resulted in a charge of \$3,262.20.

The Ombudsman also considered whether that charge should be remitted in the public interest. He had regard to the controversial nature of the decision not to lower the drink-drive limit, and the high public interest in the information that led to that decision, as well as the views of the general public. However, much of this information was already available through the select committee process for the Land Transport Amendment Bill. Public submissions on that Bill had also been published on the parliamentary website. The Ombudsman concluded there was not a public interest in

release of the requested information sufficient to warrant remission of the revised charge.

Back to [index](#).

### Case 319893 (2012)—Information related to cycling fatalities

A requester asked the Police for a range of documentation relating to cycling fatalities since 2007, as well as answers to specific questions. Police said the request would take a considerable amount of time, which would be charged for in accordance with the *Charging Guidelines*. The requester complained to the Ombudsman.

The Ombudsman asked the Police whether there was any information relevant to the request that could be provided with less effort than the work needed to answer the request in full. In particular, the first part of the request, which was for ‘*a list of all fatalities involving a bicycle since 2007, including police file numbers, dates and locations*’, seemed a possible option. Police were able to compile and supply a report addressing some aspects of the request using the Crash Analysis System (CAS) database free of charge.

The Ombudsman considered whether it was reasonable to charge for the remaining information at issue. He found that a reasonable estimate of the time required to compile that information was 94 hours, resulting in a charge calculated in accordance with the *Charging Guidelines* of \$7,068.

The Ombudsman then considered whether that charge should be remitted in the public interest. The requester contended that the information was needed to assist in the preparation of submissions for a Coroner’s inquiry into cycling fatalities, and that his overall aim was increased public health and safety. These aims clearly aligned with the public interest factors suggested in the *Charging Guidelines* as warranting remission.

However, the Ombudsman considered that the public interest in release needed to be sufficiently compelling to justify spending this much staff time on one request without charging for it:

*The staff time involved (over 90 hours) is funded by the public purse, and to my mind it is reasonable to expect a tangible public benefit from the use of that level of resource.*

The Ombudsman did not consider this case met that threshold. The readily retrievable information already released by the Police would have adequately assisted in the preparation of submissions to the Coroner’s inquiry. The Coroner also had the power to request information direct from the Police if it was necessary for the purpose of the inquiry. The Ombudsman was not persuaded the charge should be remitted in the public interest.

The Ombudsman also noted that the primary source of much of the requested information was traffic accident reports. These reports are available pursuant to a charging regime set by statute. [Section 211 of the Land Transport Act 1998](#) provides that

traffic accident reports are available on payment of the prescribed fee, and the [Land Transport \(Assessment Centre and Accident Report Fees\) Regulations 1998](#) provide that the prescribed fee is \$55. The OIA could not override this.

Back to [index](#).

#### Case 178468 (2009)—All information about Treaty claim over three year period

The Office of Treaty Settlements (OTS) charged \$708 to meet a request for all correspondence, memoranda, faxes, emails, file notes, and notes of telephone calls relating to the Te Roroa claim over a three year period. The requester complained to the Ombudsman. The Ombudsman noted that the information at issue was found in 50 files, and concluded the charge imposed reflected a significant under-estimation of the time that would be required to meet the request.

The Ombudsman accepted that the Te Roroa claim and its subsequent settlement raised matters of **public interest**. Disclosure of information relating to the settlement process would serve to increase the transparency of the process and promote accountability for the settlement that was reached. However, this did not mean that there was a public interest in making available, without charge, all correspondence, memoranda, faxes, emails, file notes and notes of telephone calls relating to the settlement over a three year period.

The request was so broadly framed it would likely capture many minor and trivial documents. Disclosure of this type of information would be unlikely to contribute significantly to public understanding of the settlement process.

The Ombudsman acknowledged the requester's contention that meeting the charge would cause him **hardship**. A requester's personal financial hardship is a matter that may be taken into account in assessing whether to impose a charge. However, lack of financial resources, by itself, does not provide sufficient reason to remit an otherwise reasonable charge. Some public interest considerations favouring the disclosure of the information should also be apparent. Although there were public interest considerations favouring the disclosure of information relating to the settlement process in this case, the breadth of the information potentially covered by the request went beyond the information needed to meet the public interest considerations involved.

