



**Notice of the Ordinary meeting of**

## **Strategic Development and Property Subcommittee**

***Te Kōmiti Āpiti, Rautaki / Rawa***

Date:	Friday 3 December 2021
Time:	1.00p.m.
Location:	Council Chamber Civic House 110 Trafalgar Street, Nelson

## **Agenda**

### ***Rārangi take***

**Chairperson**

**Members**

Cr Gaile Noonan  
Her Worship the Mayor Rachel Reese  
Councillors Yvonne Bowater  
Cr Trudie Brand  
Cr Tim Skinner  
Mr John Murray  
Mr John Peters

**Quorum: 4**

**Pat Dougherty  
Chief Executive**

Nelson City Council Disclaimer

Please note that the contents of these Council and Committee agendas have yet to be considered by Council and officer recommendations may be altered or changed by the Council in the process of making the formal Council decision. For enquiries call (03) 5460436.

***Excerpt from Nelson City Council Delegations Register  
(A11833061)***

**Strategic Development and Property Subcommittee**

**Areas of Responsibility**

- Haven Precinct
- Marina Precinct
- Campgrounds
- Strategic properties, as identified in the Property and Facilities Activity Management Plan, excluding
  - Civic House (a matter for Council); and
  - Properties within the Riverside Precinct (a matter for Council)
- Commercial development proposals

**Powers to Decide**

- Appointment of a deputy Chair
- Developing, monitoring and reviewing strategies, policies and plans, with final versions to be recommended to Council for approval
- Undertaking informal community engagement on matters within the areas of responsibility

**Powers to Recommend to Council**

- Approval of final versions of strategies, policies and plans
- All other matters within the areas of responsibility or any other matters referred to it by Council

For the Terms of Reference for the Strategic Development and Property Subcommittee, please refer to document A2505915.

**Karakia and Mihi Timatanga**

**1. Apologies**

Apologies has been received from Her Worship the Councillor Y Bowater and Mr J Murray.

**2. Confirmation of Order of Business**

**3. Interests**

3.1 Updates to the Interests Register

3.2 Identify any conflicts of interest in the agenda

**4. Public Forum**

**5. Confirmation of the 3 August 2021 Strategic Development and Property Subcommittee Minutes 7 - 11**

Document number R26443

Recommendation

***That the Strategic Development and Property Subcommittee***

***1. Confirms the minutes of the 3 August 2021 Strategic Development and Property Subcommittee meeting, as a true and correct record.***

**6. Chairperson's Report**

**7. Contingent Loan Facility - Tahuna Beach Camp Inc. 12 - 21**

Document number R26426

Recommendation

***That the Strategic Development and Property Subcommittee***

- 1. Receives the report Contingent Loan Facility - Tahuna Beach Camp Inc. (R26426) and its attachments (A2788674, A2788793 and A2788775);***

Recommendation to Council

***That the Council***

- 1. Approves an emergency contingent loan facility of up to \$500,000 to be available to Tahuna Beach Camp Inc., if required due to COVID-19 impacts prior to 28 February 2022.***

**8. Nelson Marina s17A Governance Review 22 - 72**

Document number R26108

Recommendation

***That the Strategic Development and Property Subcommittee***

- 1. Receives the report Nelson Marina s17A Governance Review (R26108) and its attachment (A2764091).***

Recommendation to Council

***That the Council***

- 1. Approves the recommendation of a Council Controlled Organisation that manages the Marina as the preferred governance model for Nelson Marina; and***
- 2. Approves undertaking consultation on the proposal to establish a Council Controlled Organisation as per Section 56 of the Local Government Act; and***
- 3. Notes that undertaking consultation on a proposal to establish a Council Controlled Organisation would require additional unbudgeted expense to a maximum of \$65,000 in addition to current budget (\$40,000), to***

***formulate the required documentation and reviews for the new Council Controlled Organisation; and***

- 4. Approves funds, if required for undertaking consultation, to be sourced from the Marina closed account.***

## **9. Strategic Development and Property Quarterly Report to 30 September 2021**

**73 - 87**

Recommendation

***That the Strategic Development and Property Subcommittee***

- 1. Receives the report (R26108) and its attachment (A2660062).***

## **CONFIDENTIAL BUSINESS**

### **9. Exclusion of the Public**

Recommendation

***That the Strategic Development and Property Subcommittee***

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

	<b>General subject of each matter to be considered</b>	<b>Reason for passing this resolution in relation to each matter</b>	<b>Particular interests protected (where applicable)</b>
<b>1</b>	<b>Proposed Registrations of Interest Document: 258 Wakefield Quay (Anchor Building)</b>	Section 48(1)(a)  The public conduct of this matter would be likely to result in disclosure of information for which good reason exists under section 7	The withholding of the information is necessary: <ul style="list-style-type: none"> <li>Section 7(2)(h) To enable the local authority to carry out, without prejudice or disadvantage, commercial activities</li> </ul>

	<b>General subject of each matter to be considered</b>	<b>Reason for passing this resolution in relation to each matter</b>	<b>Particular interests protected (where applicable)</b>
<b>2</b>	<b>Maitai Valley Motor Camp Options</b>	<p>Section 48(1)(a)</p> <p>The public conduct of this matter would be likely to result in disclosure of information for which good reason exists under section 7</p>	<ul style="list-style-type: none"> <li>• Section 7(2)(h) To enable the local authority to carry out, without prejudice or disadvantage, commercial activities</li> </ul>

## **Karakia Whakamutunga**

Strategic Development and Property Subcommittee Minutes - 3 August 2021



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**Minutes of a meeting of the  
Strategic Development and Property Subcommittee**

***Te Kōmiti Āpiti, Rautaki / Rawa***

**Held in the Council Chamber, Civic House, 110 Trafalgar Street,  
Nelson on Tuesday 3 August 2021, commencing at 9.00a.m.**

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**Present:** Cr G Noonan (Chairperson), Her Worship the Mayor R Reese (via Zoom), Councillors Y Bowater, T Brand, T Skinner and Mr J Murray

**In Attendance:** Group Manager Community Services (A White), Group Manager Corporate Services (N Harrison) and Governance Advisers (J Brandt and E Stephenson)

**Apologies:** Mr J Peters

**Karakia and Mihi Timatanga**

**1. Apologies**

Resolved SDAP/2021/037

***That the Strategic Development and Property Subcommittee***

***1. Receives and accepts an apology from Mr J Peters.***

Bowater/Murray

Carried

**2. Confirmation of Order of Business**

There was no change to the order of business.

**3. Interests**

There were no updates to the Interests Register. Mr John Murray declared an interest in Confidential Item 2 – Tahuna Beach Camp – Community Engagement on the Proposed Lease of the Campground.

Item 5: Confirmation of the 3 August 2021 Strategic Development and Property Subcommittee Minutes: Attachment 1

Strategic Development and Property Subcommittee Minutes - 3 August 2021

**4. Public Forum**

There was no public forum.

**5. Confirmation of Minutes**

5.1 1 June 2021

Document number M18673, agenda pages 6 - 11 refer.

Resolved SDAP/2021/038

***That the Strategic Development and Property Subcommittee***

- 1. Confirms the minutes of the meeting of the Strategic Development and Property Subcommittee, held on 1 June 2021, as a true and correct record.***

Murray/Bowater

Carried

**6. Chairperson's Report**

There was no Chairperson's Report.

**7. Long Term Plan 2021 - 31 Decisions relating to Strategic Development and Property Subcommittee Areas of Responsibility**

Document number R26090, agenda pages 12 - 14 refer.

Group Manager Corporate Services, Nikki Harrison, and Group Manager Community Services, Andrew White, answered questions regarding the Long Term Plan 2021 - 31 (LTP) resolutions relating to the Subcommittee's areas of responsibility. It was noted that agenda page 14 was a duplicate of page 13.

Resolved SDAP/2021/039

***That the Strategic Development and Property Subcommittee***

- 1. Receives the report Long Term Plan 2021 - 31 Decisions relating to Strategic Development and Property Subcommittee Areas of Responsibility (R26090) and its attachment (A2714355).***

Brand/Murray

Carried



Item 5: Confirmation of the 3 August 2021 Strategic Development and Property Subcommittee Minutes: Attachment 1

Strategic Development and Property Subcommittee Minutes - 3 August 2021

## 8. Verbal Updates

### Marina

Manager Nelson Marina, Nigel Skeggs, provided a brief update, noting that positive feedback had been received in the month since taking over the marina and that staff were starting to resolve licence agreements, focusing on debt control, recovering debt and on transparent communication. He noted that work was being undertaken on the governance model and the masterplan.

Attendance: Councillor Skinner entered the meeting at 9.15am.

Group Manager Community Services, Andrew White, answered questions regarding a private proposal for a marina extension.

### Campgrounds

Manager Parks and Facilities, Rosie Bartlett, and Strategic Advisor, Tanya Robinson, provided a brief update on campgrounds, noting that a compliance project at the Brook Camp was continuing, that a resource consent had been lodged for long term occupant activity at the Tahuna Beach Camp, and that Section 17a work was progressing to some mapping. It was noted that a report would be provided to the Subcommittee prior to any work being undertaken to achieve compliance at the Brook Valley Holiday Park, but that a conversation was required regarding what the report should cover. It was agreed that Mr White and the Chairperson would discuss this further.

## 9. Exclusion of the Public

Resolved SDAP/2021/040

***That the Strategic Development and Property Subcommittee***

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

Bowater/Skinner

Carried

Item	General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Particular interests protected (where applicable)
1	Strategic Development and	Section 48(1)(a)	The withholding of the information is necessary:

Item 5: Confirmation of the 3 August 2021 Strategic Development and Property Subcommittee Minutes: Attachment 1

Strategic Development and Property Subcommittee Minutes - 3 August 2021

Item	General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Particular interests protected (where applicable)
	<b>Property Subcommittee Meeting - Confidential Minutes - 1 June 2021</b>	The public conduct of this matter would be likely to result in disclosure of information for which good reason exists under section 7.	<ul style="list-style-type: none"> <li>Section 7(2)(a) To protect the privacy of natural persons, including that of a deceased person</li> <li>Section 7(2)(g) To maintain legal professional privilege</li> <li>Section 7(2)(h) To enable the local authority to carry out, without prejudice or disadvantage, commercial activities</li> <li>Section 7(2)(i) To enable the local authority to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)</li> </ul>
<b>2</b>	<b>Strategic Development and Property Subcommittee Meeting - Confidential Minutes - 1 April 2021</b>	<p>Section 48(1)(a)</p> <p>The public conduct of this matter would be likely to result in disclosure of information for which good reason exists under section 7</p>	<p>The withholding of the information is necessary:</p> <ul style="list-style-type: none"> <li>Section 7(2)(a) To protect the privacy of natural persons, including that of a deceased person</li> <li>Section 7(2)(g) To maintain legal professional privilege</li> <li>Section 7(2)(h) To enable the local authority to carry out, without prejudice or disadvantage, commercial activities</li> </ul>
<b>3</b>	<b>Tahuna Beach Camp - Community Engagement on the Proposed</b>	<p>Section 48(1)(a)</p> <p>The public conduct of this matter would be likely to result in disclosure of</p>	<p>The withholding of the information is necessary:</p> <ul style="list-style-type: none"> <li>Section 7(2)(h) To enable the local authority to carry out, without prejudice or</li> </ul>

Item 5: Confirmation of the 3 August 2021 Strategic Development and Property Subcommittee Minutes: Attachment 1

Strategic Development and Property Subcommittee Minutes - 3 August 2021

Item	General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Particular interests protected (where applicable)
	<b>Lease of the Campground</b>	information for which good reason exists under section 7	disadvantage, commercial activities <ul style="list-style-type: none"><li>• Section 7(2)(i) To enable the local authority to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)</li></ul>

The meeting went into confidential session at 9.37am and resumed in public session at 10.10am.

**Karakia Whakamutanga**

There being no further business the meeting ended at 10.10am.

Confirmed as a correct record of proceedings by resolution on (date)

Resolved

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## **Contingent Loan Facility - Tahuna Beach Camp Inc.**

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### **1. Purpose of Report**

- 1.1 To consider a request from the Tahuna Beach Camp Incorporated for an emergency contingent loan facility of \$500,000.

