

MEETING — AGENDA —

Ngā Take

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Western Bay of Plenty
District Council

POLICY COMMITTEE

Komiti Kaupapa Here

PP10

Thursday, 8 February 2018

Council Chambers

Barkes Corner, Tauranga

9.30am



Notice of Meeting No PP10 Te Karere

Policy Committee Komiti Kaupapa Here

Thursday, 8 February 2018
Council Chambers
Barkes Corner
9.30am

His Worship the Mayor

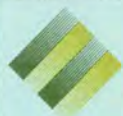
G J Webber

Councillors:

M Williams (Chairperson)
D Marshall (Deputy Chairperson)
G Dally
M Dean
M Lally
P Mackay
K Marsh
M Murray-Benge
J Palmer
J Scrimgeour
D Thwaites

Media
Staff

Miriam Taris
Chief Executive Officer
Western Bay of Plenty District Council



Western Bay of Plenty
District Council

Te Kaunihera a rohe mai i nga Kuri-a-Wharei ki Otamarakau ki te Uru

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Policy Committee Delegations

Mangai o Te Kaunihera

Quorum:

The quorum for this meeting is six members.

Role

Subject to compliance with legislation to develop plans and policies for the future direction of Council and its communities.

General Delegations

- To exercise all decision-making powers of Council within the Committee's scope of delegated functions and in accordance with its role, and to do anything precedent to the exercise by Council of its powers and duties as specified in Schedule 7 of the Local Government Act 2002 Clause 32 subclause 1 items b and h being specifically the following:
- To undertake on behalf of Council all processes and actions (including consultation) for the development of bylaws, remuneration and employment policy, and policies required to be adopted and consulted on under the Local Government Act 2002 developed for the purpose of the local governance statement precedent to adoption by Council.

Subject to compliance with legislation and the Long Term Plan to resolve all matters of policy and planning which do not require, under the Local Government Act 2002, a resolution of Council. Policy is defined as any matter relating but not limited to, the following:

- Policy Development
- Comprehensive Development Planning
- Environmental policy
- Matters of policy referred by Council, Community Boards or other committees
- Reserve Management Planning
- To conduct policy review and monitor policy variation frameworks
- To undertake on behalf of Council all processes and actions (including consultation) to develop bylaws precedent to the recommendation to Council for adoption of the bylaws

Subject to compliance with legislation and the Long Term Plan to resolve all matters of strategic policy outside of the Long Term Plan process, which does not require, under the Local Government Act 2002, a resolution of Council. Strategic policy is defined as any matter relating but not limited to, the following:

- Overall Infrastructure Strategies and financial Planning/Action Plans
- Policy direction for asset management planning
- To set service standards including levels of service.
- Utilities services/ infrastructure policy and planning
- Road / Transport policy and planning

- To receive and resolve on or recommend to Council or its Committees as appropriate the reports, recommendations and minutes of the following:
 - Regional Land Transport Committee
 - SmartGrowth Implementation Committee
 - And any other Joint Committee, working group or forum as directed by Council.
- To receive resolve on or refer to Council and its Committees as appropriate the recommendations from the Rural Forum.

Resource Management Act 1991 - District Plan Policy Development

- Pursuant to the Resource Management Act 1991 to establish and review objectives, policies and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district by:
- Developing to the point of notification all District Plan and Development Code Changes, variations, designations and reviews and built environment strategies.

Financial Delegations

Pursuant to Section 4(1) of the Public Bodies Contracts Act 1959, the Committee shall have the power to enter into contracts in respect of the Committee's functions to a maximum value of \$5,000,000 for any one contract, provided that the exercise of this power shall be subject to, and within the allocation of funds set aside for that purpose in the Long Term Plan, the Annual Plan and Budget or as otherwise specifically approved by Council.

To report to Council financial outcomes and recommend any changes or variations to allocated budgets.

Other

Pursuant to clause 32(1) of Schedule 7 of the Local Government Act 2002, each of the Mayor and Councillors, whether individually or collectively, the power to listen to and receive the presentation of views by people and to engage in spoken interaction with people pursuant to section 83(1)(d) of the Local Government Act 2002 in relation to any processes Council undertakes to consult on under the Special Consultative Procedure as required by the Local Government Act 2002 or any other Act.

The Committee may without confirmation by Council exercise or perform any function, power or duty relating to those matters delegated by Council in like manner, and with the same effect, as the Council could itself have exercised or performed them.

The Committee may delegate any of its functions, duties or powers to a subcommittee subject to the restrictions on its delegations and provided that any sub-delegation to subcommittees includes a statement of purpose and specification of task.

The Committee may make recommendations to Council or its Committees on any matters to achieve the outcomes required in the role of the Committee but outside its delegated authorities.

Agenda for Meeting No. PP10

Pages

**Present
In Attendance
Apologies**

Public Excluded Items

The Council may by resolution require any item of business contained in the public excluded section of the agenda to be dealt with while the public are present.

Public Forum

A period of up to 30 minutes is set aside for a public forum. Members of the public may attend to address the Committee for up to three minutes on items that fall within the delegations of the Committee provided the matters are not subject to legal proceedings, or to a process providing for the hearing of submissions. Speakers may be questioned through the Chairperson by members, but questions must be confined to obtaining information or clarification on matters raised by the speaker. The Chairperson has discretion in regard to time extensions.

Such presentations do not form part of the formal business of the meeting, a brief record will be kept of matters raised during any public forum section of the meeting with matters for action to be referred through the customer contact centre request system, while those requiring further investigation will be referred to the Chief Executive.

Decisions

- | | | |
|--------|--|-------|
| PP10.1 | Review of Council's Fraud Prevention Policy | 8-14 |
| | Attached is a report from the Finance Manager dated 16 January 2018. | |
| PP10.2 | Review of Council's Conflict of Interest Policy | 15-24 |
| | Attached is a report from the Finance Manager dated 4 December 2017. | |

PP10.3 **Review of Appointment of Directors to Council Controlled Organisations Policy** 25-41

Attached is a report from the Chief Financial Officer dated 16 January 2018.

Monitoring

PP10.4 **SmartGrowth Update** 42-46

Attached is a report from the Resource Management Manager dated 12 January 2018.

PP10.5 **Receipt of Policy Committee Information Pack No. PP10**

The Policy Committee Information Pack No. PP10 dated 8 February 2018 has been circulated separately with the agenda.

Recommendation

THAT the Policy Committee Information Pack No. PP10 dated 8 February 2018 be received and the information noted.

Local Government Official Information and Meetings Act

Exclusion of the Public

Schedule 2A

Recommendation

THAT the public be excluded from the following part of this meeting namely:

- *Policy Committee Information Pack No. P10 - In Confidence section*

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

<i>General subject of each matter to be considered</i>	<i>Reason for passing this resolution in relation to each matter</i>	<i>Ground(s) under Section 48(1) for the passing of this resolution</i>
<i>Policy Committee Information Pack No. PP10 - In Confidence section</i>	<i>THAT the public conduct of the relevant part of the proceedings of the meeting would likely result in the disclosure of information for which good reason for withholding would exist.</i>	<i>For reasons previously stated on the relevant minutes.</i>

Western Bay of Plenty District Council

Policy Committee

Review of Council's Fraud Prevention Policy

Purpose

The purpose of this report is to request that the Elected Members review Council's Fraud Prevention Policy and approve any amendments accordingly.

This report was originally presented at the Operation Management Team meeting on 8 May 2017, however due to Administrative oversight the Policy was not presented at the Policy Committee for review, as a consequence the Policy was re-reviewed by the Strategic Management Team on 18 December 2017.

Recommendation

- 1. THAT the Finance Manager's report dated 16 January 2018 and titled 'Review of Council's Fraud Prevention Policy' be received.**
- 2. THAT the report relates to an issue that is considered to be of low significance in terms of Council's Significance and Engagement Policy.**
- 3. THAT the Policy Committee approve the current Fraud Prevention Policy with the following amendments.....**
- 4. THAT the Chief Executive Officer be delegated the authority to amend the policy in respect of changes to job titles as required.**



Ian Butler
Finance Manager

1. Background

The current Policy is now overdue for review and is required to be reviewed three yearly. The current Policy was approved by the Management Team on 31 March 2014 and subsequently reviewed by Council on 10 April 2014.