Back to [index](#).

#### Case 179387 (2010)—Information about self-reported convictions of teachers

The Teachers' Council charged \$3,277.12 to supply a member of the news media with the following details of instances where teachers had self-reported convictions:

- the gender of the teacher;
- the date on which the Council received the report of conviction;

- the registration status of the teacher at the time the report was received;
- the current registration status of the teacher;
- the details of the conviction(s) and sentence;
- a copy of the information provided by the teacher; and
- a copy of the summary of facts and sentencing notes.

The requester complained to the Ombudsman. The Ombudsman accepted the request would take approximately 11 hours processing time. With the first hour free, this amounted to a charge of \$760. This was based on an estimated 20 minutes per file to locate, extract and collate the requested information from 29 relevant files. The Ombudsman then considered whether the \$760 charge ought to be remitted in the public interest.

The Ombudsman acknowledged the public interest in transparency and accountability of Teachers' Council processes. He also acknowledged that *'the media serves the function of informing the public on matters of public interest'*. However, *'this does not mean that all its sources must be available at no charge'*.

The Ombudsman accepted that the staff time required to process this request would have a significant impact on the conduct of the Teachers' Council's business, and that it would have to engage additional staff in order to complete the work involved. He was not persuaded that the public interest in release was such that remission of the charge was warranted.

Back to [index](#).

### Case 172531 (2007)—Information about a DOC Recommended Area for Protection

The Royal Forest and Bird Protection Society asked Solid Energy for all substantive information between 1998 and 2005 regarding a Department of Conservation Recommended Area for Protection. Solid Energy advised a charge of \$9,930.31, and the Society complained to the Ombudsman.

Solid Energy sought to recover the actual cost of supplying the information, including costs charged by its consultants, on the basis that it was commercially valuable. The Ombudsman commented:

*Information can be seen to be commercially valuable if it can be traded in some way, or if its release at less than production cost would confer a commercial advantage on a commercial competitor who would be saved the cost of producing, or otherwise acquiring, the information for itself. There has been no suggestion that either of those situations applies to the information in issue. Mere release of the information does not diminish its value to [Solid Energy] since it still has the information and can continue to derive whatever benefit it provided.*

The Ombudsman reviewed the modest amount of material at issue (15 documents of

substance and approximately 125 pages of other material). It included experts' reports, submissions regarding the boundaries of the proposed Recommended Area for Protection, and deeds of agreement between Solid Energy and the Department of Conservation relating to access to the relevant areas. He stated:

*The legal documents may evidence rights that may, perhaps, be tradable, but release of that information does not affect such tradability, if any. There is a submission, dated 1998, which may have value as a precedent, but that value is not diminished by its release. The remaining information (other than the correspondence) contains the opinions of various experts on [Solid Energy's] proposed mining operations, and the land, and its fauna and flora, likely to be affected by them. As [Solid Energy] is the only entity permitted to carry on such operations at that location it is hard to see any realisable commercial value in that information.*

The Ombudsman was not satisfied that any information of commercial value was to be released. Consequently there was no justification for charging on such a basis. He formed the opinion that \$2000 reflected a reasonable charge in respect of the staff time involved.

Back to [index](#).

### Case 176924 (2009)— Information about the Southern Saltmarsh Mosquito Eradication Programme

The then Ministry of Agriculture and Forestry charged a requester \$9,044 to supply information about the Southern Saltmarsh Mosquito Eradication Programme. The charge was upheld on complaint to the Ombudsman, and the requester paid the charge. After processing a third of the request, the Ministry advised the requester that the charge had been exhausted, and sought a further \$8,000 to complete the request. When the requester declined to pay the additional amount, the Ministry refused the request on the basis that it would require substantial collation or research to make the information available (section 18(f) of the OIA). The requester complained to the Ombudsman again.