### **2. Recommendation**

***That the Strategic Development and Property Subcommittee***

- 1. Receives the report Contingent Loan Facility - Tahuna Beach Camp Inc. (R26426) and its attachments (A2788674, A2788793 and A2788775);***

Recommendation to Council

***That the Council***

- 1. Approves an emergency contingent loan facility of up to \$500,000 to be available to Tahuna Beach Camp Inc., if required due to COVID-19 impacts prior to 28 February 2022.***

### **3. Background**

- 3.1 The Tahuna Beach Holiday Park is managed by Tahuna Beach Camp Inc. (TBCI), on behalf of Council. This arrangement was entered into in 2004/05, as part of a strategy to improve facilities and use of the campground.
- 3.2 Over the past two years over \$1,000,000 has been invested in repairs, maintenance and upgrades, to improve the campground facilities and infrastructure.

## Item 7: Contingent Loan Facility - Tahuna Beach Camp Inc.

- 3.3 At the same time, TBCI has focussed on improving the financial stability of the campground. There have been significant improvements in both assets and TBCI's financial position, including improved cash reserves. However, the financial position does remain exposed to external impacts, such as the COVID-19 pandemic.
- 3.4 Due to the risk of campground closure over summer or reduced revenue resulting from COVID-19 impacts, TBCI has requested a contingent loan facility of up to \$500,000 to enable 'critical upgrades' to take place before Christmas (Attachment 1).
- 3.5 This contingent loan facility would give TBCI certainty that if critical upgrades were undertaken prior to any reduction in income over the summer, that the TBCI would maintain its financial stability.
- 3.6 TBCI currently has enough funds allocated in its forward budget to undertake the above mentioned 'critical upgrades', valued at approximately \$610,000. However, any loss of anticipated income over the summer season could impact this budget projection.
- 3.7 Under the recently signed lease between Council and TBCI, all improvements made by the TBCI will be held on Trust by them for Council and these improvements will be passed to Council ownership on expiration or earlier termination of the lease.

### **4. Discussion**

- 4.1 TBCI currently has retained earnings of nearly \$500,000, and a cash balance of almost \$1,250,000 (Attachment 2).
- 4.2 However, the loss of January's income alone would cost TBCI over \$600,000.
- 4.3 In order to protect against this potential loss of summer season income, at the same time as undertaking the critical upgrades outlined in Attachment 3, the contingent loan facility is requested.
- 4.4 This contingent loan facility would allow TBCI to proceed with planned critical upgrades in time for the summer season, rather than hold funds in reserve in case the cash balance is needed for another purpose.
- 4.5 The loan would only be accessed if COVID-19 impacts were significant and would be repaid over time.

### **Current and future loan repayments**

- 4.6 TBCI has an existing loan with Council, which has been in place since 2004/05 and was updated in 2015. There is precedent (in 2014) of TBCI drawing down on that loan for a boiler.
- 4.7 The loan balance at 10 November 2021 was \$678,900, repaid in monthly instalments of \$7,000. Interest is paid three monthly, which is paid by TBCI rather than being added to the loan.

## Item 7: Contingent Loan Facility - Tahuna Beach Camp Inc.

- 4.8 Interest is paid at the interest rate on the Council's Westpac facility plus a margin, so the total paid quarterly varies. The interest rate is currently 1.65% and the margin 0.30%.
- 4.9 Should a contingent loan facility be provided, it is expected that the same terms would be negotiated.

### 5. Options

<b>Option 1: Approve an emergency contingent loan facility of up to \$500,000 for TBCI (recommended option)</b>	
Advantages	<ul style="list-style-type: none"><li>• Provides certainty for TBCI that funds will be available over the summer.</li><li>• Protects TBCI against potential financial impacts of COVID-19 over the 2021/22 summer period.</li><li>• Allows TBCI to proceed with critical upgrades prior to the summer season.</li></ul>
Risks and Disadvantages	<ul style="list-style-type: none"><li>• Could increase TBCI's debt to Council.</li></ul>
<b>Option 2: Do not approve an emergency contingent loan facility</b>	
Advantages	<ul style="list-style-type: none"><li>• Cost saving as does not require Council to provide a loan to TBCI.</li></ul>
Risks and Disadvantages	<ul style="list-style-type: none"><li>• TBCI could not complete critical upgrades prior to summer.</li><li>• TBCI would be more exposed to the potential impacts of COVID-19 on cash flow.</li></ul>

### 6. Next Steps

- 6.1 Advise TBCI of the outcome.
- 6.2 Officers to draft a loan agreement variation with TBCI.

**Author:** Tanya Robinson, Strategic Adviser Community Services

## Item 7: Contingent Loan Facility - Tahuna Beach Camp Inc.

### **Attachments**

- Attachment 1: A2788674 - Letter from David Pattinson - Request for COVID Emergency Contingency Loan Facility - 1 October 2021 [↓](#)
- Attachment 2: A2788793 - Tahuna Beach Holiday Park - Cashflow High Level Forecast Aug-Dec 2021 [↓](#)
- Attachment 3: A2788775 - Tahuna Beach Holiday Park - Approved Capital Works 2021-2022 [↓](#)

<b>Important considerations for decision making</b>
<b>1. Fit with Purpose of Local Government</b> This decision supports governance and management of Council facilities.
<b>2. Consistency with Community Outcomes and Council Policy</b> This recommendation fits with the objective that:  Our communities have access to a range of social, educational and recreational facilities and activities
<b>3. Risk</b>  There is some risk that the funds may remain unpaid but this should be low as the TBCI has anticipated future revenue to repay debt.
<b>4. Financial impact</b>  The financial impact is low as the debt would be repaid.
<b>5. Degree of significance and level of engagement</b>  This matter is of low significance because the debt would be repaid. Therefore consultation would not need to occur.
<b>6. Climate Impact</b>  Climate impact is not considered in this report as the matter is financial.
<b>7. Inclusion of Māori in the decision making process</b>  No engagement with Māori has been undertaken in preparing this report, because the matter is financial.
<b>8. Delegations</b>  The Strategic Development and Property Subcommittee has the following delegations to consider Campgrounds  <i>Areas of Responsibility:</i> <ul style="list-style-type: none"><li>• <i>Campgrounds</i></li></ul> <i>Powers to Recommend</i> <ul style="list-style-type: none"><li>• <i>All other matters within the areas of responsibility or any other matters referred to it by Council</i></li></ul>



**Tāhuna Beach**  
**Holiday Park and Motel**



70 Beach Road  
Tahunanui, Nelson 7011  
+64 3 545 7854  
0800 500 501  
[tahuna@tahunabeach.co.nz](mailto:tahuna@tahunabeach.co.nz)  
[www.tahuna.nz](http://www.tahuna.nz)

Nikki Harrison,  
Group Manager Corporate Services,  
Nelson City Council.  
1<sup>st</sup> October 2021

**Re request for COVID emergency loan facility**

Dear Nikki,

As you will be aware Tahuna Beach Holiday Park has struggled in the past financially and has not been able to reinvest sufficiently in the park. Whilst we continue to have a loyal following this has nonetheless resulted in us earning a reputation of being “run down”.

In recent times board and management have worked hard to put the park in a stronger position financially and to reinvest prudently in the park. In the past two years in excess of one million dollars has been spent on repairs and maintenance and assets gifted to Council. To put this in perspective it is double the average of \$250,000 spent per annum in the previous eight years. Importantly the vast majority of this spent has been planned maintenance and upgrades rather than reactive repairs as in past years. There is little in the park now that has not had something done which is going a long way to dispel this “run down” reputation.

However, the work must continue as there is still much to be done. The board have a strong desire to invest a further \$610,000 before Christmas on critical upgrades.

Remarkably the Park has also been able to build Retained Earnings of nearly \$500,000 at year end 30<sup>th</sup> June 2021 and a cash balance of almost \$1,250,000.

However, the park is heavily reliant on a successful summer as that is when the majority of our earnings are made. COVID – 19 has cast a long shadow and has us understandably concerned. That is why we are planning early and trying to put a contingency in place, should we need it.

If we were to lose January’s income for instance, this would cost us in excess of \$600,000 in income and leave us with no cash reserves.

I have attached a high level cashflow forecast for your perusal.

We are requesting an emergency contingency loan facility of \$500,000. This would only be taken up should our income be significantly affected by COVID – 19 and it is a loan, it would be paid back over time.

A2788674



**Tāhuna Beach**  
**Holiday Park and Motel**



70 Beach Road  
Tahunanui, Nelson 7011  
+64 3 545 7854  
0800 500 501  
[tahuna@tahunabeach.co.nz](mailto:tahuna@tahunabeach.co.nz)  
[www.tahuna.nz](http://www.tahuna.nz)

This will allow us to proceed with our CAPEX spend which is urgently needed. In effect, the loan should it be required, would be funding the CAPEX.

Although the Capex spend is critical to continuing our developmental strategy, it would not be prudent to carry out, without a loan facility available to call, upon should the unthinkable happen and we have a heavily disrupted summer season.

I am not sure how the Council would best structure the loan facility whether an extension of the existing loan back up to its original level (but undrawn) or a new facility is the best option?

I am happy to meet up to discuss this if need be.

I thank you for your consideration and hope we can find a satisfactory solution.

David Pattinson  
Chief Executive  
Tahuna Beach Holiday Park

A2788674



With Jan

Cash Forecast Position based on Budget (less \$60k COVID and \$350k Capex + Satellite block \$225k)

	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov
Opening Cash at bank	1,170,000	1,051,252	941,798	703,360	620,726	601,302	663,884	749,333	808,711	810,254	786,779	754,229	721,679	689,129	666,579	
Budget Surplus/(deficit)	(36,198)	(26,904)	(45,888)	89,916	283,126	55,132	27,999	1,927		(45,906)	(50,926)	(60,000)	(60,000)	(40,000)	(30,000)	(45,000)
COVID loss of revenue	(20,000)	(20,000)	(20,000)													
add back non cash items																
Depreciation	7,450	7,450	7,450	7,450	7,450	7,450	7,450	7,450	7,450	7,450	7,450	7,450	7,450	7,450	7,450	7,450
Deduct cash movements																
Capex																
Approved																
Not spent																
Net		(70,000)	(70,000)	(70,000)	(70,000)											
Capex Satellite block				(110,000)	(110,000)	(110,000)										
Deposits held					(200,000)			50,000	50,000	40,000	20,000	20,000	20,000	689,129	666,579	629,029
Closing Cash at bank	1,170,000	1,051,252	941,798	703,360	620,726	601,302	663,884	749,333	808,711	810,254	786,779	754,229	721,679	689,129	666,579	629,029
Total Income	194,809	218,859	193,983	420,034	684,684	300,191	278,411	242,035	179,662	167,540						
less Resident Income	40,600	42,000	40,600	42,000	42,000	38,500	42,000	40,600	40,600	42,000	40,600					
"At Risk" Income	154,209	176,859	153,383	378,034	642,684	261,691	236,411	201,435	137,662	126,940						

A2788793

No Jan

Cash Position based on Budget (less \$60k COVID and \$350k Capex + Satellite block \$225k) and no January income except for Permanents

[illegible]

A2788793

**Tahuna Beach Holiday Park****Approved Capital Works 2021/22**

Block 5 Satellite block	330,000
Quantum heat pump replacement in Complex with LPG	30,000
Block 4 roof	7,500
Polycarbonate sheeting roofs Complex BBQ, 85,86,8,&9	5,000
Classic motel roofs	10,000
General Roof work	12,000
Tree planting	25,000
Motels 10 -19 landscaping only (no deck extensions)	30,000
Group kitchen floor painting	5,000
Motel 10-19 New TV's	7,500
Furniture for Parkhouse	10,000
Audible Alarm system	30,000
Washing machines/dryers	10,000
Playground Equipment	100,000
	612,000

A2788775

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## **Nelson Marina s17A Governance Review**

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### **1. Purpose of Report**

- 1.1 To consider the various options available to Council for the future governance structure of Nelson Marina.
- 1.2 To approve the preferred option of the formation of a Council Controlled Organisation (CCO) that manages the Marina with Council retaining ownership of the assets.

### **2. Summary**

- 2.1 Nelson Marina requires significant investment over the next 10 years due to an historical lack of investment.
- 2.2 Council has engaged Wardale Marine Consultants to develop a Masterplan to set out the Marina Long Term Plan, as per the Nelson Marina Strategic Plan approved by Council in December 2017.
- 2.3 Nelson Marina is accountable to the community through Council, so should be adding value with the view of providing a return on investment.
- 2.4 The potential for the asset is community-wide through placemaking activation and broader use of the precinct, as well as a return on investment.
- 2.5 On July 1, 2021 the management of Nelson Marina was brought in house to Council with the early termination of the Nelmac Management Contract.
- 2.6 The current governance and delivery model is not commercially focused, nor dynamic enough to fulfil the future development plans for Nelson Marina.
- 2.7 A review of the various management options available to Council has therefore been undertaken to ensure that the governance structure is fit

## Item 8: Nelson Marina s17A Governance Review

for purpose and will achieve Council's goals (See, Attachment 1, Section 17a Review).

