

The Council, in considering each matter, must be:

- (a) Satisfied that it has sufficient information about the practicable options and their benefits, costs and impacts, bearing in mind the significance of the decisions;*
- (b) Satisfied that it knows enough about and will give adequate consideration to the views and preferences of affected and interested parties bearing in mind the significance of the decisions to be made.*

Significance Consideration

Evaluation : Council officers, in preparing these reports have had regard to Council's policy on significance. Council, Committee and Community Board members will make the final assessment on whether the subject under consideration is to be regarded as being significant or not. Unless Council a Committee or the Community Board explicitly determines that the subject under consideration is to be deemed significant then the subject will be deemed as not being significant.

BULLER DISTRICT COUNCIL

FOR THE MEETING OF 23 SEPTEMBER 2009

Report for Agenda Item No 1

**Prepared by - Gary Murphy
- Chief Executive**

Members Interest

Councillors 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.

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

Recommendation

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

BULLER DISTRICT COUNCIL

FOR THE MEETING OF 23 SEPTEMBER 2009

Report for Agenda Item No 2

**Prepared by - Gary Murphy
- Chief Executive**

Confirmation of Minutes

Minutes of the meeting held on 15 April 2009 and 19 August 2009.

Recommendation

That the minutes of the meeting held on 15 April 2009 and 9 August 2009 be confirmed.

BULLER DISTRICT COUNCIL
FOR THE MEETING OF 23 SEPTEMBER 2009

Report for Agenda Item No 3

Prepared by - Gary Murphy
- Chief Executive

Council Programme of Works

Recommendation

That the report be received for information.

BULLER DISTRICT COUNCIL

FOR THE MEETING OF 23 SEPTEMBER 2009

Report for Agenda Item No 4

Prepared by - Gary Murphy
- Chief Executive

Matters Under Action

Date	Agenda Item	Action	Status
October 2005	15 - Ikamatua Boundary Adjustment		In progress
November 2006	11 - Tourism Waste Management Strategy	Strategy endorsed. Final document to be developed.	In progress
	12 - Study of Effects of Climate Change	Discussion with other Coast Councils	In progress
February 2007	16 - Road Stopping Fox River	Notification required	In progress
May 2007	10 - WestReef Services	Letter written to Board about Reefton Depot	In progress
	11 - Abbeyfield Residential Home	Land transfer to be carried out	Subdivision complete. Transfer to be arranged.
	15 - SNAs	Proposed strategy to be followed	Proposed strategy written. Planning underway for consultation trial.
	15 - Flood Mitigation	Initiate more detailed cost estimates	Awaiting action from West Coast Regional Council
	13 - Council Investment Property	Report on options	In progress
April 2008	9 - North Beach Accreted Land	Local purpose reserve to be created. Commercial leases set. Expression of interest sought.	Still awaiting Department of Conservation
May 2008	12 - Legalisation Denniston Track	Minister of Transport to vest track in Council	Commenced
	13 - Gifting of Land Towards Denniston Heritage Reserve	Land swap sought	In progress

Date	Agenda Item	Action	Status
July 2008	12 - Legalisation Beach Road Charleston	Legalisation required	In progress
	13 - Flagstaff Access	Consultation with land owner required	In progress
September 2008	9 - Carters Beach Erosion	Consent granted	Not yet commenced
December 2008	13 - Utopia Road Speed Restriction	Review Brougham Street speed limit	Not yet commenced
February 2009	7 - Closure Unformed Legal Road (Deadmans)	Road to be closed	Not yet commenced
April 2009	7 - Stock Movement Bylaw	Consultation required	Consultation extended
	9 - Class 4 Gambling Policy Review	Draft policy to be developed with working group	Agenda item
June 2009	10 - Transfer of Solid Energy Centre and Westport Harbour to Buller Holdings Limited	Working group actions required	Agenda item
July 2009	6 - Westport Water Supply	Tunnel repair strategic review	Out for tender
August 2009	10 - Palmerston Street Parking	Review of all Westport parking in next 12 months	Not yet commenced
	12 - Inangahua Community Board Request	West Coast Regional Council to register water takes	Not yet commenced

Recommendation

That the report be received for information.

BULLER DISTRICT COUNCIL

FOR THE MEETING OF 23 SEPTEMBER 2009

Report for Agenda Item No 5

**Prepared by - Stephen Griffin
- Manager Operations**

Tenders Awarded Under Delegated Authority

The following tenders were awarded under delegated authority during July/August 2009.

Contract Number	Contract Name	Contractor	Price GST Excluded
08/09/16	New Creek Road Widening	Bannock Brae Traffic Services	\$93,250.00
08/09/17	Seal Extension - Okari Road	Avery Bros Ltd	\$210,896.30

Recommendation

That the report be received for information.