The Ombudsman formed the opinion that it was not open to the Ministry to refuse the request or increase the charge. The request could not be refused under section 18(f) of the OIA because the information had already been collated. In relation to the increased charge, the Ombudsman stated:

*In my view, if an organisation sets a definite figure for fulfilling a request at the time of making its decision, then I do not consider it is open to the agency to charge more than the set figure. However if an organisation 'fixes' a charge by reference to an estimate, and the agency **clearly signals** that this figure may increase, then an Ombudsman on review is likely to consider that an increase that **is in line with the signalled estimate** is reasonable.*

In this case, the Ombudsman was not persuaded that simply referring to the charge as an 'estimate' was sufficient to forewarn the requester that the charge could increase, particularly by such a large amount. While the Ministry had made a genuine attempt to

assess the likely charge, its scoping exercise prior to making a decision on the request was inadequate.

Even in situations where a requester has been forewarned of the possibility that the charge may increase, a significant factor for an Ombudsman reviewing the reasonableness of a charge will be whether the increased charge is substantially different from the estimate given. In this case, the Ministry sought to increase the charge by \$8,000, an increase of 82 per cent.

The original estimate given in this case was not an open one – it was intended to convey to the requester the maximum that he would be expected to pay. The Ombudsman did not consider it reasonable in this case for the charge to exceed the original estimate.

Back to [index](#).

#### Case 304081 (2012)—Information about a hospice

A District Health Board (DHB) decided to charge for supplying information about a hospice. The requester accepted the charge and paid the deposit. The requester made a second request for information. The DHB then withdrew the charge, refunded the deposit, and refused the first request on the grounds that it was vexatious (section 18(h) of the OIA), and it would require substantial collation or research to make the information available (section 18(f) of the OIA). The requester complained to the Ombudsman about the refusal of his first request.

The Ombudsman formed the provisional opinion that the DHB had made a decision to release the information to the requester, provided that he was prepared to pay the charge. Consequently, when the requester agreed to the charge, and paid the required deposit, he entered into an agreement with the DHB for provision of the information. In these circumstances, the Ombudsman could not see how it was reasonable for the DHB to subsequently withdraw its offer to release the information, and instead inform the requester that his request was refused. The requester was entitled to rely on the DHB's decision to release the information on payment of a charge. After considering the Ombudsman's provisional opinion, the DHB agreed to release the information for the original charge, and the Ombudsman discontinued his investigation on the basis that the complaint was resolved.

Back to [index](#).

#### Case 173607 (2007)—Information about Maori interests in the management of petroleum

The lawyers for an iwi sought documents relating to Maori interests under section 4 of the Crown Minerals Act 1991 in the Crown's management of petroleum. The Ministry of Economic Development advised that it would require considerable labour and materials to review the 18 files at issue and imposed a charge of \$380. The lawyers complained to the Ombudsman.



During the Ombudsman’s investigation the Ministry agreed to make the files available to the lawyers by way of inspection, so they could identify the specific information they wished to obtain copies of. The opportunity for inspection was made subject to the following conditions:

- That no material was removed from any file.
- That —to the greatest extent possible—the lawyers focused on documents that were relevant to the request.
- That information obtained as a result of the inspection was not used for any purpose.
- That information obtained as a result of the inspection was not communicated to any other person, or published in any way.

Once the lawyers had identified the specific information they wished to obtain copies of, the Ministry would then make a separate decision as to whether that information was able to be disclosed without conditions. This removed the Ministry’s need to charge for staff time spent researching the files. The Ministry retained the right to charge for photocopying, including staff time spent photocopying, depending on the volume of material the lawyers subsequently requested. The Ombudsman discontinued his investigation on the basis that this resolved the complaint.

Back to [index](#).

### Case 177600 (2008)—Vehicle registration information available for purchase

The New Zealand Transport Agency charged a requester for providing information about vehicle registrations. The information was available for purchase on the internet for a monthly fee of \$56.25. The requester complained to the Ombudsman.