The Policy Committee are requested to review the Policy and amend accordingly as this Policy also applies to Elected Members. The Policy was recently reviewed by the Management Team on 18 December 2017.

Council's existing Fraud Policy is noted below. There is an amendment required to be made to reflect that the Finance and Risk Committee is no longer running, therefore the responsibilities of this Committee will now go to Council. Any changes have been highlighted in red.

The Elected Members may also wish to amend the Policy for any perceived omissions or changes to the process.

Fraud Prevention Policy

Relevant Legislation

Local Government Act 2002, sections 100 and 101 (financial prudence)
Local Authorities (Members' Interests) Act 1968
The Protected Disclosures Act 2000
The Secret Commissions Act 1910
The Crimes Act 1961, sections 99, 105 and 105A

Purpose

In accordance with sections 100 and 101 of the Local Government Act 2002 (financial prudence) and, with due regard for Part 8: Fraud – The responsibilities and duties of public entities, Central Government B.29 reports, Central Government Results of the 2003-04 Audits, Auditor-General's Auditing Standard AG ISA (NZ) 240 Fraud.

Council, including its elected members and its staff or agents, is required to spend public funds subject to the standards of probity and financial prudence, such that all expenditure withstands public scrutiny.

Policy

The policy outlines irregularities that may constitute fraud, the responsibilities of Western Bay of Plenty District Council (Council) employees and the procedures to be followed in the event fraud is suspected.

This policy applies to all elected members of Council, the Chief Executive Officer, all employees and any person or organisation that has dealings with Council, including contractors, sub-contractors, agents, intermediaries and members of the public.

Council recognises that all its assets are owned by the Community and there is an expectation and obligation that elected members and staff act efficiently, honestly and with integrity to safeguard public resources. Council is committed to protecting its revenue, property, information and other assets from any attempt, by members of the public, contractors, sub-contractors, agents, intermediaries or its own employees or elected members, to gain financial or other benefits from it by deceit.

This policy sets out specific responsibilities regarding prevention, detection and investigation of fraud and other similar irregularities. All practicable steps will be taken to recover losses resulting from fraud.

In addition to this policy, Council staff belong to professional bodies, such as the Institute of Professional Engineers and the ~~Chartered Accountants Australia and New Zealand~~ ~~New Zealand Institute of Chartered Accountants~~ both of which bind their members to their profession's individual code of ethics concerning professional behaviour.

Definition of fraud

Fraud and other similar irregularities include, but are not limited to:-

- Forgery or alteration of cheques, drafts, promissory notes and securities
- Any misappropriation of funds, securities, supplies or any other assets
- Any irregularities of funds, securities, supplies or any other asset
- Any irregularity in handling or reporting of money transactions
- Misappropriation of furniture, fixtures and equipment
- Accepting or seeking anything of material value (see Giving and Receiving Gifts ~~Policy~~) from vendors, consultants or contractors without prior consent of the Chief Executive Officer or Group Manager
- Unauthorised use or misuse of Council property, equipment, materials or records and intellectual property
- Any computer-related activity involving the alteration, destruction, forgery or manipulation of data for fraudulent purposes, or the misappropriation of Council owned software
- Any claims for reimbursement of expenses that are not made for the exclusive benefit of Council.

Statements

Council will undertake a comprehensive investigation of any suspected acts of fraud, misappropriation or similar irregularity. Investigations will be fully documented.

The Chief Executive Officer has primary responsibility for the investigation of all cases of suspected fraud. Investigation may be delegated at the Chief Executive Officer's discretion.

The Chief Executive Officer will notify the Mayor of a reported allegation of fraudulent or irregular conduct and commence an investigation. Throughout the investigation these officials will be informed of pertinent findings.

The Chief Executive Officer will notify Audit New Zealand.

The Chief Executive Officer will contact the Police in every instance where there are reasonable grounds to indicate that a fraud may have occurred. The commencement of legal proceedings will be determined by Police.

Upon conclusion of an investigation, the results will be reported to the Mayor.

Council will pursue every reasonable effort, including court-ordered restitution, recover its losses from the offender(s) or other appropriate sources.

Minimisation of the risk of fraud

Internal controls will be maintained and regularly reviewed to provide assurance for the prevention and detection of fraud, misappropriations and other irregularities. Transactions, activities and locations that may be susceptible to fraud will be regularly reviewed. Specific reviews of internal controls will be undertaken by external auditors (via BOPLASS) as part of their internal audit programme, along with ad hoc internal audits, e.g. cash receipting.

Findings will be reported to ~~the Finance and Risk Committee~~ [Council](#).

Procedures for dealing with allegations of fraud or other irregularities

These procedures will be followed in dealing with fraud or other irregularities that have been observed or are suspected at Council.

Confidentiality

It is acknowledged that alleged or actual instances of fraud can affect the rights and reputation of anyone implicated. Individual identities should be protected wherever possible without detriment to Council.

All participants in a fraud investigation shall keep the details and results of the investigation confidential.

Media issues

Any staff or elected official contacted by the media with respect to an investigation of fraud, shall refer the media to the Chief Executive Officer.

The alleged fraud or investigation shall not be discussed with the media by any person other than through the Chief Executive Officer.

Reporting suspected fraud or other irregularities

A person having knowledge of any irregularity or having reason to suspect that fraud has occurred shall notify the Chief Executive Officer immediately. Anyone **reporting with** suspicions of fraud or other irregularities to report is not restricted to advising the Chief Executive Officer.

If you receive a report of suspected fraud or other irregularities advise the Chief Executive Officer immediately. Do not attempt to investigate the suspected fraud and do not discuss the matter with anyone other than the Chief Executive Officer or the Police when they are involved.

If suspicions relate to the Chief Executive Officer advise the [Deputy Chief Executive Officer](#) or your Group Manager in the presence of the Mayor in the first instance.

The Protected Disclosure (Whistle-blowing) Guidelines shall apply.

Note:

The Protected Disclosures Act 2000 states that no employee (or person acting on behalf of an employee who discloses information) shall:

- Dismiss (or threaten to dismiss) an employee who discloses information
- Discipline or suspend (or threaten to discipline or suspend) an employee who discloses information
- Impose any penalty upon an employee who discloses information
- Intimidate or coerce an employee who discloses information
- Where an employee confesses to their own fraud they will be subject to the normal proceedings as if another individual had disclosed the fraud.

Violation of this section of the Act will result in disciplinary action, up to and including dismissal.

If you are making a report on someone else's behalf, their name must not be disclosed except with their express permission. Advise them when you have passed the information on to the Chief Executive Officer or appropriate senior manager.

Preliminary investigation

The Chief Executive Officer (or in the event the allegations refer to the Chief Executive Officer, the [Deputy Chief Executive Officer](#), the Mayor and Group Manager or other Senior Manager) is primarily responsible for preliminary investigations which shall be undertaken to establish whether the allegations may be founded. The nature of preliminary investigations will be determined on a case-by-case basis in consideration of the suspicions raised. The Chief Executive Officer may delegate preliminary investigations at their discretion.

In undertaking a preliminary investigation care must be taken to secure and preserve the integrity of any evidence; take immediate action to prevent theft, alteration or destruction of relevant records. Such actions include, but are not limited to:

- Removing the records and placing them in a secure location
- Limiting access to the location where the records are currently held, and
- Preventing the individual suspected of committing the fraud from having access to the records. The records must be adequately secured until the Senior Manager obtains the records to begin the audit investigation.

At the conclusion of the preliminary investigation, the results must be fully documented. Where an internal investigator has been appointed by the Chief Executive Officer the investigation is to be fully documented in a confidential memorandum to the Chief Executive Officer. If the report concludes that the allegations are founded the writer should include recommendations for the appropriate manager to assist in the prevention of similar occurrences in the future.