BULLER DISTRICT COUNCIL

FOR THE MEETING OF 23 SEPTEMBER 2009

Report for Agenda Item No 6

**Prepared by - Gary Murphy
- Chief Executive**

Westport Harbour - Monthly Reports

Purpose of Report

To provide Council with an update on Westport Harbour activities.

Attached is a report from the Harbourmaster for the months of May, June, July and August 2009.

Recommendation

That the reports be received for information.

BULLER DISTRICT COUNCIL

FOR THE MEETING OF 23 SEPTEMBER 2009

Report for Agenda Item No 7

Prepared by - Gary Murphy
- Chief Executive

Appointment of Members to Board of Tourism West Coast

Purpose of Report

This report requests Council to consider its appointment to Tourism West Coast (TWC).

Background

Council will recall that TWC requested Council and the other Coast Councils views on governance arrangements in May 2009 and Council resolved *“That Council accepts the proposals of Tourism West Coast in regard to the changes in its governance.”*

TWC have now written to all the Coast Councils as per the attached letter and email.

Options

In terms of Council’s policy Council can decide either to appoint without advertising or advertise. TWC is recommending an open appointment process.

Community Outcomes

This supports the outcomes of economy and identity.

Identification of Relevant Legislation, Council Policy and Plans

Council’s policy on the appointment of directors is relevant and this is attached.

Assessment of Significance

This matter is not deemed significant under the Council’s Significance Policy.

Education/Information Requirements

Not significant.

Consultation

Limited consultation has taken place with the other Councils. The Grey District Council's approach is attached.

Financial Implications

Council provides funding to TWC but there is no specific budget for this appointment process.

Resource Implications

Not significant.

Timetable

TWC would like to know who the appointee is by 30 September 2009. If Council decides to advertise this deadline will not be met.

Other Considerations

There are no other considerations relevant to this matter.

Recommendation

- 1. That Council advertise for potential nominees.**
- 2. That Council delegate to the Chief Executive Review Committee the responsibility for appointing a nominee following consultation with Tourism West Coast.**

BULLER DISTRICT COUNCIL

FOR THE MEETING OF 23 SEPTEMBER 2009

Report for Agenda Item No 8

Prepared by - Bede Brown
- Property and Waste Minimisation Officer

**Exchange of Section 122 and Road at Denniston for formed road to be
Legalised at Charleston**

Legalisation of Denniston Track Where Necessary

Purpose of Report

This report revisits three former reports that Council has previously considered.

Agreement to exchange land for land has now been negotiated between the Department of Conservation and the Council.

Council needs to agree to the swapping of land and unformed paper roads owned by Council located within the developing Historic Reserve at Denniston for land upon which Beach Road at Charleston is formed, but not legalised, owned by the Department of Conservation.

Council needs to formally resolve to allow for the closing of the unformed paper roads located within the proposed Denniston Historic Reserve, at a future date using the provisions of the Public Works Act 1981.

The Department of Conservation has also agreed that the land on which the Denniston Track is located will form part of this land swap as Council proceeds to legalise sections of the Denniston Track where it meanders off legal road and occupies Department of Conservation estate.

Background

At its meeting on 28 May 2008 Council considered a report requesting the gifting of Section 122 (285 square metres)* located at Denniston to the Department of Conservation.

**councillors please note that the land area stated in the original report 4156 square metres was incorrect*

Council subsequently resolved that a land swap might be a better outcome (copy attached).

Also at this meeting Council considered a report concerning the legalisation of the Denniston Track (copy attached).

On 23 July 2008 Council considered a report to legalize formed road at Charleston (copy attached).

Part of the road to be legalised involved (1750 square metres) of land (areas A and B on attached plan) that effectively dissects sections 7 and 8 that belong to the Department of Conservation.

Initially the Department of Conservation agreed in (2004) to the legalising of the area of road passing through their land at Charleston subject to Council paying them market value compensation and a Consent fee.

On 18 December 2008, the Department of Conservation in a letter to Council's Chief Executive suggested that, following discussions between staff of both organisations a swap of land for areas of equal value would be a more constructive outcome for both parties (copy attached).

This letter was further amended on 7 September 2009 to include legalisation of areas of the Denniston Track that maybe located on Conservation Estate subject to Te Runanga O Ngati WaeWae support (copy attached).

A valuation obtained from Quotable Value 2 June 2009 indicated that areas A and B at Charleston had a market value of \$35,000.

Community Outcomes

The community outcomes have been outlined in the previous reports. The continued development of the Denniston Historic Reserve is of continued benefit to the Buller District.

There is an expectation from owners of freehold land adversely affected by formed roads that the Council will, where possible endeavour to correct this occupation, legalise the road, and compensate them for their loss.

Assessment of Significance

The matter is not deemed significant under the Council's Significance Policy.