The Ombudsman declined to investigate a complaint about the charge because the request could have been refused under section 18(d) of the OIA. That section enables a request to be refused if the information is publicly available. The Ombudsman said:

*If [an agency] properly refuses a request under [section 18(d)], the charging provisions in the [OIA] do not apply. A situation where [an agency] can clearly rely on section 18(d) is where it publishes the information and advertises this as available for purchase at a set price by any person.*

The Ombudsman noted the following excerpt from the Law Commission’s 1997 review of the OIA:<sup>38</sup>

*In some cases the ability to recover costs will arise through the commercial production and sale of the information (or the prospect of it) completely outside the ambit of the Act. In that event the request may be refused: s*

<sup>38</sup> Note [17](#) at 56.

18(d).

He also noted this excerpt from *Freedom of Information in New Zealand*:<sup>39</sup>

*To what extent is material 'publicly available' if a Department or organisation charges for it? Clearly, books, maps, and other documents do not lose their availability simply because they are sold. Clearly too, the price at which they are sold may exceed the charges normally payable for retrieval and copying under Part II of the Act but by how much? An excessive price could make the material 'unavailable' for the purpose of section 18(d). Departments should not be able to resist claims for access to a single document by pointing to its publication in a tome costing hundreds of dollars...*

The Ombudsman agreed with this approach. He commented that it might be unreasonable to rely on section 18(d) where a price is patently excessive, but in this case the price reflected the actual cost of producing the information.

Back to [index](#).

#### Case 376161 (2015)—Statistics that could be created for a fee

A requester asked Statistics NZ for the numbers of people living on an hourly rate of \$13.75, \$15 and \$16, and the total number of people earning less than \$18 per hour. Statistics NZ treated this as a customised data request and calculated a fee of \$172.50 for supply of the information, in accordance with its *Sales and Pricing Policy*. The requester complained to the Ombudsman under the OIA.

The first issue for the Chief Ombudsman was whether this was an OIA charging complaint, or one that had to be considered under the Ombudsmen Act. The Chief Ombudsman asked Statistics NZ whether it held the data at issue or would need to create it.

Statistics NZ explained that the data were sourced from the *New Zealand Income Survey* (NZIS). However, NZIS earning statistics are produced by average and median only, not by numbers of people earning at set levels. That information would need to be individually produced by an analyst with a high degree of skill and knowledge of the NZIS 'unit record', or raw data.

By describing in detail the steps that would be required to produce the information (including data programming and analysis), Statistics NZ was able to satisfy the Chief Ombudsman that this was a case of creation rather than collation of the information, and so the information was not 'held' and not available for request under the OIA.

As the OIA did not apply, the Ombudsman considered whether the charge was

<sup>39</sup> Eagles, I, Taggart, M, and Liddell, G. *Freedom of Information in New Zealand*. Oxford; Oxford University Press, 1992 at 244.

reasonable in terms of the Ombudsmen Act. The Chief Ombudsman determined that the charge was calculated in accordance with Statistics NZ's *Sales and Pricing Policy*, and that it was not unreasonable in the circumstances of this case to recover the full cost of producing the data.

The Chief Ombudsman also asked Statistics NZ whether there was any readily retrievable information that could be supplied to the requester free of charge. Statistics NZ was able to point the requester to published statistics about personal income distribution broken down by weekly personal income. It was also willing to provide information compiled in response to an earlier customised data request for the number of people who were earning the minimum adult wage.

Back to [index](#).

## Appendix 3. Template charging letter

[Name and address of requester]

Dear [name]

### **Official information request for [brief detail of the subject matter of the request]**

I refer to your official information request dated [date] for [quote or set out detail of request].

#### **[Use if granting the request in full and charging]**

We have decided to grant your request. However, given the amount of resource required to process your request, we have decided to charge for making the requested information available.

We estimate that the maximum charge will be [amount]. [A discount of [1–100] percent has been applied in recognition of the public interest and/or potential hardship]. Any unused component of the maximum charge will be refunded to you. For details of how this charge has been calculated refer to the enclosed estimate of costs [see [sample estimate of costs](#)].