- 2.8 Based on the report findings, it is recommended that Council establish a CCO to manage and operate Nelson Marina on behalf of Council.
- 2.9 Nelson Marina is operated as a closed account with no income coming from Council rates; an opportunity to enhance investment as well as return would be created through this model.
- 2.10 Post workshop further research was conducted on the option of establishing a Limited Liability Partnership (LLP) as the framework within which the Management CCO would operate.

### 3. Recommendation

#### ***That the Strategic Development and Property Subcommittee***

1. ***Receives the report Nelson Marina s17A Governance Review (R26108) and its attachment (A2764091).***

Recommendation to Council

#### ***That the Council***

1. ***Approves the recommendation of a Council Controlled Organisation that manages the Marina as the preferred governance model for Nelson Marina; and***
2. ***Approves undertaking consultation on the proposal to establish a Council Controlled Organisation as per Section 56 of the Local Government Act; and***
3. ***Notes that undertaking consultation on a proposal to establish a Council Controlled Organisation would require additional unbudgeted expense to a maximum of \$65,000 in addition to current budget (\$40,000), to formulate the required documentation and reviews for the new Council Controlled Organisation; and***
4. ***Approves funds, if required for undertaking consultation, to be sourced from the Marina closed account.***

#### **4. Background**

- 4.1 Council owns and has operated Nelson Marina (Marina) since 1 July 2021.
- 4.2 Prior to 1 July 2021, Nelson Marina was operated by Nelmac Limited, a general contracting Council Controlled Organisation (CCO), under a contract with the Council. Council chose to cancel that contract early as it was determined that more active management was needed.
- 4.3 The Council anticipates significant development of the Marina in the future. It is currently developing a Masterplan for the Marina, which it expects to consult with the community at the end of 2021 and adopt in early 2022.
- 4.4 Alongside this, Council is considering the best approach for governance of the Marina going forward. For this purpose, it engaged Infracure Ltd (Infracure) to carry out a review under section 17A of the Local Government Act 2002 (LGA 2002).
- 4.5 Infracure has now provided a report that recommends that Council establishes a Management CCO for Marina governance. (Attachment 1 A2764091).

#### **Section 17A review summary**

- 4.6 For the review process, Infracure held several meetings and workshops with staff and stakeholders.
- 4.7 Infracure's report identifies that there is consensus that the Marina needs development and more proactive management. For example:
  - 4.7.1 Marina and Marina support services (e.g., parking, provisioning, repairs, fuelling) are not integrated,
  - 4.7.2 Current facilities and services will not meet future demand as boat ownership and profiles, environmental and health and safety standards evolve,
  - 4.7.3 Land is viewed as being under-utilised,
  - 4.7.4 Fees and charges are considered too low for the market, and collections have historically been low.
- 4.8 Initial master planning work suggests that there will be significant changes to both current Marina operations and the Marina land to meet future need.
- 4.9 The report also identified a risk that the Marina's current governance model is inadequate to manage the complexity of concurrent change initiatives across several areas, including:
  - 4.9.1 Marina-provided services such as fuel, dry docking and storage,



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- 4.9.2 Changing approach to, and increasing, fees and charges,
  - 4.9.3 Development of new commercial operations to service all users (boat parts, repairs, food and sea sports),
  - 4.9.4 Increasing recreational value for the community i.e., managing the Marina and land as a destination,
  - 4.9.5 Managing consequent environmental, health and safety and reputational risks.
- 4.10 The report identified that Council's current reporting and decision making isn't appropriately structured or resourced to support:
- 4.10.1 Management of the Marina as a commercial business,
  - 4.10.2 Development of the Marina and land as a mixed use destination for boat owners, associated service providers and the wider community,
  - 4.10.3 Effective strategic integration and alignment with boat owning users, other recreational users, neighbours, Iwi and the Nelson Regional Development Agency (NRDA).
- 4.11 Following interviews and a stakeholder workshop, the review identified key themes that stakeholders would like to see addressed. The key themes are:
- 4.11.1 The Marina should be an efficient and profitable business,
  - 4.11.2 The Marina is undergoing a step change that will secure its value for future generations,
  - 4.11.3 The Marina offers amenity and recreation value opportunities for everyone in Nelson,
  - 4.11.4 Council as shareholder should get a return on its investment.
- 4.12 An analysis was then undertaken of various options available to Council, with the four options below being deemed to be the best fit for purpose:
- 4.12.1 Option 1: Council owns and operates the Marina (status quo),
  - 4.12.2 Option 2: A "stand-alone business unit" (SABU) or "enhanced Status quo" within Council that manages the Marina,
  - 4.12.3 Option 3: A new CCO that manages the Marina with Council retaining ownership of the assets (Management CCO) (Infracore and Report Recommendation),
  - 4.12.4 Option 4: A new CCO that holds ownership of all assets and manages the Marina (Owner CCO).

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### 4.12.5 Option 5: A Limited Liability Partnership that holds ownership of all assets and manages the Marina (LLP)

## 5. Discussion

- 5.1 The status quo (Option 1) has serious limitations and is therefore not the recommended option. The key issues are the relative complexity of the management of the Marina, and the lack of commercial orientation and flexibility.
- 5.2 A SABU (Option 2) was identified as intermediary solution and would be an enhanced status quo option while Council was assessing a CCO in the Section 17A review.
- 5.3 While the SABU model is an option and would go some way to solving the key issue of the lack of commercial orientation for the management of the Marina, it is not identified here as the preferred option for the following reasons:
  - 5.3.1 A significant amount of time and cost would need to be invested to establish a SABU that would provide the benefits of a more commercial board structure but would not achieve the goal of independence from Council. There is good commercial, operating and reputational rationale to move ahead with expediency to finalise and implement the Masterplan,
  - 5.3.2 A SABU model does not provide appropriately rigorous structure and is less consistent with Council's existing successful governance models and entities (eg Nelmac, Port Nelson), which have a statutory basis and existing rules around their establishment and operation,
  - 5.3.3 There would also be some on-going drawbacks of a SABU model, with the board of a SABU, for example, being able to engage in contracts and statutory commitments but with the liability being retained by Council.
- 5.4 Due to the need to be commercially focussed, establishing a CCO to manage the Marina is the recommended option (Option 3: Management CCO).
  - 5.4.1 This option has benefits as identified above (5.3.1 - 5.3.3), regarding expediency and a rigorous structure for reporting and liability,
  - 5.4.2 A Management CCO also draws on a well-established CCO framework, regarding statements of expectation, statements of intent, regular reporting and accountability,
  - 5.4.3 This option also means there would be a company structure with a board of directors appointed by, and accountable to, the Council, along with means for the Council to influence the way

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the CCO is operated and governed, with Council-appointed Board members,

- 5.4.4 Fiduciary duty, the duty of care and liability would be assumed by Board Members rather than Council,
  - 5.4.5 This structure would provide a good balance between commerciality in the running of the Marina as a business, and appropriate Council oversight and influence,
  - 5.4.6 LGOIMA applies but not to meetings,
  - 5.4.7 Profits derived through the operation of the Marina will be for the benefit of the asset owners (Council) and will not be subject to corporate tax.
  - 5.4.8 While establishing a CCO requires consultation, this would not unduly slow down the process. Establishing a management CCO and establishing a SABU would involve about the same amount of time and cost (although the SABU could be slightly more complex).
  - 5.4.9 If a Management CCO is established, this also leaves future flexibility for the Marina land and assets to be transferred to the new CCO should Council consider that to be appropriate in the future (Option 4: Owner CCO) or a Limited Liability Partnership (LLP)(Option 5).
- 5.5 For this reason, the Owner CCO (Option 4) and Limited Liability Partnership (LLP)(Option5) are not the recommended options at this stage due to the tax implications to Council. Both options are also more complex to establish, would require more consultation, and Council's commercial objectives with respect to the Marina can be achieved without the transfer of assets at this stage.
- 5.6 Option 3, a Management CCO is therefore the preferred option.

### **Other options that should be discounted because they are not reasonably practicable:**

- 5.7 Other governance options for the Marina were also reviewed. On assessment, these do not meet Council's objectives and should be discounted as they are not reasonably practicable options.

For completeness, these options are:

- 5.7.1 **Subcommittee** – The Council could establish a subcommittee (under clause 30(1), Schedule 7 of the LGA 2002) to carry out a similar function to the board in option 2 (stand-alone business unit option). The subcommittee membership could include external appointees with relevant skills and knowledge and Council employees and would not necessarily need to include elected members (clause 31(3) and (4), Schedule 7 of the LGA

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2002). This would not be a reasonably practical option for the Council, as it would not allow for the 'nimbleness' and responsiveness in decision-making that the Council wants to achieve for Marina operations.

- 5.7.2 **Management contract** – The Council could contract out the management of the Marina to a third party (such as was the case with its contract with Nelmac Limited). The contract could be drafted to require a more commercial focus for the Marina. This is not a reasonably practical option for the Council: first, because this is essentially the structure that has been used to date (with Nelmac Limited) and issues were identified with this; and second, because achieving a more business-like operation would be difficult through a contract only (with the Council ultimately still making any key decisions, compared with, for example, the board of a CCO).
- 5.7.3 **Incorporated society** – The Council could incorporate a society under the Incorporated Societies Act 1908 to manage and/or own the Marina. This is not a reasonably practicable option for the Council because there are serious limitations with an incorporated society as a structure including that it cannot operate for pecuniary gain of any of its members (including the Council if the Council is a member), and there are minimum member requirements (so parties other than the Council would need to be members of the society). This structure would not align with the more commercial orientation the Council wishes to achieve for the Marina.

### **Benefits of the SABU model**

- 5.8 Benefits of the SABU model that were identified in the Infracore report (Attachment 1, p. 7), are also applicable to the preferred Management CCO option (Option 3). These include:
  - 5.8.1 The Board having an independent chair,
  - 5.8.2 Wider community recreation interests being represented on the Board e.g., passive and active recreation, arts and culture,
  - 5.8.3 The Marina Manager being appointed to the Board as an 'Executive Director'...,
  - 5.8.4 The Chief Executive ensuring the Board has the delegated authority required to develop and deliver the agreed Masterplan and CAPEX and OPEX budgets,
  - 5.8.5 The Masterplan being delivered using a benefit led change programme management construct rather than an outputs driven project management construct.
- 5.9 In addition, it was identified in the report that a programme approach would help support effective consideration of things such as:

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- 5.9.1 Consolidation of asset and activity management into a single Marina and Land precinct,
- 5.9.2 Dependency management for infrastructure enhancements enabling new fees and charges and their supporting systems,
- 5.9.3 Integration of broader outcomes including environmental and social and cultural benefits (Attachment 1, p. 7).

## 6. Options

### Option 1: Council owns and operates Marina (status quo)

#### 6.1 Description

- 6.1.1 Council owns the Marina land and associated assets.
- 6.1.2 Marina operations are managed by a business unit within the Council, staffed by officers employed by the Council, including the Manager Nelson Marina. The officers act under delegated authority, which has been sub-delegated to them by the Council's Chief Executive.
- 6.1.3 The Marina's finances are managed through a 'closed account', as the Marina has its own dedicated revenue streams and expenses.
- 6.1.4 The following stakeholders have a role in the governance of the Marina:
  - The Strategic Development and Property Subcommittee has the "Marina Precinct" as one of its areas of responsibility, and the Council has delegated to it the power to make decisions on the development of policies and plan, and to recommend these policies and plans to the Council for its approval.
  - The Marina Management Committee, established in 2015, has the purpose of discussing and providing recommendations to the Council about the Marina facility.<sup>1</sup> It provides a forum for communication and co-ordination between the Council, Marina management, and the Marina Berth Holders Association, with its members drawn from all these entities, as well as Port Nelson.
  - The Nelson Marina Advisory Group was established in 2017 to work with the Council on the strategic plan for the Marina, but after completion of that plan, was retained to act as the appointed management committee to undertake management duties at the

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<sup>1</sup> The Committee has advisory powers only.

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Marina (as described in the strategic plan). Aspirations were to delegate powers for management and financial decisions to the Advisory Group, but its current delegations are limited to making recommendations to the Council only. Its members are individuals with appropriate skills and expertise, who are appointed by, but independent to, the Council.