If the report concludes that the allegations are founded the Chief Executive Officer shall inform the Police and a full investigation shall be co-ordinated with them.

The Chief Executive Officer shall advise the Mayor.

The Chief Executive Officer shall advise Council's nominated Audit New Zealand auditor/audit director and/or the Office of the Auditor General.

Disciplinary action

Where fraud is suspected from preliminary investigation disciplinary action shall be taken, up to and including dismissal, in accordance with Council's disciplinary procedures.

After investigation and before taking final disciplinary action, the person(s) under investigation for fraud shall be given written notice of the essential particulars of the allegations, unless exceptional circumstances exist.

Note: This step is subject to any collective employment agreement provisions respecting the rights of employees during disciplinary proceedings.

Upon completion of the investigation, including all legal and human resources actions, any records, documents and other evidentiary material shall be returned to the relevant department.

Associated Policies

Conflict of Interests Policy
Sensitive Expenditure Policy
Protected Disclosures (Whistle-blowing) Policy
Delegations Manual
Koha and Kuia-Kaumatua Payments Policy
Giving and Receiving Gifts Policy

2. Significance and Engagement

The Local Government Act 2002 requires a formal assessment of the significance of matters and decisions in this report against Council's Significance and Engagement Policy. In making this formal assessment there is no intention to assess the importance of this item to individuals, groups, or agencies within the community and it is acknowledged that all reports have a high degree of importance to those affected by Council decisions.

The Policy requires Council and its communities to identify the degree of significance attached to particular issues, proposals, assets, decisions, and activities.

In terms of the Significance and Engagement Policy this decision is considered to be of low significance because:

- It is a legislative requirement for councils to hold/adhere to a Conflicts of Interest Policy.

- It is a legislative requirement for councils to hold/adhere to a Conflicts of Interest Policy.

3. Engagement, Consultation and Communication

Interested/Affected Parties	Planned Engagement/Consultation/Communication
All Staff	All staff to be notified accordingly and the updated Policy to be uploaded to the Policy library on the intranet.

4. Issues and Options Assessment

<i>THAT the Policy Committee approve the current Fraud Prevention Policy with the following amendments.....</i>	
Reasons why no options are available	Legislative or other reference
The Fraud Prevention Policy is required to be reviewed every three years. Some name changes are required to be made to the Policy as a minimum, and other processes may now be more appropriate than those in the current Policy. Therefore, Council is requested to review the Policy and amend accordingly.	<ul style="list-style-type: none"> - Local Government Act 2002, sections 100 and 101 (financial prudence) - Local Authorities (Members' Interests) Act 1968 - The Protected Disclosures Act 2000 - The Secret Commissions Act 1910 - The Crimes Act 1961, sections 99, 105 and 105A.

5. Statutory Compliance

The recommendations comply with legislation and Council's associated policies as noted above.

6. Funding/Budget Implications

Budget Funding Information	Relevant Detail
	Not applicable.

Western Bay of Plenty District Council

Policy Committee

Review of Council's Conflict of Interest Policy

Purpose

The purpose of this report is to request that the Elected Members review Council's Conflict of Interest Policy and approve any amendments accordingly.

Recommendation

- 1. THAT the Finance Manager's report dated 4 December 2017 and titled 'Review of Council's Conflict of Interest Policy' be received.***
- 2. THAT the report relates to an issue that is considered to be of low significance in terms of Council's Significance and Engagement Policy.***
- 3. THAT the Policy Committee approve the current Conflict of Interest Policy with the following amendments.....***
- 4. THAT the Chief Executive Officer be delegated the authority to amend the policy in respect of changes to job titles as required.***



Ian Butler
Finance Manager

1. Background

Council's Conflict of Interest Policy is overdue for review and is required to be reviewed three yearly. The current Policy was approved by the Management Team on 26 August 2014 and subsequently reviewed by the Finance and Risk Committee on 25 September 2014.

The Policy Committee are requested to review the Policy and amend accordingly as this Policy also applies to Elected Members. The Policy was recently reviewed by the Management Team in November 2017.

Council's existing Conflicts of Interest Policy is noted below. There is a minor amendment required to be made to a change in job title and definition additions which have been highlighted in red.

The Elected Members may also wish to amend the Policy for any perceived omissions or changes to the process.

Conflict of Interest Policy

Relevant Legislation

Local Government Act 2002
Local Authorities (Members' Interests) Act 1968

Purpose

To promote integrity and to preserve public trust by avoiding perceived or actual bias.

In accordance with relevant legislation and guidance from the Office of the Auditor-General, this Policy defines a range of circumstances that may constitute conflicts of interests along with procedures for identifying and managing these in order to protect Council officers and staff, Elected Members and Members of Community Boards and to preserve public trust in Western Bay of Plenty District Council.

Policy

- 1.1 Each individual Council officer, elected member and member of a community board is responsible for identifying and declaring conflicts of interest.
- 1.2 A conflict of interest can arise where two different interests overlap, i.e. in any situation where a person has a financial interest, a private or personal interest or business interest sufficient to influence or appear to influence the impartial exercise of their official duties or professional judgement.
- 1.3 The existence of a conflict of interest may not necessarily mean that the officer or elected member concerned has done anything wrong or that the interests of Council or the public have been compromised. For a Council officer or elected member a conflict interest that creates risks may be where their duties or responsibilities to Council could be affected by some other

interest or duty that they may have. For example, other interests or duties might exist for an officer or elected member because of their own financial affairs; a relationship (private or personal interest) or other role (business interest) that the officer or elected member has; or something the officer or elected member has said or done.

1.4 Council officers and elected members are to conduct themselves at all times under the following principles, ensuring:

- Self-interest or personal factors are not permitted to influence their decision making
- Every precaution is taken to avoid a situation where a conflict of interest, or any perception of a conflict of interest could arise in carrying out their duties
- That financial, familial, personal or business relationships or interests do not in fact, nor appear to, unfairly advantage or disadvantage other Council officers, elected members or other individuals or organisations
 - staff must inform their manager as soon as practicable if an actual, perceived or potential conflict of interest arises. Their manager is responsible for taking appropriate steps to resolve the situation
 - if a conflict of interest arises between colleagues working in the same area, or who are in a supervisory relationship with each other and the conflict cannot be resolved, it may be necessary for one or more parties to the conflict to be placed in another reporting context within Council
 - Council officers and elected members must not be involved in the appointment process of people with whom they have a close personal or familial relationship.
- the highest standards of behaviour in accepting gifts or rewards. Any gift that might attract the suspicion of improper motive, or which obligates the individual should not be accepted. In any event all gifts offered (received or not) are to be declared in the appropriate gifts register
- Council's name, resources, information and time are not used for private or personal benefit without prior written consent of an authorised person.

1.5 Council officers and elected members, including community board members should acquaint themselves with the [Associated Policies and Procedures](#).

- 1.6 All Senior Council officers (third tier managers and above) and all elected members including members of community boards must disclose at least annually in writing, any significant interests they may have in other organisations. Disclosure provides transparency and protects those concerned from allegations of duplicity and enables the avoidance of being unwittingly placed in situations that may lead to a conflict of interests. Council staff declarations will be held in the Council Officers' Interests Register, and ~~maintained by the CEO's Executive Assistant with the~~ elected members' and community board members' declarations ~~being will be~~ held in the Elected Members' Interests Register, ~~with both registers being~~ maintained by the ~~District Secretary~~ Democracy Management Advisor.
- 1.7 All Senior Council officers are responsible for applying this policy and ensuring their staff adhere to it. If Council officers are unclear about the application of this policy to specific circumstances or situations they should seek clarification from their manager who may seek clarification or advice from their Group Manager.

2. Definitions

- 2.1 A conflict of interest is any situation when a person has a financial interest, a private or personal interest or business interest sufficient to influence or appear to influence the impartial exercise of their official duties or professional judgement. The potential actual or perceived conflicts of interests detailed below, do not constitute an exhaustive list. It may be impossible to anticipate every situation and some situations will require Council and management to exercise judgement.