Before we proceed further with your request, please confirm your agreement to the charge [and pay the full amount / [amount] as a deposit, with the balance to be paid on release of the information]. [Specify how payment should be made]. We will send you the information within [time period] of your payment.

#### **[Use if granting the request in part and charging]**

We have decided to grant your request in part, namely information which relates to [describe information to be released in sufficient detail to enable requester to decide whether to pay the charge]. We have also decided to refuse your request for information which relates to [describe information withheld] under section [detail relevant section(s)] of the [OIA/LGOIMA], as release would [describe relevant harm].

Given the amount of resource required to process your request, we have decided to charge for making part of the requested information available. We estimate that the maximum charge will be [amount]. [A discount of [1–100] percent has been applied in recognition of the public interest and/or potential hardship]. Any unused component of this charge will be refunded to you. For details of how this charge has been calculated refer to the enclosed estimate of costs [see [sample estimate of costs](#)].

Before we proceed further with your request, please confirm your agreement to the charge [and pay the full amount / [amount] as a deposit, with the balance to be paid on release of the information]. [Specify how payment should be made]. We will send you the information within [time period] of your payment.

**[Use in all cases]**

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz) or freephone 0800 802 602.

If you wish to discuss this decision with us, please feel free to contact [details of contact person]. [Contact person] will be able to assist you should you wish to change or refine your request in order to reduce or remove the need to charge.

Yours sincerely

[Name]

## Appendix 4. Sample estimate of costs

<b>Locations searched</b>	•
<b>Search terms used</b>	•
<b>Date range</b>	DD/MM/YY-DD/MM/YY
<b>Estimated no. of documents at issue/to be searched through</b>	
<b>Chargeable activities required</b>	<input type="checkbox"/> Search and retrieval <input type="checkbox"/> Collation <input type="checkbox"/> Research (reading and reviewing to identify the information) <input type="checkbox"/> Editing (excising or redacting information to be withheld) <input type="checkbox"/> Scanning / copying <input type="checkbox"/> Reasonably required peer review to ensure that these tasks have been carried out correctly
<b>Estimated minutes per document to complete chargeable activities</b>	
<b>Estimated total time to complete chargeable activities</b>	
<b>Estimated no. of pages to be photocopied</b>	

	<b>Quantity</b>	<b>Price</b>	<b>Totals</b>
<b>Labour</b>	[A] hours	\$38/half hour, with the first hour free	\$(A - 1 x \$76)
<b>Photocopying (if applicable)</b>	[B] pages	\$0.20/page, with the first 20 pages free	\$(B - 20 x \$0.20)
<b>Other (specify)</b>		\$	\$
<b>Discount applied due to public interest / hardship (if applicable)</b>		[1-100] %	- [amount of discount]
<b>Total cost</b>			

## RISK AND AUDIT COMMITTEE

14 AUGUST 2024

AGENDA ITEM: 12

Prepared by Paul Numan  
Group Manager Corporate Services

### PUBLIC EXCLUDED REPORT

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#### 1. REPORT SUMMARY

Subject to the Local Government Official Information and Meetings Act 1987 (LGOIMA) s48(1) right of Local Authority to exclude public from proceedings of any meeting on the grounds that:

#### 2. DRAFT RECOMMENDATION

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

Item No.	Minutes/ Report of:	General Subject	Reason For Passing Resolution under LGOIMA
PE 1	Paul Numan – Group Manager Corporate Services	Confirmation of Previous Public Excluded Minutes	<b>(s 7(2)(i))</b> - enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations); or <b>(s 7(2)(j))</b> - prevent the disclosure or use of official information for improper gain or improper advantage.
PE 2	Simon Pickford – Chief Executive Officer	Project Management Update	<b>(s 7(2)(f))</b> - Maintain the effective conduct of public affairs through the protection of such members, officers, employees, and persons from improper pressure or harassment
PE 3	Sharon Roche – Independent Chair Risk and Audit Committee	Buller Holding Ltd. Directorship Appointment and Remuneration	<b>(s 7(2)(a))</b> - Protect the privacy of natural persons, including that of deceased natural persons;