Financial Implications

Council funds will pay for the transfer of the land required at Charleston. Council will manage the process of the Denniston track legalisation as part of the Land Transport programme.

The Department of Conservation will pay the costs of the section title swap and the eventual road stopping process at Denniston.

Recommendation

1. That Council agree to the swapping of section 122 (outlined orange) and the land shown as road contained within the proposed Denniston Historic Reserve (outlined in blue) on the plan for the areas of land shown as A and B on the plan of Beach Road Charleston.
2. That Council formally agrees to a “Road to be Stopped” process for the areas of road shown (outlined in blue) on the plan, located within the boundaries of the proposed Denniston Historic Reserve using the provisions of the Public Works Act 1981.
3. That Council continues the process of legalising the road known as the Denniston Track.

BULLER DISTRICT COUNCIL

FOR THE MEETING OF 23 SEPTEMBER 2009

Report for Agenda Item No 9

**Prepared by - Craig Scanlon
- Manager Community and Environment**

Change to Delegation of Powers Under the Building Act

Purpose of Report

To correct an existing delegation.

Background

Delegation B6 of powers under the Building Act states that the Manager Environment and Community Services, Senior Building Inspector and Environment Team Leader can "Initiate waivers to requirements of the Building Act and New Zealand Building Code and advise Council accordingly". This wording is inaccurate and needs correcting as the Building Department currently approves waivers under the current system.

Options

Council can choose to amend the draft as follows "approve waivers/modifications to requirements of the Building Act and New Zealand Building Code". This would more accurately reflect current practice and the Building Act itself.

Assessment of Significance

This matter is not deemed significant under the Council's Significance Policy.

Conclusion

It is considered Council should change the delegation, to empower staff to perform their functions more accurately.

Recommendation

**That Council resolves to amend Delegation B6 of powers under the Building Act to read:
"approve waivers/modifications to requirements of the Building Act and New Zealand Building Code".**

BULLER DISTRICT COUNCIL

FOR THE MEETING OF 23 SEPTEMBER 2009

Report for Agenda Item No 10

Prepared by - Gary Murphy
- Chief Executive on Behalf of Working Group

District Promotion and Development

Purpose of Report

This report outlines the approach proposed to be taken with District Promotion and Development for 2009/2010 and beyond.

Background

As part of the 2009 LTCCP, Council decided to increase funding in the promotion and development area primarily to deliver the third year of the Visitor Strategy outcomes.

After the 19 August 2009 Council meeting, a presentation was made to Council on options for delivery of promotion and development and a working group was established comprising of the Mayor, Crs Bainbridge, Sampson, Neylon and Campbell.

This working group met on 26 August 2009 and it was agreed that a paper be put to the September Council meeting for Council to consider.

The following points came out of this meeting:

- It was agreed that promotion and development was more than just tourism and it was to include, live, work and visit aspects
- The objective of the promotion and development activity was to market the Buller District as an attractive place in which to live, work and play
- This was more than just increasing visitor nights, it was about strengthening existing businesses and encouraging new business development in the tourism and other sectors of the local economy
- It was not about running information centres - it was felt that the current providers were doing this effectively
- It was not about running events but assisting existing event promoters and enabling and facilitating new events
- It was about raising the profile of Buller and promoting it
- A core message had to be developed that could be used for marketing and promotion in all its forms

- It was recognised that there was a lot of work to be done to complete year three of the Visitor Strategy as well as other promotional work, liaison with relevant groups and individuals etc.
- It was felt that it was necessary to get someone on board to drive this process effectively and perhaps an initial 12 month contract would be appropriate
- Governance of this activity could be achieved through a Management Group comprising the Mayor, executive management team (Chief Executive and three managers) and 2 councillors
- This group would enlist the support, advice and guidance of industry “experts” on an as required basis to form an Advisory Body
- Terms of reference for the Management Group and Advisory Body would need to be developed

Options

There are four basic options for the delivery of District Promotion and Development:

1. provided in-house by employed or contracted staff
2. contracted out to another agency or agencies
3. rely on other agencies to deliver the service
4. a combination of the above

Under option 1, the Buller District Council would engage staff and establish a governance group to deliver all District Promotion and Development activities including direct provision of services such as marketing, issuing of grants, promotion, running of information centres, delivery of economic development and so on. It is believed that a centralised role would essentially enable greater articulation of a District Brand and district promotion strategy than any other model as a centralised function would then be able to provide guidance to the i-sites, local operators regarding development of cohesive and unified promotional material done within the context of common District Brand (graphic design).

Currently running of information centres is carried out by local committees in Westport, Karamea and Reefton with proposals for an updated facility in Punakaiki. Generally these centres are well run. There could be better communication, co-ordination sharing of systems and co-operation in terms of promotion and marketing. The Council provides annual funding grants to these centres. It would seem that there would be little advantage in trying to disestablish them and running them in-house. The costs of operating these centres under an in-house model are likely to increase because of overhead costs and reduced opportunities for external funding.