See **(Attachment One)** for definition descriptions.

2.2 Financial Interest

The term financial interest means anything of monetary value, including but not limited to:

- Salary or payments for service, e.g. consulting fees and honoraria
- Equity interests, e.g. stocks, stock options and other ownership interests
- **Koha gifts and hospitality**
- Allowances, forgiveness or debts, interests in real estate or personal property, dividends, rents, capital gains and
- Intellectual property rights, e.g. patents, copyrights and royalties from these rights.

The term financial interest does not include salary or other remuneration received from or approved by Council.

2.3 Personal Interest

A Council officer or elected member has a personal interest in a matter if their spouse or partner, or other person in their family with whom there is a close friendship, could be advantaged or disadvantaged by any decision that the

officer or elected member either can make, or does make, or is in a position to influence.

2.4 Business Interest

A Council officer or elected member will have a business interest in an enterprise seeking to do business with the Council if they:

- are a director of the enterprise
- are an owner of or partner in the enterprise
- have a significant shareholding (equal to or greater than 20% shareholding) in the enterprise
- have a close personal or familial relationship with a person who is an owner or partner or significant shareholder in the enterprise.

3. Guidelines for identifying and managing conflicts of interests

3.1 What is a conflict of interest?

A conflict of interest is any situation where a person has a financial interest, a private or personal interest or business interest sufficient to influence or appear to influence the impartial exercise of their official duties or professional judgement.

Conflicts of interest may be actual or perceived to exist or potentially exist at some time in the future.

Perception of a conflict of interest is important to consider because public confidence in the integrity of the Council is paramount.

3.2 Is it wrong to have a conflict of interest?

A conflict of interest in itself is not necessarily detrimental or unethical. However, it is unethical and may be detrimental to fail to disclose and appropriately manage a conflict of interest.

It is impossible to eliminate all situations that may lead to a conflict of interest but such situations can be managed to avoid the adverse effects that could result. This policy is not intended to regulate or eliminate all occurrences of conflicts of interest but enable officers and elected members to recognise situations that may be subject to scrutiny and ensure those situations are dealt with properly.

3.3 Recognising an actual or potential conflict of interest

Being aware of the most common types of conflict of interest and the areas of Council where they are most likely to arise will assist in recognising actual and perceived conflicts of interest.

The most common types of conflict of interest arise from financial, personal and/or business interests as detailed above, 2.2, 2.3 and 2.4.

Every area of Council has the potential for incidences of conflicts of interest however, the most sensitive areas are expected to be:

- tenders and contracts
- procurement
- allocation of grants
- gifts, benefits and hospitality
- sponsorship
- recruitment, selection and appointment
- secondary employment.

For further guidance see the associated policies and procedures detailed below.

3.4 Identify and determine conflicts of interest

Mindful of the types of conflict of interest (financial, personal, business) and most likely areas (as above), ask yourself the following questions:

- Public duty versus private interest
Do I have personal or private interests that may conflict or be perceived to conflict with my duties for Council, my public duties?
- Potentialities
Could there be benefits for me now or in the future that could cast doubt on my objectivity?
- Perception
Perception is paramount. How will my involvement in this decision/action be viewed by others? Are there any risks associated for Council or me?
- Proportionality
Does my involvement in the decision appear fair and reasonable in all the circumstances?
- Presence of mind
What are the consequences if I ignore a conflict of interest? What if my involvement is questioned publicly?
- Promises
Have I made any promises or commitments in relation to the matter? Do I stand to gain or lose from the proposed action/decision?

3.5 You are responsible for identifying and disclosing conflicts of interest. The occurrence of an actual or perceived conflict of interest is not in itself an indication of misconduct, however, failure to declare a conflict of interest could result in disciplinary action up to and including dismissal.

3.6 Conflicts of interest must always be declared as they constitute potential risks to Council which must be managed. Such risks may not be limited to pecuniary interests but may include damaging Council's reputation with

regard to the integrity of decision-making processes and public trust.

3.7 Managing Conflicts of interest

In determining the best way to manage the individual circumstances of a conflict of interest, consider the following:

- **Record/register**
Maintaining a register of declared interests is unlikely to resolve actual or perceived potential conflicts of interest but presents opportunities for managing conflicts of interest. The following strategies, if appropriately employed, may be sufficient to remove, isolate or mitigate any risk.
- **Restrict**
It may be appropriate to restrict involvement in the matter, e.g. refrain from taking part in debate about a specific issue; abstain from voting on decisions, and/or restrict access to information relating to the conflict of interests. If this situation occurs frequently, an ongoing conflict of interests is likely and consideration should be given to other options.
- **Recruit**
If it is impractical to restrict involvement, an independent third party may be engaged to participate in, oversee or review the integrity of the decision-making process.
- **Remove**
Removal from involvement in the matter altogether is the best option when ad hoc or recruitment strategies are not feasible or are inappropriate.
- **Relinquish**
Relinquishing the personal or private interests may be a valid strategy for ensuring there is no conflict with public duty. This may include relinquishing shares or membership of a club or association.
- **Resign**
Resignation may be an option if the conflict of interests cannot be resolved in any other way, particularly where conflicting private interests cannot be relinquished.

- 3.8 Council officers have an obligation to serve the best interests of Western Bay of District Council and elected members to serve the Western Bay of Plenty District. A second job could potentially lead to a conflict of duties. Council Officers must seek management approval prior to being engaged in secondary employment. Elected members and community board members are required to declare interests, including business/employment, at least annually.

- 3.9 Council officers and elected members are personally responsible and must take every precaution to avoid situations where a conflict of interest may arise or be perceived, in carrying out their duties.

[Case studies](#) provided by the Office of the Auditor-General in the good practice guide, Managing conflicts of interest: Guidance for public entities, June 2007, should be used for reference only. Each individual situation arising must be managed in consideration of its unique circumstances.

Associated Policies

Code of Conduct (Elected Members)
Code of Conduct (Community Board Members)
Fraud Prevention Policy
Sensitive Expenditure Policy

Associated Procedures

[Payments to related parties]

Declaration of Interests (Elected Members)
Declaration of Interests (Community Board Members)
Declaration of Interests (Management Staff)
Declaration of Gifts received/offered (Elected Members)
Declaration of Gifts received/offered (Community Board Members)
Declaration of Gifts given/offered (Elected Members)
Declaration of Gifts given/offered (Community Board Members)
Declaration of Gifts received/offered] (Employees)
Declaration of Gifts given/offered (Employees)

2. Significance and Engagement

The Local Government Act 2002 requires a formal assessment of the significance of matters and decisions in this report against Council's Significance and Engagement Policy. In making this formal assessment there is no intention to assess the importance of this item to individuals, groups, or agencies within the community and it is acknowledged that all reports have a high degree of importance to those affected by Council decisions.

The Policy requires Council and its communities to identify the degree of significance attached to particular issues, proposals, assets, decisions, and activities.

In terms of the Significance and Engagement Policy this decision is considered to be of low significance because:

- It is a legislative requirement for councils to hold/adhere to a Conflicts of Interest Policy.

3. Engagement, Consultation and Communication

Interested/Affected Parties	Planned Engagement/Consultation/Communication
All Staff	All staff to be notified accordingly and the updated Conflicts of Interest Policy to be uploaded to the Policy library on the intranet.
General Public	The approved Conflicts of Interest Policy be uploaded to Council's website.

4. Issues and Options Assessment

Reasons why no options are available	Legislative or other reference
The Conflicts of Interest Policy is required to be reviewed every three years. Some name changes are required to be made to the Policy as a minimum, and other processes may now be more appropriate than those in the current Policy. Therefore, Council is requested to review the Policy and amend accordingly	Local Authorities (Members' Interests) Act 1968 Local Government Act 2002

5. Statutory Compliance

The recommendations comply with legislation and Council's associated policies as noted above.

6. Funding/Budget Implications

Budget Funding Information	Relevant Detail
	Not applicable.