### 6.2 Process

This option is the status quo, so no process is required. (Although the Council might want to consider whether changes should be made to the Marina Management Committee and Nelson Marina Advisory Group, to perhaps integrate some of their functions.) There is obviously no implementation costs or timing implications of this option.

### 6.3 Advantages and disadvantages

<b>OPTION 1: COUNCIL OWNS AND OPERATES MARINA (STATUS QUO)</b>	
<b>Advantages</b>	<b>Disadvantages and Risks</b>
<ul style="list-style-type: none"><li>• No process is required.</li><li>• The Council retains direct control of all Marina land and assets, and operations. This ensures 'public ownership' of the assets, and that any returns from the Marina ultimately benefit the Nelson community.</li></ul>	<ul style="list-style-type: none"><li>• Less commercial or nimble than a private sector agency, as the Council must comply with decision-making requirements in the LGA 2002 and operate with transparency and accountability as required under LGOIMA.</li><li>• Viewed as less able to respond quickly and effectively by berth holders and other stakeholders.</li><li>• Given the significant amount of investment that is likely to occur at the Marina over the next 10 years or so, it would be beneficial to have involvement from individuals with expertise and experience in significant capital projects, and the commercialisation of them. Elected members may or may not have such expertise and experience.</li></ul>

<b>OPTION 1: COUNCIL OWNS AND OPERATES MARINA (STATUS QUO)</b>	
	<ul style="list-style-type: none"> <li>Elected members may be more subject to pressure from those opposing increases to fees and charges, as compared to independent non-elected individuals. If pressure campaigns were successful, this could limit the potential returns from the Marina, and the consequent financial benefits for the community.</li> <li>Management of the Marina is one of many functions carried out by the Council, meaning it may not get as much attention or dedicated focus, as it would under an entity that's sole purpose is to deal with the Marina.</li> </ul>
<b>Time to establish</b>	<b>Costs to establish</b>
<ul style="list-style-type: none"> <li>The model is already established</li> </ul>	<ul style="list-style-type: none"> <li>There are no costs to establish.</li> </ul>

**Option 2: Stand-alone business unit within Council (Enhanced Status Quo/SABU option)**

**6.4 Description**

- 6.4.1 Council continues to own the Marina land and associated assets.
- 6.4.2 The Marina's finances are dealt with through a 'closed account', given the Marina has its own dedicated revenue streams and expenses.
- 6.4.3 Marina operations and finances are managed by a dedicated business unit within the Council, staffed by officers employed by the Council, including the Manager Nelson Marina. The officers act under delegated authority, which has been sub-delegated to them by the Council's Chief Executive.
- 6.4.4 The full Council establishes a "board" to provide direction to the dedicated business unit. The board is, legally, part of the Council and does not have a separate legal status. It is a

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subordinate decision-making body of the Council, which the Council is empowered to establish under clause 30(1), Schedule 7 of the LGA 2002. A subordinate decision-making body does not have an established statutory regime as a committee or CCO does, so it is necessarily a bespoke body designed wholly by the Council.

- 6.4.5 The board exercises powers delegated to it by the full Council (under clause 32(1), Schedule 7 of the LGA 2002), enabling it to develop and implement the masterplan for the Marina, as well as manage its day-to-day operations.
- 6.4.6 The board is comprised of independent individuals with appropriate expertise and experience, who are appointed and remunerated by the Council. They are ultimately accountable to the Council, and can be removed by the Council at its discretion.
- 6.4.7 The Strategic Development and Property Subcommittee would have oversight of the board, and the board would report to it on a regular basis. The Marina Management Committee and the Nelson Marina Advisory Group would likely not have any involvement.



## 6.5 Process

### **Steps to implement Option 2: Stand-alone business unit within Council (Enhanced Status Quo/SABU option)**

This process would require three sequential reports going to full Council for decisions.

1. The first report would require Council to make an in-principle decision to pursue the stand-alone business unit option (based on recommendation from the Strategic Development and Property Subcommittee).
2. Following this first Council decision, the Council would need to:
  - a) Develop a draft terms of reference for the board. This would be a bespoke document, involving the creation of a unique subordinate decision-making body. There would be significant work in preparing the terms of reference. Not only would there need to be substantial involvement from lawyers, but officers would also be called on to make decisions about the design of the board. The terms of reference would need to address the role of the board, including the scope of its authority, and set out all its rules for operation (For example, membership, remuneration, meetings, voting, application of LGOIMA, reporting, stakeholder relationships, communications etc.).
  - b) Develop draft terms of appointment for members (effectively serving as a contract between the Council and the members).
  - c) Develop a draft delegation to the board, identifying the powers that should appropriately sit with the board. In doing so, it may be necessary to clarify the Strategic Development and Property Subcommittee's delegations, as the Council's Delegations Register currently provides that any cross-over in delegations must be referred back to full Council.<sup>2</sup> It would also be sensible to consider what, if any, role there should be for the Marina Management Committee and the Nelson Marina Advisory Group going forward.

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<sup>2</sup> Paragraph 5.1.5 in the Delegations Register states: "Where matters relate to the areas of responsibility of more than one committee, subcommittee or subordinate decision-making body, the matter will be considered a cross-committee item. Instead of being considered by one or more commits, subcommittees or subordinate decision-making body, the matter will be considered by Council directly."

- d) Develop a draft policy for the appointment and remuneration of board members. The Council's policies for appointing and remunerating committee members,<sup>3</sup> and directors of CCOs,<sup>4</sup> would not apply, making it necessary for the Council to develop a one-off policy to apply to the board (covering qualifications, expertise etc.).
  - e) Organise insurance cover for the board. While the Council should check its own policy, council policies are unlikely to cover this type of arrangement, making it necessary to negotiate and agree an extension to the Council's cover (likely providing an indemnity to board members, equivalent to what is provided to elected members). Given the board would be a unique creation, it is likely that brokers would require additional explanatory material to understand the board's status and role.
3. The second report to full Council would seek, for the purposes of initiating a recruitment process for board members, approval of the draft terms of reference, terms of appointment, and delegation, and also recommend adoption of a policy on the appointment and remuneration of members of the board.
  4. Following this second meeting, the recruitment process for board members would commence. It might be necessary to negotiate remuneration, and possibly some of the terms of appointment, with candidates.
  5. The third report would ask the full Council to:
    - establish the board as a subordinate decision-making body, including giving final approval of the terms of reference;
    - appoint the preferred candidates as members of the board, subject to the terms of appointment;
    - make appropriate delegations to the board, and effect any necessary consequential changes (For example, amend delegations

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<sup>3</sup> Being: 1) Policy for the Selection, Appointment and Remuneration for External Appointees on Council Committees, 2) Selection, Appointment and Remuneration Policy for External Appointees on Council Subcommittees, and 3) Policy on the appointment and remuneration of jointly-appointed independent members on committees.

<sup>4</sup> The Council is required to have such a policy under section 57 of the LGA 2002. The Council has a joint policy with the Tasman District Council for the appointment of directors of the Council's jointly-owned CCOs, and there is also an equivalent policy for those CCOs that are wholly owned by the Council (For example, Nelmac).

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to the Subcommittee, and amend delegations or dis-establish the Management Committee and Advisory Group).

6. There are no specific consultation requirements in the LGA 2002 for any of these Council decisions, although the Council would be subject to its standard obligation in section 78 of the LGA 2002 to consider the views and preferences of interested and affected persons. It is a judgement call for the Council to make, but it would likely be appropriate to carry out some targeted engagement with affected stakeholders (for example, berth holders) on relevant aspects of its proposals. It may also be appropriate to seek advice from the Nelson Marina Advisory Group on the proposals.

Time to establish	Costs to establish
<p>Likely to take about the same amount of time as the management CCO (but less than the owner CCO option).</p> <p>Matters that could have an impact on the timeframe include:</p> <ul style="list-style-type: none"> <li>• Likely necessary for full Council decisions on at least three occasions.</li> <li>• Creation of all the draft documents plus engagement with stakeholders.</li> <li>• The recruitment process and availability of good candidates.</li> <li>• Negotiations with insurance brokers</li> </ul>	<p>Probably similar cost to set up as the management CCO but result has few benefits (so less cost-effective).</p> <ul style="list-style-type: none"> <li>• The bespoke nature of the board as a subordinate decision-making body could require more work from legal advisors as compared to a CCO establishment.</li> <li>• If the Council were to use consultants for the recruitment process, it would incur consultant costs.</li> <li>• There would be some additional premium costs for the Council's insurance.</li> </ul>

## 6.6 Advantages and disadvantages

<b>OPTION 2: STAND-ALONE BUSINESS UNIT WITHIN COUNCIL (ENHANCED STATUS QUO/SABU OPTION)</b>	
<b>Advantages</b>	<b>Disadvantages and Risks</b>
<ul style="list-style-type: none"> <li>• The Council retains ownership of all Marina land and assets, and operations. This ensures 'public ownership' of the assets.</li> <li>• In contrast to the status quo, this option would likely allow for greater speed in some decision-making. The board would not be subject to the meetings requirements in Part 7 of LGOIMA, and so could be nimbler than an equivalent committee could be.</li> <li>• The board would enable the Council to have independent individuals, with relevant commercial expertise and experience, involved in decisions concerning the masterplan for the Marina.</li> </ul>	<ul style="list-style-type: none"> <li>• Less commercial or nimble than a private sector agency, as the "board" would have to comply with decision-making requirements in the LGA 02.</li> <li>• The board would be a bespoke entity, requiring work to design and establish it.</li> <li>• The Council will still have overall responsibility for the marina. As outlined for option 1 above, this means the marina will still be one of a multitude of functions being carried out by the Council, and there is still some potential for political pressure being brought to bear on elected members in relation to fees and charges.</li> <li>• There is a risk that members of the board, who are not familiar with working in a Council, might not always comply with all the relevant statutory obligations that apply to councils and their subordinate decision-making bodies (eg decision-making requirements in the LGA 02, compliance with relevant council plans and policies etc.). Given the board does not have a separate legal status to the Council, it is the Council that will bear the responsibility (and liability) for any mistakes made by the board.</li> </ul>

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	<ul style="list-style-type: none"> <li>• Having delegated powers to the board, the Council cannot typically unwind or overrule board decisions, but will instead be bound by them (eg it will be bound by any contracts entered into by the board). Again, it is the Council that will bear responsibility (and liability) for the board's actions.</li> <li>• The option cannot be implemented immediately, even though no particular consultation obligations apply.</li> <li>• There are costs to implementing this option, including legal costs, recruitment costs, and insurance costs. These to be about the same as for the management CCO option but less than the owner CCO option.</li> </ul>
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### **Option 3: Establish a CCO to manage the Marina (Management CCO) – Recommended Option**

#### **6.7 Description**

- 6.7.1 Council owns the Marina land and associated assets.
- 6.7.2 The Council establishes a CCO to manage the Marina operations under contract.
- 6.7.3 The CCO has a board and employs staff (including the Manager Nelson Marina). The staff of the CCO report to the board, and the board is accountable to the Council as shareholder.
- 6.7.4 The CCO manages the marina's finances (based on the marina's own revenue streams and expenses), with Council input as required (eg through annual budget). Any borrowing for marina development would be Council borrowing (not the management CCO's).
- 6.7.5 The CCO would incur staff costs, board member fees, some other management costs (such as IT equipment and directors & officers insurance premiums) which it would recover (likely on a

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breakeven basis) from the Council through the management contract.

- 6.7.6 The intention would be that the CCO itself would not return any profits to the Council through distributions.
- 6.7.7 The extent of the CCO's role and powers in relation to the Marina can be well-defined through the drafting of the CCO's constitution, the management contract, and using mechanisms such as the statement of intent. Council oversight could be through the existing Strategic Development and Property Subcommittee.
- 6.7.8 The CCO could have a direct relationship with the Nelson Marina Advisory Group.