Development West Coast currently provides an economic development agency function on a regional basis and provides some local support on an as required basis. Again it would not make sense to duplicate this. A person on

the ground controlled by Council would carry greater weight and would be better placed to pull all the stakeholders together and achieved greater articulation and delivery of a common vision and District Brand.

Under option 2, this would be similar to option 1 except that rather than providing all the services in-house these would be contracted out to one or more agencies. Currently there is no one agency that can provide all of the activities so it would require several contracts or establishing a new agency. If Council wanted to have some involvement in promotion and development, there would still be a need for some oversight or co-ordination at Council level. This is almost the current situation where various agencies such as Buller Promotions, Development West Coast and Tourism West Coast, and others provide services for Council based on grant funding and KPIs. There is however no one agency currently delivering or responsible for district promotion.

Under option 3, this would be akin to a “hands-off” approach where Council would have no involvement in promotion and development but allow others to provide this in whatever way they saw fit. This would be inconsistent with what Council has done previously and what has been signalled in the LTCCP.

Option 4 is what is preferred by the working group. This involves the establishment of a governance group to provide oversight and strategic direction to district promotion, the engagement of a staff member to carry out the work including co-ordination of existing agencies that already provide some of the services. It was felt that Council currently is the only organisation that has the authority or ability to effectively direct the promotion of the Buller at a district or regional level. This embraces all the advantages of having a centralized role giving focus to District Promotion with the ability to call on external consultants when we do not have the expertise in-house. It enables delivery of a cohesive branding strategy.

Community Outcomes

This would promote the outcomes of economy and identity.

Identification of Relevant Legislation, Council Policy and Plans

Council’s LTCCP and New Activities Policy have relevance.

While not strictly speaking a completely new activity, it is the expansion of an existing activity and it is perhaps useful to consider the following:

1. What is the scale of the activity?
2. Is it a proposed change of mode of delivery of a significant activity?
3. Has a risk assessment been carried out to identify the risks to Council?
4. How are the identified risks proposed to be managed, avoided or mitigated?
5. Does the activity have a realistic budget?

6. Is there a business plan in place?
7. Are the financial and other control systems able to be integrated into Council's systems?
8. Who has responsibility for the budgets and KPIs?
9. What are the proposed governance arrangements for the activity, is management overview sufficient, is an advisory body, committee or board required?
10. Are there the required skills, expertise and relevant experience within the Council to provide the necessary oversight?
11. What are the proposed reporting and monitoring requirements?
12. Has an assessment been made of the resources required to adequately support this activity in terms of finances, systems and personnel?

1. The increased scale of the activity comprises 0.6% of Council's budget.
2. No.
3. Yes, these are summarised as obtaining community and industry acceptance, resistance to payment of the targeted rate, attracting willing participants for the advisory body, securing appropriately skilled staff, current state of the economy and other external factors.
4. Few of the risks can be avoided but most can be mitigated or managed through improved education and communication.
5. The original budget was reduced. Currently \$144,000 has been directly allocated for advertising, events and implementation of the visitor strategy. This will be adequate for the first year but subsequent years may need to be reviewed.
6. The business plan is currently based on the implementation of year three of the visitor strategy and it is proposed that this plan be reviewed by the governance group and advisory body.
7. Yes.
8. Is it proposed that the governance group will have responsibility for these.
9. Governance group with an advisory body of industry people.
10. Yes in terms of the oversight, no in terms of industry specific knowledge hence the need for an industry advisory body.
11. Monthly financial and project specific reporting mechanisms to the governance group and full Council as required.
12. Yes. It is not possible to take on this role using existing staff resources without re-prioritisation of other projects. Administration and other support has been considered and factored in.

Assessment of Significance

This matter is not deemed significant under the Council's Significance Policy.

Education/Information Requirements

As identified above as part of the risk assessment, further education and communication needs to be carried out to clearly explain what it is that Council is trying to achieve and why. This is proposed to be carried out via

several methods such as face-to-face meetings, media statements, postings on the Council website, newsletters and other printed articles.

Consultation

Consultation occurred as part of the LTCCP. Further consultation with industry groups and other stakeholders will need to be ongoing.

Financial Implications

For the 2009/2010 financial year \$438,000 has been allocated for District Promotion, Tourism Grants and Events. Of this \$246,000 is set aside for tourism grants.

Resource Implications

As discussed above, if Council is to take an active role in district promotion, additional staff resource will be required.