Term	Definition
Bias	This is common legal description of some types of conflict of interest, especially those situations that involve predetermination. In this guidance, we use the term "conflict of interest" to include situations that may be labelled as bias or predetermination.
Conflict of interest	This is where an employee's or official's duties or responsibilities to Western Bay of Plenty District Council could be affected by some other interest or duty that the employee or official may have. The interest could be financial, professional or personal and involve a "conflict of duty" or "conflict of role", but for the purposes of this policy Western Bay of Plenty District Council uses the term "conflict of interest" to cover these situations. We also use the term to cover circumstances that include or appear to include "bias" or "predetermination."
Gift	A gift is something given to a person willingly and without payment. Gifts given or received in relation to undertaking Western Bay of Plenty District Council business must be declared in compliance with Western Bay of Plenty District Council Conflict of Interests Policy and Procedures.
Interest in a matter	This refers to a direct or indirect connection to another matter which is separate from but related to the matter in hand.
Hospitality	In the context of this policy, hospitality infers the expense involved in being generous and friendly when hosting guests or being hosted. The expense can relate to a variety of expenditure, including food, beverages, accommodation and entertainment. Hospitality whether given or received must be declared in compliance with Western Bay of Plenty District Council Conflict of Interests Policy and Procedures.
Koha	A Koha is a present, offering, donation, contribution and when given or received as such must be declared in compliance with Western Bay of Plenty District Council Conflict of Interests Policy and Procedures.
Material interest	This is where affiliates or their directors, officers, employees, agents or representatives may have or have had an interest or holding, relationship or other arrangement which could result in, or give the appearance of potential bias.
Member or official	Refers to any person who works for Western Bay of Plenty District Council. They could be a statutory office holder, Minister, elected board member, appointed board member, or employee. For the purposes of this policy we also regard someone who is a contractor or consultant to Western Bay of Plenty District Council as an official.
Non-pecuniary interest	This is where there is the potential or perceived potential for a benefit, that is not a financial gain. It could be a professional gain, or could involve close personal relationships.
Official role	Refers to the duties or responsibilities a member or official has to Western Bay of Plenty District Council.
Other interest	This refers to a staff member's or official's separate interest or duty which comes into conflict with their official role. Usually, the "other interest" will be personal or private in nature, but sometimes it could relate to a duty as well. The other interest might also actually belong to someone else connected to the staff member or official.
Pecuniary interest	This refers to a potential actual or perceived financial gain.
Probity	Uprightness, honesty, proper and ethical conduct
RFx	This refers to a request issued by Western Bay of Plenty District Council such a Request for Information, Request for Proposal or Request for Tender.

Western Bay of Plenty District Council**Policy Committee****Review of Appointment of Directors to Council
Controlled Organisations Policy**

Purpose

The purpose of this report is to request that the Elected Members review Council's Appointment of Directors to Council Controlled Organisations Policy and approve any amendments accordingly.

Recommendation

- 1. THAT the Chief Financial Officer's report dated 16 January 2018 and titled 'Review of Appointment of Directors to Council Controlled Organisations Policy' be received.**
- 2. THAT the report relates to an issue that is considered to be of low significance in terms of Council's Significance and Engagement Policy.**
- 3. THAT the Elected Members approve the current Appointment of Directors to Council Controlled Organisations Policy with the following amendments.....**



Kumaren Perumal
Chief Financial Officer

1. Background

Council's Appointment of Directors to Council Controlled Organisations is overdue for review and is in alignment with Tauranga City Council's (TCC) policy titled 'Appointment of Directors to Council Organisations'.

Appointment of trustees to council-controlled organisations (CCOs) is one of TCC and Western Bay of Plenty District Council's (WBOPDC) core responsibilities.

Section 2 of this report contains Council's existing policy (see below). Additions have been underlined in the Policy for information and deletions struck out. Particular note is required to be made to the following sections:

- 6.3.1 Mandatory disclosures
- 6.4.2 Appointment Panel composition for appointments to Tourism Bay of Plenty
- 6.5 Appointment Term and Reappointment
 - 6.5.1 Maximum terms
 - 6.10.1 Remuneration and Indemnification of Directors
 - 6.11 CCOs and CCTOs in which Council has a minority interest

2. Appointment of Directors to Council Controlled Organisations Policy Review

Appointment of Directors to Council Controlled Organisations Policy

Relevant Legislation and References

Local Government Act (2002):

- Section 6: Meaning of council controlled organisation and council organisation
- Section 57: Appointment of directors
- ~~Section 275: First policy on appointment of directors.~~

Auditor-General's Guidelines as set out in the "Report of The Controller and Auditor-General on Local Authority Governance of Subsidiary Entities" dated 2001 and any subsequent reports on a similar theme.

LGNZ Elected Members' Governance Handbook, 2013 – section 10.

New Zealand Institute of Directors Manual.

1. Policy Objective

- 1.1 To ensure an objective and transparent selection and appointment process for the:
- Identification and consideration of the skills, knowledge and experience required of directors of a council organisation; and
 - Selection and appointment of directors of a council organisation; and
 - The remuneration of directors of a council controlled organisation.

2. Principles

- 2.1 Council recognises that:
- [Appointment of directors should be based on merit](#)
 - Directors should possess the appropriate level of skills, knowledge and/or experience to guide the council organisation and contribute to the achievement of its objectives
 - Directors of council controlled organisations should be appointed:
 - On the basis of the contribution they can make to the organisation, and not on the basis of representation;
 - Through a formal, objective and transparent process.

3. Definitions

Candidate is a person who has submitted a written application for a director's position or has formally agreed to be considered for such a position.

Council Organisation (CO) is defined in Section 6 of the Local Government Act (2002). In broad terms, a CO is an organisation in which the Council has a voting interest or the right to appoint a director.

Council Controlled Organisation (CCO) is defined in Section 6 of the Local Government Act (2002). It is a CO in which one or more local authorities control, directly or indirectly, 50% or more of the votes or has the right, directly or indirectly, to appoint 50% or more of the directors.

Council Controlled Trading Organisation (CCTO) [is defined in Section 6 of the Local Government Act 2002](#). It is a CCO that operates a trading undertaking for the purposes of making a profit.

Directors includes trustees, managers or office holders (however described in that organisation).

4. Background

Section 57 of the Local Government Act (2002) requires Council to adopt a policy that sets out an objective and transparent process for:

- (a) the identification and consideration of the skills, knowledge, and experience required of directors of a council organisation; and
- (b) the appointment of directors to a council organisation; and
- (c) the remuneration of directors of a council organisation.

5. Policy Variation

This policy can be varied to meet the needs of each new Council Controlled Organisation as it is established.

6. Policy Statement

Part 6A – Council-Controlled Organisations (including Council-Controlled Trading Organisations)

6.1 The Role of a Council Controlled Organisation Director

The role of a council appointed director is to assist the organisation to meet its objectives and any other requirements in its statement of intent, in accordance with the requirements of the Western Bay of Plenty District Council Code of Conduct for Directors Appointed by Council to Council Organisations.

6.2 Identification of Skills, Knowledge and Experience Required

The skills, knowledge, experience and any other attributes required of a director of a CCO will be identified and documented, prior to the appointment process commencing.

The ability to guide the organisation, given the nature and scope of its activities, and the ability to contribute to the achievement of the objectives of the organisation will form the basis of the skills, knowledge, or experience required.

In general terms, the following skills and attributes are the minimum requirements that the Western Bay of Plenty District Council will be looking for in the directors it appoints to council controlled organisations:

- Intellectual ability coupled with common sense; and
- Strategic vision and leadership; and
- Thorough understanding of governance issues; and
- Either business experience or other experience that is relevant to the activities of the organisation (or both) and the skills set that is required for each board; and

- Sound judgement; and
- A high standard of personal integrity; and
- The ability to work collaboratively and cooperatively within the team; and
- Understanding of the wider interests of the publicly-accountable shareholder.