### 6.8 Process

#### **Steps to implement Option 3: Establish a CCO to manage the Marina (Management CCO) – Recommended Option**

This process will require two or three decisions by Council (depending on how extensive/complete the first decision is):

1. The first step would require Council to make the decision decide to pursue the management CCO option and begin consultation.
2. Following this first Council decision, the Council would need to:
  - a) Undertake consultation in accordance with the principles of section 82 of the LGA 2002 (as required by section 56) to establish the new CCO including developing a statement of proposal (section 82A of the LGA 2002).
  - b) Arrange for the preparation of a constitution for the new CCO and a Management Agreement to be entered into between the CCO and the Council.
  - c) Review and prepare any changes required to existing policies and delegations in relation to the Marina (including the policy about the appointment of directors to CCOs under section 57 of the LGA 2002).
  - d) Post-consultation (and assuming the outcome of the consultation is favourable to the establishment of the management CCO), a second report to the Council would seek approval of the draft

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<p>constitution and Management Agreement, any changes required to existing policies and delegations, and for formal approval to establish the CCO (For example, incorporate a new company and become a shareholder of it).</p>	
<p>3. Following this second meeting, the recruitment process for board members of the CCO would commence. It might be necessary to negotiate remuneration, and possibly some of the terms of appointment, with candidates.</p>	
<p>4. At around the same time, the company would be incorporated, and the management contract could be entered into.</p>	
Time to establish	Costs to establish
<p>This option is likely to take about the same amount of time (or less) than the SABU option (and less than the owner CCO option). Matters that could have an impact on the timeframe include:</p> <ul style="list-style-type: none"> <li>• Two or three Council meetings are likely required.</li> <li>• Mandatory consultation (but unlikely to unduly delay the process).</li> <li>• Drafting the constitution, management agreement, and reviewing any changes to the Council's existing policies/delegations.</li> <li>• The recruitment process for the board.</li> </ul>	<p>More costly than the status quo, and about the same cost as the SABU option. Less cost than the Owner CCO option.</p> <ul style="list-style-type: none"> <li>• CCO establishment is relatively straightforward. The drafting of the new company's constitution and the management agreement need not be overly complex or costly because precedents will be available.</li> <li>• If the Council were to use consultants for the recruitment process, it would incur consultant costs.</li> </ul>

### 6.9 Advantages and disadvantages

**Option 3: Establish a CCO to manage the Marina (Management CCO) – Recommended Option**

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Advantages	Disadvantages and Risks
<ul style="list-style-type: none"> <li>Well-known and established structure used in local government.</li> <li>More commercially oriented structure (For example, most Council decision-making obligations do not apply to the CCO's board) with flexibility to respond to Council's non-commercial drivers (including through the statement of intent).</li> <li>LGOIMA applies but not to meetings.</li> <li>CCO would be able to borrow in its own right (either from the Council or third-party lenders).</li> <li>Council will be able to appoint board members with relevant expertise and experience.</li> <li>Process is straightforward and requires less bespoke drafting compared with SABU option (because company law and the CCO provisions of the LGA 2002 provide a clear regime).</li> <li>In the future if desired the Council could potentially pivot to the "owner CCO" model by transferring the Marina assets to the CCO.</li> </ul>	<ul style="list-style-type: none"> <li>Consultation required (although this is unlikely to create any undue delay in establishment).<sup>5</sup></li> <li>If the CCO is a company then it would be taxable (although if operated at, or near, break-even it would have nil or minimal taxable profit).</li> <li>The cost of managing the governance of the Marina through the formation of a Board of Directors will increase the operating costs of the Marina.</li> </ul>

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<sup>5</sup> Consultation required under section 56 of the LGA 2002.



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<ul style="list-style-type: none"><li>• Profits derived through the operation of the Marina will be for the benefit of the asset owners (Council) and will not be subject to corporate tax.</li></ul>	
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### **Option 4: Establish a CCO to own and manage the Marina (Owner CCO)**

#### **6.10 Description**

This option is the same as Option 3 (Management CCO) with the key difference being a transfer of the Marina land and associated assets to the new CCO.

6.10.1 The Council establishes a CCO (For example, a company) specifically to own and manage the Marina assets and operations.

6.10.2 The CCO has a board and employs staff (including the Manager Nelson Marina). The staff of the CCO report to the board, and the board is accountable to the Council as shareholder.

6.10.3 The CCO owns and manages the Marina as an operation separate to the Council. The CCO could borrow in its own right (either from the Council or third parties).

6.10.4 The Council is able to influence the CCO through well-established channels (including through the statement of intent).

6.10.5 The board of the CCO could establish a relationship with the existing Nelson Marina Advisory Group.

#### **6.11 Process**

##### **Steps to implement Option 4: Establish a CCO to own and manage the Marina (Owner CCO)**

This process will require two or three Council decisions (depending on how extensive/complete the first decision is).

1. The first step would require Council to make a decision to pursue the "owner CCO" option and begin consultation.

2. Following this first Council decision, the Council would need to:
  - a) Prepare and undertake consultation in accordance with the principles of section 82 of the LGA 2002 (as required by section 56) to establish the new CCO including developing a statement of proposal (section 82A of the LGA 2002).
  - b) Arrange for the preparation of a draft constitution for the new CCO and a draft Deed of Transfer (or equivalent document) for the transfer of the Marina land and assets to the new CCO.
  - c) Review what changes would be required to existing policies and delegations in relation to the Marina (including the policy about the appointment of directors to CCOs under section 57 of the LGA 2002).
3. Post-consultation (and assuming the outcome of the consultation is favourable to the establishment of the "owner CCO"), the Council would then need to deliberate on the results of the consultation, make a decision to approve the draft constitution and Deed of Transfer, and any changes required to existing policies and delegations, and formally establish the CCO.
4. Following the second (or third) meeting, the recruitment process for board members would commence. It might be necessary to negotiate remuneration, and possibly some of the terms of appointment, with candidates.
5. Once the CCO is established, the Deed of Transfer would need to be entered into by the Council and the new CCO, and the Marina land and assets would then be transferred.<sup>6</sup> In relation to the Deed of Transfer and due diligence, there could be some complexities to work through, including the definition of the land (given it involves reclaimed land, the coastal Marina area, and public reserves).

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<sup>6</sup> The Nelson Marina is not listed as a strategic asset in the Council's significance and engagement policy. If it were, then transferring the Marina to the new CCO would likely require consultation to amend the long-term plan to provide for the transfer of the Marina to the CCO.

## Item 8: Nelson Marina s17A Governance Review

Time to establish	Costs to establish
<p>This option is likely to take the longest (mostly due to any complexities with the transfer of assets).</p> <p>Matters that could have an impact on the timeframe include:</p> <ul style="list-style-type: none"> <li>• Two or three Council meetings are likely required.</li> <li>• Mandatory consultation (but unlikely to unduly slow down the process).</li> <li>• Drafting the constitution, Deed of Transfer, and reviewing any changes to the Council's existing policies/delegations.</li> <li>• Recruitment process for the board.</li> <li>• Due diligence process (for transfer of assets).</li> </ul>	<p>The costliest of the options.</p> <ul style="list-style-type: none"> <li>• CCO establishment is relatively straightforward. The drafting of the new company's constitution and the Deed of Transfer need not be overly complex or costly.</li> <li>• Some cost associated with any due diligence process required as part of the transfer of land and assets.</li> <li>• If the Council were to use consultants for the recruitment process, it would incur consultant costs.</li> </ul>

### 6.12 Advantages and disadvantages

Advantages	Disadvantages AND RISKS
<ul style="list-style-type: none"> <li>• CCOs are a well-known and established structure used in local government.</li> <li>• More commercially oriented structure (For example, Council decision-making obligations do not apply to the CCO's board)</li> </ul>	<ul style="list-style-type: none"> <li>• Consultation required by section 56 of the LGA 2002 (although this is unlikely to create any undue delay in establishment).</li> <li>• May be political implications if the transfer of the Marina land</li> </ul>

## Item 8: Nelson Marina s17A Governance Review

<p>with flexibility to respond to Council's non-commercial drivers (For example, through the statement of intent).</p> <ul style="list-style-type: none"> <li>• LGOIMA applies but not to meetings.</li> <li>• CCO would be able to borrow in its own right (either from the Council or third-party lenders).</li> <li>• Council will be able to appoint board members with relevant expertise and experience.</li> <li>• Process is straightforward and requires less bespoke drafting compared with SABU option.</li> <li>• Marina would be a completely standalone entity able to be dealt with separately from the Council.</li> </ul>	<p>the assets has the appearance of "privatisation".</p> <ul style="list-style-type: none"> <li>• If the CCO is a company or a CCTO (which it would be if it owns and operates the marina on a commercial basis), then it would be taxable</li> <li>• The transfer of land and assets would likely involve more cost and time to achieve (compared with the management CCO option). For example, it may be a complex issue to define the land (because it will likely involve reclaimed land, the coastal marine area, and reserve land etc) and there are requirements in the LGA 2002 about transferring undertakings to CCOs.<sup>7</sup></li> <li>• There may be complexities around the operation of the Council's bylaws and other regulations if the Marina is owned by a CCO, and the role of the harbourmaster would need to be considered. This would add some cost and time to this option.</li> </ul>
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### Option 5: Establish a Limited Liability Partnership (LLP)

- 6.13 This option is similar to Option 4 (Owner CCO) with the key difference being the establishment of a limited partnership in addition to a new company, with the limited partnership to own and control the marina land and associated assets.
- 6.14 The Council establishes a CCO (eg a company) to become the "general partner" in the limited partnership.

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<sup>7</sup> Schedule 9 of the LGA 2002 also sets out certain requirements regarding the transfer of undertakings from a local authority to a CCO.

## Item 8: Nelson Marina s17A Governance Review

- 6.15 The Council (as the "limited partner") and the new CCO become partners in a limited partnership. This includes entering into a limited partnership agreement. The limited partnership is itself a separate legal entity (separate from the Council as limited partner and the other CCO as general partner) and therefore a CCO in its own right.
- 6.16 The Council then transfers the marina land and assets to the newly established limited partnership to own and manage the marina and its operations.
- 6.17 The CCO general partner has a board and employs staff for the limited partnership (including the Manager Nelson Marina). The limited partnership staff report to the board of the CCO general partner, and the board is accountable to the Council as limited partner in the partnership and shareholder of the CCO general partner.
- 6.18 The CCO general partner would be responsible for the day-to-day management of the limited partnership (and therefore the marina) and, unless the limited partnership agreement provides otherwise, would be responsible for all the debts and liabilities of the limited partnership to the extent the limited partnership cannot meet such debts and liabilities.
- 6.19 The Council as limited partner would not be responsible for the day-to-day management of the limited partnership and would not be responsible for the debts and liabilities of the limited partnership, provided that the Council does not take part in the management of the partnership (in the sense set out in the Limited Partnerships Act 2008).
- 6.20 The limited partnership owns and manages the marina as an operation separate to the Council. The limited partnership could borrow in its own right (either from the Council or third parties).
- 6.21 The Council is able to influence the general partner CCO through well-established channels (including through the statement of intent) and therefore influence the way that the general partner manages the operation of the limited partnership. The limited partnership could also establish a relationship with the existing Nelson Marina Advisory Group.
- 6.22 To maintain the Council's limited liability position, care would need to be taken to ensure that such arrangements would not cause the Council to be viewed as taking part in the management of the limited partnership under the Limited Partnerships Act 2008.
- 6.23 **Process**

### **Steps to implement Option 5: Establish a LLP to own and manage the Marina (Owner CCO)**

1. This process will require two or three Council decisions (depending on how extensive/complete the first decision is). The first step would require

Council to make a decision to pursue the "limited partnership" option and begin consultation.

2. Following this first Council decision, the Council would need to:

a) Prepare and undertake consultation in accordance with the principles of section 82 of the LGA 02 (as required by section 56) to establish the new general partner CCO and the limited partnership itself, including developing a statement of proposal (section 82A of the LGA 02).

b) Arrange for the preparation of a draft constitution for the new general partner CCO, a draft limited partnership agreement for the limited partnership, and a draft Deed of Transfer (or equivalent document) for the transfer of the marina land and assets to the limited partnership.

c) Review what changes would be required to existing policies and delegations in relation to the marina (including the policy about the appointment of directors to CCOs under section 57 of the LGA 02).

3. Post-consultation (and assuming the outcome of the consultation is favourable to the establishment of the limited partnership), the Council would then need to deliberate on the results of the consultation, make a decision to approve the draft constitution, limited partnership agreement and Deed of Transfer, and any changes required to existing policies and delegations, and formally establish both the general partner CCO and the limited partnership.

4. Following the second (or third) meeting, the recruitment process for board members of the general partner CCO would commence. It might be necessary to negotiate remuneration, and possibly some of the terms of appointment, with candidates.

5. Once the general partner CCO is established, and the limited partnership agreement entered into (with the limited partnership then being formally established), the Deed of Transfer would need to be entered into by the Council and the new limited partnership, and the marina land and assets would then be transferred. In relation to the Deed of Transfer and due diligence, it is expected that there could be some complexities to work through, including the definition of the land (given it may involve reclaimed land, the coastal marina area, and possibly reserves)

Time to establish	Costs to establish
This option is likely to take about the same time as the Owner CCO option, but there may be some additional time involved in establishing the limited partnership.	About the same costs to set up as the Owner CCO option, but there would be some additional cost involved in establishing the limited partnership.