Timetable

A proposed timetable is as follows:

Action	Due Date
Scope the District Promotion role, where role best managed and identify skillsets required	31 August 2009 (completed)
Stocktake of current state of play - funding and activities (promotion agencies, i-sites)	15 October 2009 (90% complete)
Advertise for and appoint District Promotion Officer for say an initial 12 month term to carry out specific projects	31 October 2009
Take a view and agree role split between i-sites, promotion agencies, District Promotion Officer and external stakeholders	30 November 2009
Discuss with stakeholders preferred future direction of promotion, what is needed, marketing, training, governance, funding and expenditure.	30 November 2009
Development of a District Brand and marketing concept with plan for implementation	31 December 2009
In parallel commence and finalise year three of Visitor Strategy actions	30 June 2010
Agree expenditure and funding arrangements going forwards and determine impact in LTCCP	January 2010
Agree external industry body and KPI's to ensure accountability of new position to industry stakeholders for imposition of new targeted rate	February 2010
Agree and prioritise workload for all bodies over next three years - this will form basis of accountability	March 2010

Other Considerations

There are no other considerations relevant to this matter.

Conclusion

The working group would like to recommend to Council the following:

1. That District Promotion is more than just tourism and incorporates promotion and marketing of the district not only as a place to visit but a place to live and work as well as encouragement of business and industry development. The strategic drivers of District Promotion are the Visitor Strategy, the Regional Economic Development Strategy and Buller 2050.
2. This District Promotion is best led and driven by Council. Co-ordination and alignment of existing agencies so that promotion and marketing is consistent, effective, strategic and cohesive.
3. Governance of this activity is to be carried out by a governance group comprising the Mayor, the Council executive management group and two councillors.
4. The governance group will oversee the District Promotion direction and activities and ensure that these are consistent with the strategic drivers and other projects such as the Vision 2010 projects, Major District Initiatives and Major Regional Initiatives.
5. An industry advisory group will be established by inviting expressions of interest from various stakeholders in the tourism and general business sectors.
6. The governance group will consult with and take advice from the industry advisory group when reviewing strategy, considering new activities or initiatives. Accountability for expenditure and funding vest with Council and the Governance Body. It is important to note that the advisory body will be consulted when required but that the final decision regarding expenditure, projects and funding will vest in the Council.
7. The governance group will have delegated authority to authorise expenditure within approved budgets. Any other authorisation will be required by full Council approval.
8. The governance group will report to Council on a quarterly basis on activities and expenditure.
9. That the actions and timelines as per the table above be carried out.

Recommendation

That Council consider the recommendations of the working group.

BULLER DISTRICT COUNCIL

FOR THE MEETING OF 23 SEPTEMBER 2009

Report for Agenda Item No 11

Prepared by - Rachel Townrow
- Policy Planner

Class 4 Gambling and TAB Venue Policy Review

Purpose of Report

For Council to adopt a Class 4 Gambling and Totalisator Agency Board (TAB) Venue Policy, following a review of its current policy.

Background

At its meeting of 22 July 2009 Council resolved:

“To initiate the Special Consultative Procedure in the Local Government Act, using the Draft Class 4 Gambling and TAB Venue Policy as the basis for seeking feedback.”

The Special Consultative Procedure (SCP) was initiated on 27 July with submissions closing on 31 August. Ten submissions were received and four of these submitters indicated their wish to speak to their submissions at the hearing held on 22 September 2009.

Options

Council can decide to adopt the draft policy in its entirety or to make amendments to the draft policy before it is adopted.

Assessment of Significance

This matter is not deemed significant under the Council's Significance Policy.

Conclusion

Now that the SCP has been carried out, Council can make a decision on its Class 4 Gambling and Totalisator Agency Board (TAB) Venue Policy.

Recommendation

That Council resolves to Adopt the Class 4 Gambling and Totalisator Agency Board (TAB) Venue Policy with or without amendments.

BULLER DISTRICT COUNCIL

FOR THE MEETING OF 23 SEPTEMBER 2009

Report for Agenda Item No 12

Prepared by - Stephen Griffin
- Manager Operations

Proposed Road Stopping Lower Buller Gorge

Purpose of Report

The purpose of this report is for Council to consider the stopping of a portion of legal road in the Lower Buller Gorge.

Background

The attached plan shows the location of the portion of road proposed to be closed. The road has previously been formed to a standard suitable for four wheel drives and was the access to Caroline Terrace. The intersection with the state highway does not have sufficient sight distance and because of this the access was no longer used and an alternative access was constructed.

The owners of the properties on either side of the road proposed to be stopped have a right of way over Crown land from the state highway. One of the adjoining property owners wishes to acquire the land once the road has been stopped. As part of the road stopping procedure owners of land adjoining the section of road to be stopped will be consulted and any submission considered by Council.

The section of road to be stopped will be exchanged for land on which the current access to Caroline Terrace is located. The land which is being purchased as part of this transaction will be vested as legal road. Caroline Terrace is the location of land being purchased through Landcorp Farming for a future landfill site.