The mix of skills and experience on the CCO board will be taken into account, and consideration given to complementing and reinforcing existing skills and reducing known weaknesses where necessary.

It is expected that all appointees to CCO boards will undergo, or already have undergone, formal corporate governance training, or have the requisite experience in this area.

6.3 Eligible Candidates

Western Bay of Plenty District Council elected members and appropriately qualified external applicants are eligible as candidates for director positions to CCO boards.

Western Bay of Plenty District Council employees are not eligible to be considered as candidates for director positions to CCO boards unless they are appointed in their capacity as an employee of Western Bay of Plenty District Council.

6.3.1 Mandatory disclosures

As part of an application a candidate is required to disclose whether he or she:

- Is an immediate family member of an elected member, the Chief Executive, or a second-tier manager of Western Bay of Plenty District Council, or
- Has been convicted of an offence for which the maximum available sentence is imprisonment of two years or more (noting that required disclosures are subject to the provisions of the Criminal Records (Clean Slate) Act 2004), or
- Has been declared bankrupt at any point in time or been the director of a company at the time it was placed in receivership or involuntary liquidation.

Any disclosures under the above clause will be taken into consideration by the Appointment Panel and Council but will not automatically preclude the candidate's appointment as a director.

6.4 Director Appointment Process

6.4.1 Appointment Panel Composition

An Appointment Panel will be established. The panel will be made up of:

- ~~three elected members appointed by Council resolution; and~~
- ~~The Mayor or a person nominated by The Mayor.~~
- One elected member appointed by Council resolution; and
- The existing Chair of the CCO (if remaining on the board) or their nominee; and
- One independent person who brings particular knowledge or skills that can add value to the process, approved jointly by the Chief Executive, Mayor and the existing Chair of the CCO (if remaining on the board); and

The Appointment Panel will appoint its own Chair.

~~The Appointment Panel will be chaired by the Mayor, or a person nominated by the Mayor.~~

An employee of Council or of the CCO may not be appointed as a member of the Appointment Panel.

A Council employee may be appointed as an advisor to the Appointment Panel as and when necessary.

Members of an Appointment Panel who are not elected members or members of the CCO may be remunerated for their time and skills.

~~The Appointment Panel has the ability to co-opt an advisor who brings particular knowledge or skills that can add value to the selection process as and when necessary.~~

The Chair does not have a casting vote.

Jointly owned CCOs

On Joint Council Controlled Organisations at least one member of the appointment panel is to be an elected member of the Western Bay of Plenty District Council.

6.4.2 Appointment Panel composition for appointments to Tourism Bay of Plenty

An appointment panel will be established. The panel will be made up of:

- One person appointed by TCC by Council resolution; and
- One person appointed by Western Bay of Plenty District Council; and
- The existing Chair of the CCO (if remaining on the Board) or their nominee.

All other matters relating to the Appointment Panel composition shall be as outlined in section 5.4.1.

6.4.3 Appointment Panel Responsibilities

The appointment panel will be responsible for:

- Approving an independent recruitment consultant to assist the sub-committee with the selection process, if it decides it is warranted; and
- Interviewing the short-listed candidates and evaluating them against the approved criteria; and
- Prior to making a final decision the Appointment Panel will consult with the Chairperson of the CCO requiring a new director to obtain their input as to the suitability of the likely appointee; and
- Reporting on its assessment of each candidate against its criteria and recommending appointments of directors to Council.
- Informing unsuccessful candidates.

6.4.4 Advertisement of a Council-Appointed Director's Position

In most instances Council will seek expressions of interest in the position by way of a public advertisement. However, the Appointment Panel may decide not to advertise the position if there is urgency (e.g. a council organisation that is without a quorum and cannot hold board meetings) or any other reason it may consider warrants such a course of action.

Where the Appointment Panel decides not to advertise a particular position, the panel will:

- At the first practical opportunity, publicly notify its intention and reasons for doing so; and
- Identify a shortlist of prospective candidates whom it considers meets its criteria; and
- Ascertain if the prospective candidates are interested in being considered; and
- Apply the same selection process to those who are interested as it would to any other candidate.

6.4.5 Appointment

Council is to make its final decision in confidential committee (thus protecting the privacy of natural persons). A public announcement of the appointment will be made as soon as practicable after Council has made its decision and received confirmation of acceptance from the candidate(s).

6.4.6 Conflict of Interest

Council will not consider any applicant that it believes is likely to have a significant conflict of interest.

Members of the Appointment Panel will not have a conflict of interest.

6.5 Appointment Term and Reappointment

A director to a CCO will normally be appointed for a period of 3 years. The appointment period will expire on ~~31 March~~ 30 April. If a director has been in office for more than 2 ½ years at ~~31 March~~ 30 April, then their 3 year term will be deemed to have expired. If a director has been in office for more than 2 years but less than 2 ½ years at ~~31 March~~ 30 April, then they will be deemed to have one further year of the 3 year term remaining.

Notwithstanding the above, Council will seek to balance the expiry dates of directors' terms to ensure that approximately one third of directors retire or are required to seek reappointment in any year. This may require appointments to be made for a mix of one, two and three years.

Where a director's term of appointment has expired and that director is offering themselves for reappointment, the Western Bay of Plenty District Council ~~Chief Executive Appointments Panel will together with a board member of either that board or board of the parent CCO where one exists (as determined by the Council CEO), consult on reappointment issues with members of the relevant board~~ consult with the Chairperson of the CCO to identify if there are any issues that would preclude reappointment of that director.

The consultation will have regard to:

- Whether the skills of the incumbent add value to the work of the board;
- Whether there are other skills which the board needs;
- Succession issues.

The Western Bay of Plenty District Council Chief Executive Appointment Panel will report to Council to enable a decision on reappointment or replacement appointment to be made based on the:

- Information arising from the consultation, and
- Director's length of tenure.

Where a Council employee is appointed as a director, the appointment is deemed to be part of the staff member's normal duties and will lapse upon the completion of the individual's tenure of employment with the Council or earlier if specified by ~~the Chief Executive~~ Council.

6.5.1 Maximum terms

Subject to a review of the director's performance after the first three year period, the normal tenure for a director will be six years.

Following six years of service, a director may be appointed for a further three years if the benefit of such an extension is considered to outweigh the potential advantages of seeking and appointing a new candidate.

A director cannot be re-appointed to the same board after nine years in service.

6.6 Termination of Appointment

Directors appointed to CCOs by Council are in the role at the pleasure of Council. A director's appointment may be terminated at any time by Council by way of written notice. There will be no compensation payable to directors for early termination.

6.7 Appointment of a Chairperson

It is the responsibility of the board of each Council Organisation to appoint its own Chairperson. However, normally the board will consult with the Western Bay of Plenty District's Mayor and Chief Executive ~~or a person nominated by The Mayor~~ on the person to be so appointed.

6.8 Conflict of Interest

Council expects that directors appointed under this policy will avoid situations where their actions could give rise to a conflict of interest.

6.9 Directors' professional standards

To minimise these situations directors appointed by Council will be required to follow the provisions of the New Zealand Institute of Directors' Code of Ethics and of Council's Code of Conduct for Directors Appointed by Council to Council Organisations.

Breach of either this code may result in dismissal of a Council-appointed director.

6.10 Remuneration of Council Appointed Directors

6.10.1 Remuneration and Indemnification of Directors

Western Bay of Plenty District Council will decide whether directors on boards of Council Controlled Organisations are to be remunerated. The level of remuneration for directors will be established by the Chief Executive and Mayor Appointment Panel and will be subject to approval by Council.

Elected members and Council employees appointed as directors of a CCO will not be remunerated for that role unless provided for by specific Council resolution.

~~In the event of a Council employee or elected member being appointed to a CCO board, the fees, if any, for that appointee shall be paid by the CCO to the Council, unless there are special circumstances that have the prior approval of the Appointment Panel.~~

The Council supports the payments by CCOs of directors' liability insurance and the indemnification of directors.