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<p>Matters that could have an impact on the timeframe include:</p> <ul style="list-style-type: none"> <li>• Two or three Council meetings are likely required.</li> <li>• Mandatory consultation (but unlikely to unduly slow down the process).</li> <li>• Drafting the constitution, limited partnership agreement, Deed of Transfer, and reviewing any changes to the Council's existing policies/delegations.</li> <li>• Recruitment process for the board.</li> <li>• Due diligence process (for transfer of assets).</li> </ul>	<ul style="list-style-type: none"> <li>• The CCO company establishment is relatively straightforward, and the drafting of the new company's constitution and the Deed of Transfer need not be overly complex or costly.</li> <li>• The need for a separate limited partnership agreement and registration of the limited partnership may add to the cost of this option compared with the Owner CCO option.</li> <li>• Some cost associated with any due diligence process required as part of the transfer of land and assets.</li> <li>• If the Council were to use consultants for the recruitment process, it would incur consultant costs.</li> </ul>
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### 6.24 Advantages and Disadvantages

Advantages	Disadvantages and Risks
<p>Same as for Option 4 Owner CCO, <u>except</u> the following:</p> <ul style="list-style-type: none"> <li>• Limited partnerships are less common and well-known in the local government sector than simple company CCOs.</li> <li>• The establishment process and overall complexity would be higher than the Owner CCO option.</li> </ul>	<p>Same as for Option 4 Owner CCO, <u>except</u> the following:</p> <ul style="list-style-type: none"> <li>• This option involves the establishment of two CCOs (the general partner and the limited partnership itself), and the application of both company and limited partnership legislation in addition to the LGA 2002, and this adds to the overall complexity of the establishment</li> </ul>

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	<p>process and governance arrangements for the marina.</p> <ul style="list-style-type: none"> <li>Although the CCO general partner may be operated at, or near, break-even so that it would have nil or minimal taxable profit (comparable to the Management CCO option), the limited partnership itself will likely be a CCO for income tax purposes (Tax CCO) if it is a CCTO under the LGA (if it would own and operate the marina on a commercial basis). This means that marina income attributed to the Council (as limited partner under the 'flow through' income tax rules that apply to limited partnerships) would most likely be viewed as taxable income of the Council. The proposed local authority tax changes in the tax bill that is currently before Parliament would not alter this position.</li> </ul>
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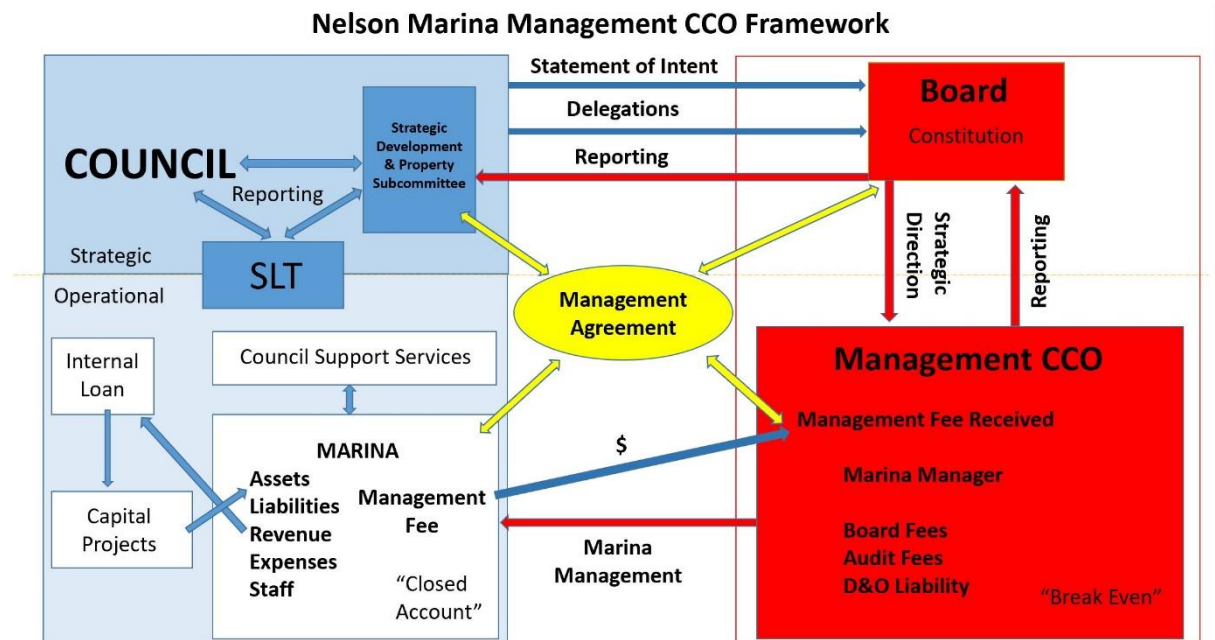
## 7. Recommended Option Development

- 7.1 The recommended option for the future governance of Nelson Marina is through the formation of a Management Council Controlled Organisation (Management CCO) **(Option 3)**.
- 7.2 Option 3 (Management CCO) will provide the Marina with a dedicated board of directors allowing the marina to move forward under the guidance of specialist knowledge and advice through a more dynamic commercially orientated framework.
- 7.3 Option 3 (Management CCO) structure does not produce any tax implications to Council (not subject to company tax).
- 7.4 The increased cost of operating a management CCO is estimated at approximately \$107,000 per annum, this would be offset by increased efficiency and operating revenue.
- 7.5 Management Agreement – under a management agreement the new CCO would operate the Marina on behalf of Council's interests as the asset owner. The agreement would have a specific Statement of Intent



## Item 8: Nelson Marina s17A Governance Review

and provide Delegations from Council to the Board of Directors of the CCO. The Board of Directors would report back to the Strategic Development and Properties Subcommittee and/or Council directly and Council would still have ultimate control over the management of their assets.



## 8. Conclusion

- 8.1 The recommended option for the future governance of Nelson Marina is through the formation of a Management Council Controlled Organisation (Management CCO) **(Option 3)**.

## 9. Next Steps

- 9.1 If the recommended option is approved by the Council, then Officers will undertake the steps as outlined above.
- 9.2 This would include consultation with community and stakeholders, as per Section 56 of the LGA 2002.
- 9.3 Further updates will be reported to upcoming Strategic Development and Property Sub-committee meetings.
- 9.4 Present to Council an analysis and recommendation for the best asset owning company structure for further analysis.

Item 8: Nelson Marina s17A Governance Review

**Author:**        **Nigel Skeggs, Manager Nelson Marina**

**Attachments**

Attachment 1:   A2764091 Marina Governance s17a Review - Infracure - Final [↓](#)

<b>Important considerations for decision making</b>
<p><b>1. Fit with Purpose of Local Government</b></p> <p>Approving the recommended change to a Management CCO will support local democratic decision making and action to promote the social, economic, environmental, and cultural well-being of the Nelson community.</p>
<p><b>2. Consistency with Community Outcomes and Council Policy</b></p> <p>The recommendation is consistent with Council’s objectives to provide effective governance of community assets.</p> <p>It will also allow the Marina to enhance the community Marina assets and provide a return to the shareholders (Nelson rate payers). The board of the Marina will still be guided by and accountable to the Council. Council will still retain full ownership of the assets.</p>
<p><b>3. Risk</b></p> <p>The primary risks for Council in not changing the Governance model of the Marina to a Management CCO are both financial and reputational.</p> <p>Having a suitably qualified, commercially orientated Board of Directors with direct responsibility for financial performance of the Marina will significantly reduce these risks to Council.</p> <p>A Management CCO model will allow for accountability of performance through a third party to Council and ensure that a model is in place to be dynamic enough to achieve said goals in the desired timeframes.</p> <p>As the Marina develops prices charged for services will increase. Having a commercial board will help to shelter elected members from the likely political pressure exerted by some customers who do not want to see change or prices increase.</p>
<p><b>4. Financial impact</b></p> <p>The immediate costs of setting up a Management COO will come through the cost of consultants, additional Council staff hours, internal legal advice and outside legal counsel. This will be offset by improved financial and operational performance into the future.</p> <p>Ongoing additional costs will come in the form of Directors Fees, Company Secretary fees and the costs associated with running the board.</p>
<p><b>5. Degree of significance and level of engagement</b></p> <p>This matter is of medium significance as it requires the formation of a new Governance structure to manage and control a rate payer owned asset.</p>

<p>Regardless of the perceived level of significance however, consultation is required under Section 56 of the Local Government Act before a Council Controlled Organisation (CCO) is established.</p>
<p><b>6. Climate Impact</b></p> <p>This decision does not have an impact on climate change. Responsiveness to climate impact would become a performance measure for a new Board.</p>
<p><b>7. Inclusion of Māori in the decision making process</b></p> <p>No engagement with Māori has been undertaken in preparing this report. Iwi would be advised of any upcoming consultation through usual avenues.</p>
<p><b>8. Delegations</b></p> <p>The Strategic Property and Development Subcommittee has the following delegations to consider the future Governance of Nelson Marina:</p> <p><i>Areas of Responsibility:</i></p> <ul style="list-style-type: none"><li>• <i>Marina Precinct</i></li></ul> <p><i>Delegations:</i></p> <ul style="list-style-type: none"><li>• <i>Powers to decide the developing, monitoring and reviewing of strategies, policies and plans, with final versions to be recommended to Council for approval.</i></li></ul> <p><i>Powers to Recommend to Council:</i></p> <ul style="list-style-type: none"><li>• <i>Approval of final versions of strategies, policies and plans;</i></li><li>• <i>All other matters within the areas of responsibility or any other matters referred to it by Council.</i></li></ul>



Nelson City Council

## Marina Governance - Section 17a Review

**v.Final**

Commercial in confidence – this report contains sensitive commercial information

Author: Tim Munro  
Date: 7 October 2021  
Contact Details:  
M: 0274 961 676  
E: [tim.munro@infracure.co.nz](mailto:tim.munro@infracure.co.nz)

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## 1. Executive Summary

### Introduction

This report summarises a review of Nelson City Council's (NCC) Marina governance and management under Section 17a (s17a) of the local government act in order to assess:

"...the cost-effectiveness of current arrangements for meeting the needs of communities within its district or region for good quality local infrastructure, local public services, and performance of regulatory functions"

The scope of this review is the governance of the Marina operations (the Marina) and ongoing development of the adjacent area (the Land).



### Process

The review has worked with staff and user stakeholders to develop an understanding of how the current delivery model is performing and importantly, recommendations to meet NCC's future requirements. For this review the process has been undertaken in stages:

1. Background information gathering
2. Staff and stakeholder interviews and workshop
3. Current market practices<sup>1</sup>
4. Review findings and recommendations

### Current state

This review has been undertaken at a time when:

- NCC have brought Marina operations in-house from 1 July 2021
- A new management team is in place and are seen as a positive change by all stakeholders interviewed
- The Marina is a commercial revenue generating operation and is being managed as a closed business unit to support financial and activity management
- NCC have approved the 2021-31 LTP which includes a capital funding commitment of \$3.7m in the first three years of the LTP and then a further \$11.0m in the following seven years
- The management team have started development of a Masterplan for the Marina and the Land. The draft Masterplan provides an excellent summary of marina operations and trends, and this review has not sought to duplicate any of that work
- NCC's Strategic Development and Property sub-committee is seeking guidance on governance options and a recommended way forward for the Marina and the Land