The land to be swapped has been valued and forms part of an agreement between Council and the adjoining property owners Mr and Mrs Cairns.

Options

The stopping of the road provides for the land to be amalgamated with an adjoining block to be used in conjunction with the lifestyle farming operation that is currently undertaken. The road can not be used to provide access onto the state highway unless the visibility was improved. The access to Caroline

Terrace is not dependant on the proposal to stop the road. The Council can either choose to stop the road and dispose of it to the adjoining property owner or the Council can decide to leave the land as legal road.

Community Outcomes

The stopping of the road and its use by an adjoining landowner is consistent with the community outcomes that promote the economic wellbeing of the district.

Identification of Relevant Legislation, Council Policy and Plans

The Council can use the provisions of the Public Works Act or the Local Government Act to stop roads. If all adjoining landowners consents can be obtained the road stopping will be undertaken using the Public Works Act.

Assessment of Significance

This matter is not deemed significant under the Council's Significance Policy.

Consultation

Consultation will be undertaken in accordance with the process used to stop the road.

Financial Implications

The financial considerations of this transaction are budgeted for.

Timetable

Plans have been prepared and some adjoining property owners approvals have been obtained. The process to be used has a legislative process which needs to be followed. The process will be initiated immediately following Council approval.

Recommendation

That Council resolves to undertake the process to stop the road adjacent to Part Section 2 SO 14713 Blk I Ohika SD and disposes of the land to the adjoining property owner.

BULLER DISTRICT COUNCIL

FOR THE MEETING OF 23 SEPTEMBER 2009

Report for Agenda Item No 15

Prepared by - Angela Oosthuizen
- Manager Corporate Services

**Purchase and Sale of Westport Harbour By Westport Harbour Limited
and Solid Energy Centre By Buller Recreation Limited**

Purpose of Report

The purpose of this report is to present and consider the purchase and sale documentation, service level agreements and pursuant to the sale of the assets to Westport Harbour and Buller Recreation.

Background

At the Council meeting held on 24 June 2009 it was resolved as follows:

“That Council consider the seven issues highlighted in the above report, and agree they have been satisfactorily addressed.

The Solid Energy Centre be transferred to Buller Recreation Limited and Westport Harbour transferred to Westport Harbour Limited effective 1 July 2009.

A working group be nominated to finalise the terms of the negotiation of the purchase and sale of the aforementioned assets to Buller Holdings Limited.

Buller Holdings Limited Board be consulted over the draft protocols as outlined in Annexure.”

It was further agreed that Councillors Barnes, Sampson, Mayor McManus and the Chief Executive would make up the working group to conclude the purchase and sale negotiation process. A meeting was held with the working group on 10 September to review and discuss the contract documentation.

Community Outcomes

This is in support of the community outcomes of environment, safety and identity.

Identification of Relevant Legislation, Council Policy and Plans

Compliance with consultation requirements as specified in section 56 of the Local Government Act 2002.

Assessment of Significance

This matter is deemed significant under the Council's Significance Policy.

Consultation

Consultation to establish a Council controlled organisation is prescribed under the Act and was undertaken as part of the LTCCP process.

Financial Implications

Council will acquire shares valued at \$29,530,000 from Buller Holdings. Buller Holdings will acquire shares worth \$11,910,000 from Westport Harbour Limited and shares valued at \$17,620,000 from Buller Recreation. Thus Council has agreed to equity finance rather than debt finance the transaction. Advice from Deloitte was to debt fund the transfer of the harbour but both Council and the director of the Holding Company have agreed that equity funding is preferable. The holding company in the short term would not have the capacity to service the debt, and it is believed that the transaction to ensure interest repayments are met by the Holding Company would unnecessarily complicate the arrangement. This does not however preclude Council from restructuring this in the future to a debt based funding structure. Deloitte have confirmed that this is an acceptable solution but not their recommended option. Council are in the process of refinancing their BNZ loan in order to subscribe for the shares in Buller Holdings. This debt restructuring will enable Council to obtain a tax advantage in that the interest on this loan will be tax deductible. The date of refinancing the loan would determine the settlement date.

Value of assets transferred is as follows:

Westport Harbour

Details	Value
Land	1,087,000
Wharves	4,662,293
Buildings and Structures	223,150
Vessels	5,143,092
Plant and Vehicles	637,272
Total Fixed assets	11,752,807

Current Assets	771,670
Current Liabilities	(617,711)
Goodwill	3, 234
Total	11,910,000

Valuations have been obtained from Connell Wagner in support of the above. Current assets and liabilities have been extracted from the financial records of Westport Harbour as at 30 June 2009.