6.10.2 Level of Remuneration

Where directors are remunerated the level of remuneration will be set taking into account the following factors:

- The need to attract and retain appropriately qualified directors;
- The levels of remuneration paid by comparable organisations in New Zealand;
- The performance of the Council Controlled Organisation and any changes in the nature of its business;
- Any other relevant factors.

Remuneration of directors of all CCOs will be reviewed at least once per triennium.

6.11 CCOs and CCTOs in which Council has a minority interest

Where Council has a minority interest in a CCO or CCTO (i.e. where a CCO or CCTO is controlled by a number of councils and this Council does not have a majority stake) then the process for the appointment and remuneration of directors will be agreed with the other shareholders (by whatever name) in the CCO or CCTO.

As far as practicable, Council's involvement in the process will be consistent with this policy as it applies to CCOs or COs, whichever is the more relevant to the circumstances.

Part 6B – Council Organisations that are not CCOs or CCTOs

6.12 Council Organisations – Non-Controlling Interest

Council may have non-controlling interests in Council Organisations. Generally these are not-for-profit bodies.

Appointments to Council Organisations where Council does not have a controlling interest may occur to:

- Provide a means of monitoring where the Council has made a grant to that body;
- Enable Council involvement where the CO's activity is relevant to Council;
- Satisfy a request from the CO that the Council appoint a representative.

Appointments to a CO are generally for a three year term and made after the triennial elections. Elected members who have the required skills set may be appointed to a CO where Council does not have a controlling interest.

Remuneration of the directors of a CO is at the discretion of that organisation but Council would ordinarily expect no remuneration to be paid to Council-appointed directors.

Part 6C – General

6.13 Policy Review

Council will periodically review this policy with a view to continuous improvement in consultation with the CCOs.

7. Relevant Delegations

The Appointment Panel has delegated authority to:

- Decide whether the position needs to be advertised or not; and
- Conduct the selection process; and
- Recommend suitable people to Council to be appointed as directors to council organisations.

The Chief Executive may delegate authority to assist Council and Appointment Panel in the process of selection / appointment of directors.

Code of Conduct for Directors Appointed by Council to Council Organisations

Introduction and Principles

The purpose of the Code is to:

- provide guidance to persons appointed by Western Bay of Plenty District Council as Directors to Council Organisations, and
- assist them to carry out their duties and responsibilities effectively and in accordance with the highest professional standards.

Since Council Organisations include a diverse range of legal structures, the word "Director" is used in the widest sense.

The Code is not intended to be an exhaustive statement of a Director's obligations. It should be read in conjunction with the law applying to Directors and the provisions contained in the constitution of the Council Organisation and in the Local Government Act 2002.

The office of Director carries with it fiduciary, legal and moral responsibilities. The Code offers guidance more on moral and ethical responsibilities than on those imposed by law. It applies equally to non-executive and executive directors.

The principles upon which the Code is based include integrity and accountability. These qualities are prerequisites to maintaining confidence and trust in directors.

The reasons for adhering to the Code are twofold:

- *First, a clear understanding of moral and ethical responsibilities, and strict observance of obligations will assist Directors in forming and winning support for their strategies. It will also assist to increase public confidence in how public entities are governed and managed.*
- *Second, if high standards of business conduct are not maintained, a greater degree of imposed regulation may result.*

The Code has been approved and adopted by the Western Bay of Plenty District Council.

It is the intention of Council to regularly review the applicability of the Code and as necessary, to amend or add to it to reflect changes to practice and law.

In accordance with the provisions of the Western Bay of Plenty District Council's policy in appointment and remuneration of Directors of Council Organisations, the Code is binding on all Directors of Council Organisations appointed by the Western Bay of Plenty District Council. Directors must make themselves familiar with the content of the Code and observe not only its letter, but also its spirit.

Definitions

Accountability means having a duty to answer to another for what is done or not done within an area of responsibility.

Chairman is used in a gender-neutral sense.

Director includes all Directors whether executive directors or non-executive directors, however so named, as defined in Section 6 of the Local Government Act 2002.

Executive Director means a Director who is also an employee of the organisation and includes a Managing Director.

Independent is used in the sense of being self-reliant and with objectivity unimpaired by outside interests.

Integrity means consistent honesty, sincerity and uprightness in all dealings.

Non-executive Director means a Director who is not an executive director.

Organisation refers to Council Organisations including Council Controlled Organisations and Council Controlled Trading Organisations as defined in Section 6 of the Local Government Act 2002.

Fundamental Obligations

Directors must act honestly and in good faith and in the best interests of the organisation.

Directors must ensure that all shareholders, stakeholders or classes of shareholder or stakeholder are treated fairly according to their different rights.

Directors must carry out their duties in a lawful manner and use all reasonable endeavours to ensure that the Organisation conducts its business in accordance with the law and with a high standard of commercial morality. Directors should refer to the Institute of Directors' statements of best practice as part of their decision-making process.

Directors must avoid conflicts of interest. Where a conflict or potential conflict arises, as a minimum, they must adhere scrupulously to the procedures provided by law and/or the constitution of the organisation for dealing with conflicts and with the position of Directors having an interest in a particular contract or issue. A Director who has a continuing conflict of interest of a material nature should resign as a Director of the Organisation.

Directors must be diligent, attend Directors' meetings fully prepared and devote sufficient time to make and keep themselves familiar with the nature of the Organisation's business and environments (including political, legal and social environments) in which it operates. Directors should be aware of all statutory and

regulatory requirements affecting their organisation including the content of its constitution, and see that such requirements are observed.

Directors must observe the confidentiality of non-public information acquired by them as Directors and not disclose it to any other person without the authority of the Organisation.

A Director who is nominated by, or has a special allegiance to, a particular shareholder or group of shareholders or other stakeholder, may only disclose confidential information to the nominated shareholder or other stakeholder with the authority of the Organisation and in strict compliance with any procedures prescribed by law of the constitution of the Organisation.

Directors must act in accordance with their fiduciary duties at all times. They must comply with the spirit as well as the letter of the law and remember that in addition to purely legal requirements, the proper discharge of the duties of a Director requires high ethical and moral standards of behaviour.

Meetings of Directors

The Directors must meet regularly to monitor and control the performance of management, to measure achievement of budget, policy and strategic objectives. Appropriate reporting systems must be put in place, and maintained to provide adequate and timely information to the Directors.

There must be clearly accepted divisions of responsibility to ensure a balance of power and authority so that no one individual has unfettered powers of decision.

The Directors must ensure that the views of independent Directors are given full and proper consideration and weight.

The Directors must have a formal schedule of matters and authorities reserved to them for decision making to ensure that the direction and control of the Organisation is in their hands and in alignment with the Organisation's Statement of Intent or equivalent document.

Reporting

The Directors must present to shareholders or other stakeholders, a balanced and understandable assessment of the organisation's performance and position. Often this will involve the provision of information in addition to the minimum required by law. In case of doubt, substance and content should prevail over legal form. The need for reports and accounts to be understood readily means that a coherent narrative is necessary as well as figures.

Chairman Chairperson

The Chairman Chairperson is responsible for the efficient functioning of the Directors as a Board. The Chairman Chairperson must ensure that all Directors are able, and

encouraged, to play their full part at meetings of Directors and have adequate opportunities to express their views.

The ~~Chairman~~ Chairperson has primary responsibility for ensuring that all Directors receive sufficient timely information to enable them to discharge their duties effectively.

The ~~Chairman~~ Chairperson is the link between the Directors and the management of the Organisation. The Chairman must, however, maintain a proper balance between any executive and independent views among the Directors.

Non-executive Directors

Non-executive Directors must provide independent judgement and outside experience and objectivity on all issues which come before them.

Non-executive Directors must acquire and maintain a sufficiently detailed knowledge of the Organisation's activities and ongoing performance to enable them to make informed decisions on the issues before them. At the same time, they should recognise the division between the Directors and management and ordinarily not become involved in management issues or in managing the implementation of policy.