<sup>1</sup> As summarised in Wardale's draft Land Development Plan – March 2021

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### Summary findings

- NCCs decision to bring operations in-house is seen by stakeholders as a positive move
- NCC has committed to ongoing capital investment through the 2021-31 LTP
- The new management team has the appropriate experience to lead development of the Marina and Land
- There is consensus that the Land is a great location being sheltered and close to the city (and the services and amenities that come with that)
- There is consensus that the Land should be seen as a unified marina and recreation location, and therefore the development of, and a commitment to, a Masterplan for the whole site is seen as critical
- NCC have begun what will be a complex medium term (5-10 years) change programme that develops both the business and the location to meet NCCs long term goals
- There is general consensus that the Marina needs development and more proactive management. For example:
  - Marina and marina support services (e.g., parking, provisioning, repairs, fuelling) are not integrated
  - Current facilities and services will not meet future demand as boat ownership and profiles, and environmental and health and safety standards evolve
  - Land is viewed as being under-utilised
  - Fees and charges are considered too low for the market, and collections have historically been low
- Initial master planning work suggests there will be significant changes to both current Marina operations and the Land to meet future need. There is a risk that Governance is inadequate to manage the complexity of concurrent change initiatives across several areas including:
  - Marina provided services such as fuel, dry docking and storage
  - Changing approach to, and increasing, fees and charges
  - Development of new commercial operations to service all users (boat parts, repairs, food and sea sports)
  - Increasing recreational value for the community i.e., managing the Marina and Land as a destination
  - Managing environmental, health and safety and reputational risks
- The current reporting and decision making governance model involves the Community Services Group, Senior Leadership Team (SLT) the Strategic Development and Property subcommittee (SD&P) and Council, and isn't appropriately structured or resourced to support:
  - Management of the Marina as a commercial business
  - Development of the Marina and Land as a mixed use destination for boat owners, associated service providers and the wider community
  - Effective strategic integration and alignment with boat owning users, other recreational users, neighbours, Iwi and the Nelson Regional Development Agency (NRDA)



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- New management have found NCC's accounting and financial reporting systems are sub-optimal for a commercial operation

#### Stakeholders views

Following interviews and a stakeholder workshop, this review has identified key themes that stakeholders would like to see addressed. The key themes are:

- The Marina should be an efficient and profitable business
- The Marina is undergoing a step change that will secure its value for future generations
- The Marina offers amenity and recreation value opportunities for everyone in Nelson
- Council as shareholder should get a return on its investment

#### Governance<sup>2</sup> options

After reviewing previous reports and interviews with stakeholders, this review assessed three main options:

1. Status quo - no change from current closed account business unit approach where the Marina sits within Council and reports through the GM Community Services and other Land activities including property, transport and parks teams as required.
2. Status quo enhanced – refining the management structure by adding a Board with oversight over all Marina and Land operations, and supported with more appropriate financial and asset management capability
3. CCO/CCTO or Incorporated society - (further analysis as to which was preferred would be addressed if options 1 or 2 are rejected)

#### Status quo

The current management team supported by SLT, the Marina Advisory group and the Strategic Property and Development subcommittee has proven effective to date in establishing strategic alignment and advancing the master plan. However, there is consensus that it will not provide the independent and focused decision making required to implement the masterplan whilst managing commercial and recreational service delivery across the Marina and Land

The approach was assessed against the Office of the Auditor General (OAG) guidelines for good governance (see section 2.1) which clarified that it isn't sustainable for a range of reasons including:

- Marina, Land and recreation asset and activity management elements are not strategically integrated.
- Current delegations can mean slow decision making to deliver planned and budgeted work
- Current financial reporting systems are inadequate to manage business performance and profitability by service (e.g., berthage, boat yard, boat storage, boat ramp and commercial property)

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<sup>2</sup> Governance refers to the systems and processes for leading and guiding an organisation. It is about the arrangements and practices that allow an entity to set its direction and manage its operations to achieve its outcomes and to fulfil its accountability obligations. ([Part 1: Governance and accountability — Office of the Auditor-General New Zealand \(oag.parliament.nz\)](#))

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- Although a Masterplan hasn't been completed it is likely that the design and implementation of a Masterplan will be a complex change programme to be delivered alongside business as usual activities
- Whole of Land development programme will have competing tensions to manage (e.g., sea sports, boat owners and recreational users)

#### **CCO/CCTO or Incorporated Society**

These options were assessed in July 2019 (see Appendix 3) and this review has found that assessment is still relevant with the exception that an enhanced closed account business unit was not considered. With regard to a CCO or CCTO, the review finds that these remain viable options and also notes:

- The integrated marina and recreational Masterplan is advanced and public consultation could include consultation required to establish a CCO
- Progression to an asset owning commercial trading organisation (CCTO) can be staged through the CCO methodology with first stage governance provided by a management (i.e., non-asset owning) CCO

#### **Enhanced status quo or standalone business unit (SABU)**

Prior to CCOs and CCTOs becoming more popular, Councils used the SABU construct to effectively create arm's length governance within the delegated authority of the Chief Executive. It is generally used for services that have an independent and/or commercial revenue stream and are viewed as self-funding (including the cost of capital). A SABU enhances the current closed account business unit model by establishing a Board that:

- has delegated authority to make policy, financial and strategic decisions within the framework of an approved charter and business strategy, and approved CAPEX and OPEX budgets.
- simplifies management accountability and reporting

Whilst this review initially favoured this approach, additional investigation found that NCC do not have the statutory rules and framework in place to establish a SABU with the appropriate independent decision making and delegated authority. This could be addressed by NCC but the time taken would mean the option would lose its main advantage being 'speed to market'.

#### **Recommended approach**

The review has found the following as key factors in determining the recommended approach:

- The LTP provides CAPEX for the next three years and interviewees advise there is headroom in Council's funding envelope for likely increases in requirements for the medium term. Therefore, there isn't an immediate requirement for the establishment of an asset owning CCO/CCTO to facilitate funding.
- The CCO/CCTO model may be subject to corporate tax which would increase the time taken to pay down CAPEX
- Development of a fully independent asset owning commercial CCTO can be staged though the initial establishment of a management CCO

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- The Masterplan is advanced, and following public consultation and Council approval will provide the basis of the Statement of Intent for a new CCO
- The current management, advisory and governing teams are proving effective in developing strategic consensus for the Masterplan

**This review recommends NCC establish a management CCO to manage the Marina and Land.**

If Council accepts this recommended approach, then the review also recommends consideration should be given to:

- The Board having an independent chair
- Wider community recreation interests being represented on the Board e.g., passive and active recreation, arts and culture
- The Marina Manager being appointed to the Board as an 'Executive Director'. The Board will benefit from the incumbents qualifications and experience as a Director in the Marina environment, and help ensure that longer term commercial operations have an appropriate 'voice' on the Board
- The Statement of Intent and ongoing funding commitments support delivery of the Masterplan
- The Masterplan is delivered using a benefits led change programme management construct rather than an outputs driven project management construct. In addition to infrastructure construction, a programme approach will help support effective consideration of things such as:
  - Consolidation of asset and activity management into a single Marina and Land precinct
  - Dependency management such as for infrastructure enhancements enabling new fees and charges and their supporting systems
  - Integration of broader outcomes including environmental and social and cultural benefits
- The draft outcomes in this report informing the performance framework for a new Board

#### Next steps

This review recommends Council agree to the establishment of a management CCO to govern all activities within the Marina and the Land, and directs the Chief Executive to develop the detailed approach including consideration of the early appointment of an interim independent Chair to support the Marina Manager.

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2. Governance -developing the approach

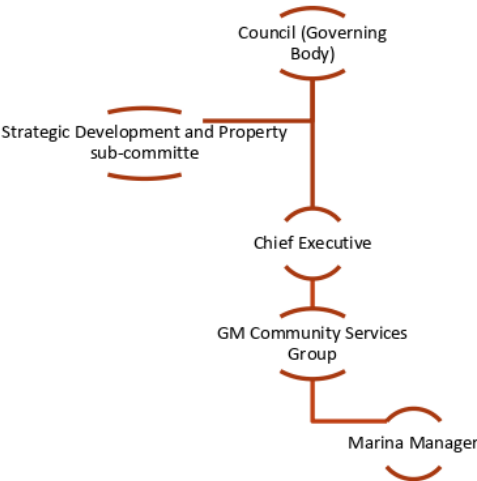
The NZ Office of the Auditor General (OAG) advises that good governance has a number of effective elements that should be considered when assessing a governance regime. These are detailed in Appendix 1.

This review has used these key elements to help assess the current state.

2.1. Assessing the current approach to Governance

The current governance approach was used to support service delivery by Nelmac under a term service contract. It has not been changed since delivery was brought into Council with effect 1 July 2021. This review considers the current governance approach in the context of its suitability to support the design, approval and implementation of Masterplan for the Marina and the Land.

Current governance model



Assessment of current approach against OAG guidelines

Governance element	Notes on current environment
Set a clear purpose and stay focused on it	<p>Lifting the Marina and Land services to meet future demand from boat owning and non-owning users will require an integrated and holistic approach.</p> <ul style="list-style-type: none"><li>• Currently the Marina, Land and Property elements are not strategically or operationally integrated for delivery.</li><li>• Although capital and operational elements are all under the one governing body (Council), asset and activity management plans have different owners and budget priorities within the organisation.</li></ul>

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Have clear roles and responsibilities that separate governance and management	Council has sub-committees providing governance across different parts of the Marina and Land e.g., berths, parking and parks. This will make it complex for Marina management to lead the design, approval and implementation of a Masterplan
Lead by setting a constructive tone	This becomes an issue when differing stakeholder groups views are not able to managed in a centralised or coordinated way e.g., parking, mooring at the Boulder Bank and private development based on land purchase
Involve the right people	<p>The current approach will need experienced people to govern operations and investment through the likely changes driven by a Masterplan and provide effective representation and decision making that considers:</p> <ul style="list-style-type: none"> <li>• Commercial and public interests</li> <li>• Speed of impact of change including things such as fees and environmental compliance</li> <li>• Future proofing berthing and associated dry dock assets capability and capacity</li> </ul> <p>The current Marina Governance groups (including sub-committees and SLT) do not have these skills sets in a joined up and focused setting.</p>
Invest in effective relationships built on trust and respect	New management is building effective relationships with boat owning customers and other users of the facility. Developing, approving and implementing a Masterplan will require significant change management across these stakeholders plus introduce other asset and non-asset owning Council and private groups. Management will benefit from increased support at the governance level to manage these relationships through a period of change. The current governance groups may not have the time and resource to offer this support.
Be clear about accountabilities and transparent about performance against them	<p>The current approach has yet to develop its own longer term performance criteria and measures. This is likely to be refined during the development of a Masterplan however in the interim the current system is not meeting requirements due to:</p> <ul style="list-style-type: none"> <li>• Accounting and financial systems not aligned to commercial reporting needs e.g., performance by sales group</li> <li>• Mixed accountabilities for revenue areas (e.g., parking and berths)</li> <li>• Different groups responsible for different assets at the Marina (i.e., property, transport and community services)</li> </ul>
Manage risks effectively	<p>Risk management is also a distributed accountability which adds to the risk profile e.g.:</p> <ul style="list-style-type: none"> <li>• The Marina is currently a high risk area for environmental and health and safety</li> <li>• Reputation to be managed – both use of the location and LOS delivered to boat owners and others</li> </ul>
Ensure that you have good information, systems, and controls	This is currently inadequate which is not unexpected given Council have only just changed from the contracted model. However, the current approach is unlikely to be adequate to effectively support concurrent delivery of BAU and the implementation of a Masterplan

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## 2.2. Governance outcomes

To help establish what good governance would look like for the Marina and the Land, staff and user stakeholders participated in an outcomes workshop (11 Aug 2021) that asked four questions:

1. What works well under the current approach?
2. What would you like to see change?
3. How will you know governance is working?
4. What are key considerations for Marina and Land governance?

The outputs from this workshop were combined with findings from interviews, collated into four themes and then draft outcome statements were developed.

The outcomes are intended as a draft for NCC to inform a charter and performance framework for the future governance team.

The detailed outputs from the workshop and interviews can be found in Appendix 2.

### Key themes

The key themes are:

- The Marina should be an efficient and profitable business
- The Marina and Land will undergo a step change that will secure their value for future generations
- The Marina and Land offer amenity and recreation value opportunities for everyone in Nelson
- Council as shareholder should get a return on its investment

### Draft outcomes statements

The Marina should be an efficient and profitable business	The Marina and Land will undergo a step change that will secure their value for future generations	The Marina and Land offer amenity and recreation value opportunities for everyone in Nelson	Council as shareholder should get a return on its investment
The Marina Board has created and maintained policies, strategic direction and effective decision making to support the Marina's management team	The Marina Board is providing effective governance for the establishment of a Council approved Masterplan and subsequent delivery of the change programme	The Marina Board has created and maintained effective working relationships with Council's Community and Recreation Committee and Strategic Development and Property subcommittee	The Marina Board has increased Council's confidence to sustain a long term investment plan for development at the Marina
We are maintaining a sustainable mix of users and customers	We have created and agreed a Masterplan for the Marina Land	Council has increased its investment in play and recreation amenities in the Marina Land	Our stakeholders have maintained funding to deliver the Masterplan
We have increased profitability for all Marina services	We have created and are implementing a change programme to deliver the Masterplan benefits	Wider community patronage of public amenities at the Marina is increasing	The Marina has increased returns to shareholders
We have increased the range and quality of profitable services at the Marina		We have increased the range of recreation and play amenities at the Marina	



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### 2.3. Governance options

A governance options analysis was undertaken in July 2019<sup>3</sup> which assessed the contracted option at the time (Nelmac contract) against a CCO and Incorporated Society models. The review was for the Marina operations only and did not consider an NCC self-delivered option. However, the summary characteristics of a CCO (or CCTO) and Incorporated Society are a good guideline for this review.