Solid Energy Centre

Details	Value
Main structure (gymnasium, pool and including pool)	14,500,000
Hockey pitch	1,630,000
Other improvements	840,000
Services	600,000
Total Fixed Assets	17,570,000

Valuations have been obtained from Coast Valuations in support of the above.

Expense recoveries to Council

Payroll Costs incurred by Council	\$ 34,728
Holding company setup costs (20% recovery of costs)	\$ 42,829
Less Prepayments	to be advised
Less Staff Entitlements - Solid Energy Centre	\$14,565

Some salient aspects of the contract negotiation

Westport Harbour

The Holcim Harbour Management contract has been assigned to Westport Harbour Limited and a supplemental variation to the existing Harbour Management Agreement to provide certain confirmations, acknowledgements and agreements as to:

- (i) The role of the Harbour Master and the Deputy Harbour Master; and
- (iii) The application of the Code and the Harbour Master's Responsibilities and Powers;
- (iii) The need for the Harbour Master and the Deputy Harbour Master, in assuming responsibility for ensuring that the Harbour Safety Management System functions effectively, to remain independent of any commercial interests of the Operator; and

- (iv) The need for the parties to review, assess and put in place appropriate insurance coverage relating to the operation of the Westport Harbour and the Harbour Assets.

Solid Energy Centre

Power costs will be paid by Council and recovered from the Service Fee. The holding company has been indemnified of any additional power and gas costs in excess of the budget of \$157,000. All resource consents held by Council have been transferred to Westport Harbour Limited and Buller Recreation Limited. All warranties have been transferred over to the Solid Energy Centre and Buller Recreation have been indemnified against any costs associated with rectifying building defect as at date of take-over. In addition, Council has agreed to complete the carpark required as part of the conditions of the resource consent within 12 months of sale of the assets.

A Multi-Employer Collective Agreement was negotiated with the Union and Buller Recreation and all employees have effectively been transferred over to Buller Recreation effective 1 July 2009.

Documentation:

The following contracts have been finalised and are attached separately for approval:

1. Agreement for sale and purchase between Buller District Council and Westport Harbour Limited.
2. Agreement for sale and purchase between Buller District Council and Buller Recreation Limited.
3. Service Level Agreement between Buller District Council and Buller Recreation Limited.
4. Supplemental Deed to Harbour Management Agreement.
5. Deed of Assignment of Harbour Management Agreement
6. Share Issue Document - Buller Holdings
7. Share Issue Document - Westport Harbour Limited
8. Share Issue Document - Buller Recreation

Other Considerations

There are no other considerations relevant to this matter.

Recommendation

That Council approve the applicable documentation in order that the purchase and sale be finalised.

BULLER DISTRICT COUNCIL

FOR THE MEETING OF 23 SEPTEMBER 2009

Report for Agenda Item No 13

**Prepared by - Angela Oosthuizen
- Manager Corporate Services**

Buller Promotion Association

Purpose of Report

To provide funding for Buller Promotions Association to print Westport brochure and Westport street maps.

Background

Buller Promotions would normally fund the printing of the Westport brochure and Westport street maps from membership subscriptions. With the introduction of the promotion and development rate, members no longer pay subscriptions and essentially Buller Promotions no longer has funding for this marketing. Quotes have been obtained for a print run of 10,000 of the Westport brochure and street maps totalling \$4367.30 (exclusive of GST). The i-site current has a low stockpile of these brochures and maps and this would be urgently needed to tide the i-site over until the Buller brand strategy has been finalised and implemented. It is anticipated that this will be the only marketing requirement for the remainder of the financial year.

Community Outcomes

This decision is in support of the community outcomes of environment and identity.

Identification of Relevant Legislation, Council Policy and Plans

There is no relevant legislation that is applicable.

Assessment of Significance

The matter is not deemed significant under the Council's Significance Policy.

Consultation

No consultation has been undertaken.

Financial Implications

This would result in an unbudgeted grant of \$4367.30 to Buller Promotions Association.

Other Considerations

There are no other considerations relevant to this matter.

Recommendation

That Council agrees to provide the funding towards the printing of the Westport maps and brochures.

BULLER DISTRICT COUNCIL

FOR THE MEETING OF 23 SEPTEMBER 2009

Report for Agenda Item No 14

Prepared by - Rachel Townrow
- Policy Planner

Use of Solid Energy Centre Contrary to the Purpose of its Designation

Purpose of Report

For Council to consider the request to use the Solid Energy Centre (SEC) for a performance of "The Wizard of Oz Show", contrary to the purpose of its designation.

Background

"The Wizard of Oz Show" is a musical performance aimed at children aged 2-10 years, and families. It is touring New Zealand during the September/October school holidays and wishes to perform in Westport.

As Westport currently has no dedicated live performance venue, and the Community Hall is unavailable due to renovations, the SEC was considered to be the best alternative venue in Westport for the performance.