Executive Directors (where appointed)

Executive Directors have a dual role as employees of the organisation and as Directors. As Directors they have responsibilities additional to and must retain a degree of independence from, their executive position to enable them to carry out those responsibilities effectively. Executive Directors should be appointed as individuals and not because of any position they hold. They must always be alert to the potential for conflicts between their management interests and the fiduciary duties of a Director.

Committees

In appropriate circumstances, Council Organisations may have an Audit Committee, or other committees of Directors to assist with such issues as remuneration. When a committee is established by the Directors of that Organisation, its terms of reference and its powers, duties, reporting procedures, membership and duration of office must be clearly recorded. Committee service must be rotational.

Any non-executive Director may attend meetings of any committee of Directors provided the Director is not specifically excluded for reasons of conflicts of interest, even if the Director is not an appointed member of the committee. The Executive Director must attend a committee meeting when requested to do so by the committee.

3. Significance and Engagement

The Local Government Act 2002 requires a formal assessment of the significance of matters and decisions in this report against Council's Significance and Engagement Policy. In making this formal assessment there is no intention to assess the importance of this item to individuals, groups, or agencies within the community and it is acknowledged that all reports have a high degree of importance to those affected by Council decisions.

The Policy requires Council and its communities to identify the degree of significance attached to particular issues, proposals, assets, decisions, and activities.

In terms of the Significance and Engagement Policy this decision is considered to be of low significance because the policy review may not be of particular interest to the wider community.

4. Engagement, Consultation and Communication

Interested/Affected Parties	Completed/Planned Engagement/Consultation/Communication
All staff	All staff to be notified accordingly and the updated Policy to be uploaded to the Policy library on the intranet and Council website.

5. Issues and Options Assessment

THAT the Elected Members approve the current Appointment of Directors to Council Controlled Organisations Policy with the following amendments....	
Reasons why no options are available	Legislative or other reference
The Policy is required to be reviewed every three years. Council is requested to review the Policy and amend accordingly.	Local Government Act (2002): Section 6: Meaning of council controlled organisation and council organisation Section 57: Appointment of directors

6. Statutory Compliance

The recommendation in this report complies with legislation and Council Policy.

7. Funding/Budget Implications

Budget Funding Information	Relevant Detail
	There is no budgetary or funding impact associated with the recommendations in this report.

Western Bay of Plenty District Council**Policy Committee****SmartGrowth Update**

Purpose

To update Councillors, particularly those not on the SmartGrowth Leadership Group, about projects being undertaken at the sub-regional level.

Recommendation

- 1. THAT the Resource Management Manager's report dated 10 January 2018 and titled SmartGrowth Update be received.***
- 2. THAT the report relates to an issue that is considered to be of low significance in terms of Council's Significance and Engagement Policy.***



Phillip Martelli
Resource Management Manager

1. Background

This is the first of regular reporting on projects that are being undertaken in association with SmartGrowth. The intention is to update all Councillors with what is happening, plus allow discussion on upcoming matters to assist Council's representatives on the SmartGrowth Leadership Group.

Timing of meetings does not allow for up-to-date reporting through this report. The report will therefore provide information available at the time of writing, and verbal updates will be provided by the respective staff member at the Policy Committee Meeting.

Current projects are:

Project	Update	Staff Member
Housing		Jodie Rickard
Affordable Housing Pilot Project (Omokoroa)	Negotiations are being held with one party.	
Homelessness Advisory Group (named Our Community Project)	Advisory Group supported WISE Group to submit a funding application to MSD, to establish a housing hub to support chronically homeless people into housing. The funding application was successful. The establishment of the housing hub is under way, with an interim steering group in place. The hub should be operational by the end of February.	
Regional Healthy Housing Forum	Workshop held late in November 2017, aimed at understanding and establishing 'best practice' for communities to deliver healthy housing initiatives. 30 agencies attended. Next step is to develop resources for communities to use. The forum is also keeping a watching brief on the Health Homes Guarantee Act 2017, with a view to sharing information to support submissions on the development of standards for healthy homes.	
Housing Needs Assessment – Next Steps	The Housing Needs Assessment was presented to SLG on 13 December. The next steps are for Council and partners to consider the Assessment, and advise their approach (note WBOPDC has already agreed to develop a Housing Action Plan, where the recommendations from the Housing Needs Assessment will be considered and prioritised). The SmartGrowth office will report back to SLG	

	on 21 March 2018 with a draft Smart Housing Action Framework. The purpose of the Framework is to coordinate actions, and ensure strategic partnering between Councils and central government agencies.	
Tauriko West		
TLA Boundary MOU	The MOU between TCC and WBOPDC has been signed. Progress on the boundary adjustment is dependant on the urban limits being altered.	Sue Lawrence
Te Kauae a Roopu	The Partnership Agreement with Tangata Whenua has been ratified and signed. The first meeting is scheduled for 23 January and a verbal update will be provided at the Policy Committee Meeting.	Petera Tapsell
RPS Urban Limits	An application was made to Government prior to the elections to use the new Streamlined Planning Process. Progress has been delayed with the elections and the new Government requiring re-consultation with new key Ministers and additional consultation with Tangata Whenua.	Regional Council (Phillip Martelli)
Structure Plan	Constraints analyses are well underway including natural hazards, landform modelling, contaminated land, archaeological, landscape and cultural assessments. Work is also being undertaken on community facility requirements and master planning.	TCC (Phillip Martelli)
State Highway Network	Preparing a business case for the Tauriko Network Plan, which includes an upgrade of SH29 and SH29A between Omanawa Road and Barkes Corner, and provision for local ring roads, public transport and active modes, and supports growth by connecting Tauriko West to the transport network. Following public consultation on the strategic network options in May 2017, NZTA is working through a shortlist of detailed options for the transport network with the project partners, key stakeholders, and Tangata Whenua. Further workshops will be held with the parties to refine and confirm the shortlisted options, which will then be presented for public consultation later in the year.	NZTA (Phillip Martelli)
Combined Tangata Whenua Forum	The final meeting of the Combined Tangata Whenua Forum was held on December 6 2017. Although not an item on the agenda, members made a point to congratulate WBOPDC on its decision regarding Māori wards and that TCC is encouraged to look to the example that is being set around the region in relation to Māori wards. The members also acknowledged the work that had gone into Te Ara Mua and how this together with the ongoing work of the Partnership Forum	Chris Nepia

	was driving positive outcomes for Māori in the Western Bay. A recurring theme of the meeting was encouraging the three local Councils to work more collaboratively in terms of the approach to meeting their obligations to Māori.	
NPS on Urban Development capacity	BOPRC, TCC and WBOPDC are meeting regularly to prepare and finalise the necessary information requirements to meet the provisions of the NPS. A draft capacity assessment report (incorporating the Development Trends Report circulated in December) has been completed and to be forwarded to MBIE for checking before finalising. The Business Capacity Assessment report is nearing completion.	Phillip Martelli Antoinette Denton

2. Significance and Engagement

The Local Government Act 2002 requires a formal assessment of the significance of matters and decisions in this report against Council's Significance and Engagement Policy. In making this formal assessment there is no intention to assess the importance of this item to individuals, groups, or agencies within the community and it is acknowledged that all reports have a high degree of importance to those affected by Council decisions.

The Policy requires Council and its communities to identify the degree of significance attached to particular issues, proposals, assets, decisions, and activities.

In terms of the Significance and Engagement Policy this report is considered to be of low significance because its purpose is to update Councillors, and allow discussion rather than make decisions.

3. Engagement, Consultation and Communication

Council's representatives on SmartGrowth will refer to the information discussed during the Policy Committee meeting in their participation at SmartGrowth Leadership group.

4. Issues and Options Assessment

<i>THAT the Resource Management Manager's report dated 10 January 2018 and titled SmartGrowth Update be received.</i>	
Reasons why no options are available	Legislative or other reference
This report is for information only, no decision is required.	Not applicable.

5. Statutory Compliance

The recommendation is consistent with current Council plans and policies.

6. Funding/Budget Implications

Budget Funding Information	Relevant Detail
	Within operational budget