The show would take place in the stadium on Tuesday 6 October 2009, commencing at 4pm and lasting for approximately one hour. This is within the operating hours allowed by the SEC's designation conditions.

The decision on the designation for the SEC states:

"This designation is for a community facility, as defined in the District Plan. This excludes entertainment facilities (including concerts and musical events)".

The District Plan defines 'community facility' as:

"Any building or facility or part thereof intended to be used principally by members of the local community for the assembly of people for recreation, entertainment, cultural instruction and deliberation (but does not include any entertainment facilities or restaurants)".

Two steps are required before designated land can be used contrary to the designation, under s176 of the Resource Management Act (RMA).

First, written permission must be obtained from the holder of the designation (referred to as the 'requiring authority'). In the case of the SEC, the requiring authority is the Buller District Council.

If this permission is given, the activity must be assessed against the rules in the District Plan. If the activity does not comply with the rules, resource consent must be applied for and granted before the activity can take place.

It should be noted that in this instance the performance would comply with the District Plan as it would be considered a temporary activity under Rule 6.2.18.2.

Options

Council can decide to either grant or refuse permission to hold this event in the SEC.

Assessment of Significance

This matter is not deemed significant under the Council's Significance Policy.

Conclusion

This request relates to a one-off event. If granted, Council's permission would apply only to one performance of "The Wizard of Oz Show" on 6 October 2009. Should another group wish to stage a live performance in the SEC, they would have to request written permission to do so from Council.

Written permission is required from Council because the purpose of the designation for the SEC excludes concerts and musical events. The performance would otherwise comply with the conditions of the designation for the SEC, and with the rules in the Buller District Plan. As such, it is considered that the effects of allowing this performance to take place would be minor, and that it would be appropriate for Council to grant permission for it to go ahead.

If Council does decide to grant permission for this performance it will not in any way affect the designation itself, and the rules and conditions it contains will continue to apply to the SEC.

While renovation work is underway on the community hall building, the SEC is the best alternative venue to hold live performances of this size and nature in Westport. It should be noted that from March next year Westport will again have a dedicated live performance venue and there will be no need to use the SEC for this type of event.

Recommendation

That Council as the requiring authority for the designation of the Solid Energy Centre resolves whether or not to grant permission for "The Wizard of Oz Show" to be performed at the Solid Energy Centre on 6 October 2009.

BULLER DISTRICT COUNCIL

FOR THE MEETING OF 23 SEPTEMBER 2009

Report for Agenda Item No 15

**Prepared by - Gary Murphy
- Chief Executive**

Correspondence Received

- 1. Jennifer Anderson**
Rubbish Disposal
- 2. Jean King**
Fred King
- 3. Robert Terry**
Award to Celebrate Buller Youth
Adult Education Awareness Week
- 4. Minister of Justice**
Terry Brothers Rating Sale
- 5. Jenette Hawes**
Inangahua Community Board
- 6. Earth Hour**
Support Requested

BULLER DISTRICT COUNCIL

FOR THE MEETING OF 23 SEPTEMBER 2009

Report for Agenda Item No 16

**Prepared by - Gary Murphy
- Chief Executive**

Documents for Consent and Seal

Documents for consent and seal are scheduled hereunder:

Lease

Buller District Council and BP Oil New Zealand Limited

Performance Bond

Fairdown Farms Limited

Warrant of Appointment

Craig Scanlon

Recommendation

That the transactions be approved and the fixing of the Common Seal under authorised signatories on the appropriate documents be ratified.

BULLER DISTRICT COUNCIL

FOR THE MEETING OF 23 SEPTEMBER 2009

Report for Agenda Item No 17

**Prepared by - Gary Murphy
- Chief Executive**

Public Forum Response

Recommendation

That Council decide what if any response will be given to those persons making a presentation at the public forum.

BULLER DISTRICT COUNCIL

FOR THE MEETING OF 23 SEPTEMBER 2009

Report for Agenda Item No 18

Prepared by - Gary Murphy
- Chief Executive

Public Excluded

Section 48, Local Government Official Information and Meetings Act 1987.

Recommendation:

Item No	Minutes/Report of:	General Subject	Reason for Passing Resolution Section 7 LGOIMA 1987
1	Angela Oosthuizen - Manager Corporate Services	Westport Performing Arts Centre	Section 7(2)(j) - Enable the local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)
2	Angela Oosthuizen - Manager Corporate Services	Promotion and Development Rate	Section 7(2)(j) - Enable the local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)
3	David Barnes - Councillor	Harbour Rate	Section 7(2)(j) - Enable the local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)
4	Stephen Griffin - Manager Operations	Customer Complaint	Section 7(2)(a) - Protect the privacy of natural persons, including that of deceased natural persons



BULLER
DISTRICT COUNCIL

*Council Meeting
23 September 2009*