The summary findings from that review are attached under Appendix 3.

#### Options considered

This review has considered three main options:

1. **Status quo** - no change from current closed account business unit approach where the Marina sits within Council operations and reports through the GM Community Services and other Land activities include property, transport and parks teams as required.
2. **Status quo enhanced** – refining the management structure by adding a Board with oversight over all Marina and Land operations and supported with more appropriate financial and management reporting capability
3. **CCO/CCTO or Incorporated Society** – further analysis as to which was preferred would be addressed if options 1) or 2) are rejected. The review notes that based on early Master planning a CCTO would likely be considered as a preferred governance approach.

The CCO/CCTO options are described more fully in Appendix 3.

The enhanced status quo is described as a standalone business unit (SABU). The enhancements that would support a SABU are summarised as follows:

- Establishing a Board with delegated authority to make policy, financial and strategic decisions within the framework of an approved Masterplan and CAPEX and OPEX budgets
- The Board's scope and accountabilities can be established through a charter and terms of reference.
- The Board would report directly to the Chief Executive and then onto the Strategic Development and Property subcommittee. Typically, a SABU would present as a separate group or department in a Council organisation chart reporting to the Chief Executive or a Tier 2 manager.
- Things to consider when designing the governance terms include:
  - Who is the employer of the Chair and the line manager for the Marina Manager
  - What will be the escalation/problem resolution protocols for issues e.g., customer complaints, changes to funding, employing staff, accountability for risk (including the PCBU for H&S)
  - Who will internal and external stakeholders deal with
  - What are the likely service and funding prioritisation issues going to be e.g., bringing ahead/pushing back other LTP funded activity to support Masterplan delivery

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<sup>3</sup> Marina management options review Rob Greenaway - draft for MAG July 2019pdf

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The review notes that the current management reporting structure through senior management and SLT would address these issues.

- Simplifying management accountability and reporting with the Marina Manager reporting to the Board
- Providing for the SABU to establish and manage accounting and financial reporting tools appropriate for the BAU and Masterplan implementation activities in scope.

## 2.4. Establishing a preferred option

A simple strengths and weaknesses assessment methodology has been used to inform this review's recommended approach to governance.

### Options analysis

Option	Key Strengths	Key Weaknesses
<b>Status quo</b> (Refer 2.1 above)	<ul style="list-style-type: none"> <li>• Accountability for all marina and Land activity in one organisation through the Chief Executive</li> </ul>	<ul style="list-style-type: none"> <li>• Not aligned to commercial business model</li> <li>• Not aligned to the change programme management construct required to implement the Masterplan</li> <li>• Slow and complex decision-making across multiple stakeholders and asset owners</li> <li>• Distributed accountability for commercial activities (including parking) and recreational planning and delivery</li> </ul>
<b>SABU</b>	<ul style="list-style-type: none"> <li>• Consolidate accountability for Marina and Land development and operations through a single Board reporting to the Chief Executive</li> <li>• Introduce commercial skills onto Board</li> <li>• Commercial, recreation and property asset owners can be represented in a single Board</li> <li>• Enable appropriate financial and management reporting</li> <li>• Simplified decision making</li> <li>• Speed to implementation</li> <li>• Board can offer integrated governance of BAU and Masterplan implementation</li> <li>• Potential for Masterplan to be better aligned to spatial plan</li> </ul>	<ul style="list-style-type: none"> <li>• Level of delegations may not be given to Board to approve planned activity and budgets</li> <li>• Potential for Council funding commitments to be re-prioritised which could impact Masterplan implementation</li> <li>• Potential for negative perception of ratepayer funding of commercial operation for few beneficiaries</li> </ul>
<b>CCO/CCTO/ Incorporated society</b>	<ul style="list-style-type: none"> <li>• Consolidate accountability for Marina and Land operations and development</li> <li>• Introduce commercial skills</li> <li>• Establish appropriate financial and management reporting</li> <li>• Simplified decision making</li> <li>• Independent operation and access to funding</li> <li>• Integrated governance of BAU and change programme</li> </ul>	<ul style="list-style-type: none"> <li>• Cost and time to establish</li> <li>• Current business is relatively small for a standalone CCx operation</li> <li>• Likely subject to corporate tax</li> <li>• Potential for recreation and amenity value not being adequately addressed</li> </ul>



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## 2.5. Determining the preferred option

In considering the preferred option this review and stakeholders identified the following key factors to consider:

- 'Speed to market' is important to give early oversight to the master planning process which will involve several stakeholders and asset owners. The SABU model is the quickest to implement
- The LTP provides CAPEX for the next three years and interviewees advise there is headroom in Council's funding envelope for expected requirements for the next three years. Therefore, there isn't a requirement for the establishment of a CCO/CCTO to facilitate funding.
- The CCO/CCTO model may be subject to corporate tax which would increase the time taken to pay down CAPEX loans
- Establishing a SABU does not preclude a move to a CCO/CCTO model at a future date

Based on these key factors, this review made an initial recommendation to staff that NCC establish a SABU to govern the Marina and Land operations, and give oversight to the development and implementation of a Masterplan.

This recommendation was then tested through independent legal review which found that NCC do not have the appropriate statutory rules to effectively establish and govern a SABU. While these could be addressed the 'speed to market' benefit of the SABU would be lost.

Staff and independent legal advice also raised the value of an independent board of directors being more likely to effectively deliver commercial and public good outcomes through a CCO and its Statement of Intent. This is largely due to decision making being independent and focused solely on the Marina and Land and scope of the CCO's Statement of Intent.

This review also notes:

- Master planning has advanced and will soon be ready for public consultation and could now include the consultation requirements for governance under a CCO. The review notes that there appears to be stakeholder consensus (subject to public consultation), that governance should cover all activity within the Marina and the Land. This indicates that the current engagement, management and governing structure through the Marina Advisory Group and the Strategic Property and Development sub-committee is functioning effectively to support finalising and approving the Masterplan
- A management CCO (as against an owner CCO) has been suggested and this will simplify the process around asset and activity management planning until such time that the Masterplan is being mobilised. The current 2021-31 provides capital funding for the initial period and therefore there is no requirement to raise additional capital funds at this stage. Independent legal advice has also confirmed that the establishment of a management CCO does not preclude an asset owning CCO or CCTO at a later stage.

Following this feedback this review recommends that NCC establish a management CCO to govern the Marina and Land operations and implementation of a Council approved Masterplan.

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## Appendix 1 – OAG Good Governance Guidelines<sup>4</sup>

### Elements of effective governance

*There are the eight elements that we consider are essential for governance to be effective. Although the elements are important in their own right, those involved in public administration need to consider how they apply to the particular context of the organisation or project that they are involved in. This applies to members of governing bodies and also to chief executives and senior managers who report to, and work with, governing bodies. The elements apply to organisational (or corporate) governance and programme or project governance.*

#### Element 1: Set a clear purpose and stay focused on it

Governors' strategic thinking and planning to prepare a coherent strategy is fundamental to effective governance. It is one of their most important roles. Governors need to contribute to, and challenge, the strategic planning process, based on an understanding of stakeholder expectations and the wider context that their organisations operate in. Strategic direction-setting includes setting realistic medium- and long-term outcomes and short-term priorities, and expenditure/investment choices and budgets.

Clarity of purpose is also important at the specific project and programme of work levels.

#### Element 2: Have clear roles and responsibilities that separate governance and management

The roles and responsibilities of each party, including governing board members, shareholders, management, staff, and other parties (such as stakeholders) must be clearly defined. Clear roles and responsibilities make the differing interests transparent and foster effective decision-making.

A governance charter, or governance statement, can be a useful way to outline the structures, principles, and processes to be followed. However, the art of effective governance is in the execution of what is set out in the charter.

#### Element 3: Lead by setting a constructive tone

The leadership role of governors is to set a suitable tone from the top that shapes the culture and demonstrates the desired values and ethics of the organisation. This is achieved through establishing and approving policies, making decisions, and the approach and behaviour the board takes to its work, both with management and external stakeholders.

#### Element 4: Involve the right people

For governance to be effective, it is critical that the right people are involved. The level of trust between people – between governors, management, and stakeholders – affects the effectiveness of the governance arrangements.

Having the right mix of people and skills on a governing body should help it to be more effective. An effective board will have members who bring multiple perspectives, who debate issues robustly, and who then speak with unity of voice and message about the decisions made.

#### Element 5: Invest in effective relationships built on trust and respect

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<sup>4</sup> [Elements of effective governance — Office of the Auditor-General New Zealand \(oag.parliament.nz\)](https://oag.parliament.nz/elements-of-effective-governance)

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Strong relationships between governors and stakeholders are important. Effective stakeholder engagement is of particular value in understanding stakeholder views when making important decisions, forming strategies, and identifying sources of funding. Good practice involves preparing formal stakeholder engagement plans or formal relationship protocols with important stakeholders.

**Element 6: Be clear about accountabilities and transparent about performance against them**

Governance practices need to support accountability. Governance structures should include a clear accountability framework that shapes how an organisation's (or project's) financial and operational performance will be monitored and reported. The framework should also cover how the governing body will be accountable for future-focused decisions, such as maintaining and enhancing the capability of the organisation.

Effective governance depends on governing bodies receiving regular reports that provide a clear and objective view of an organisation's (or project's) performance. Governing bodies need to be provided with enough detail to support performance management and decision-making, while avoiding unnecessary details about operational matters.

**Element 7: Manage risks effectively**

Governing bodies have a leading role in establishing an organisation's overall understanding of risk, including the potential effect of its strategic, financial, operational, and reputational risks.

Effective risk management by public organisations involves identifying, analysing, mitigating, monitoring, and communicating risks. We expect to see a risk management framework and register that is formally defined, widely understood, and aligned to the organisation's strategy, risk appetite, objectives, business plan, and stakeholder expectations.

**Element 8: Ensure that you have good information, systems, and controls**

Governors are accountable for the decisions they take. Therefore, they need relevant, accurate, and up-to-date information to make good decisions.

Governing bodies also have a role in assessing the design and effectiveness of an organisation's internal systems and controls. These systems and controls are organisational (terms of reference, independence, and separation of duties), operational (planning and budgeting) and about personnel (recruitment, training, and development).

These systems and controls are critical to providing assurance that an organisation's activities are compliant and in line with expectations. The governing body has a role to review them regularly to ensure that they remain fit for purpose.

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## Appendix 2 – Governance themes and outcomes

Themes	The Marina should be an efficient and profitable business	The Marina is undergoing a step change that will secure its value for future generations	The Marina offers amenity and recreation value opportunities for everyone in Nelson	Council as shareholder should get a return on its investment
Outcomes - how will we know that governance is working?	The Marina Board has created and maintained policies, strategic direction and effective decision making to support the Marina's management team	The Marina Board is providing effective governance for the establishment of a Council approved Masterplan and subsequent delivery of the change programme	The Marina Board has created and maintained effective working relationships with Council's Community and Recreation Committee and Strategic Development and Property subcommittee	The Marina Board has increased Council's confidence to sustain a long term investment plan for development at the Marina
	We are maintaining a sustainable mix of users and customers	We have created and agreed a Masterplan for the Marina Land	Council has increased its investment in play and recreation amenities in the Marina Land	Our stakeholders have maintained funding to deliver the Masterplan
	We have increased profitability for all Marina services	We have created and are implementing a change programme to deliver the Masterplan benefits	Wider community patronage of public amenities at the Marina is increasing	The Marina has increased returns to shareholders
	We have increased the range and quality of profitable services at the Marina		We have increased the range of recreation and play amenities at the Marina	
Data sort and themes	Marina as a business	Funding and shareholder value	Location and Marina as destination	Managing change for a sustainable future
	It works as a Marina	Funding - independent, manage perception of 'ratepayers funding lifestyle'	Location - close to city	Planning / positioning for growth from \$2-3m to \$10-15m
	Pricing and cost management - based on value	Standalone operation - managing delivery to an agreed masterplan	Location - well protected	Facilities meeting demand - boat size type
	Run as a commercial operation	CCx subject to tax	Location - services and shopping etc nearby	CCx time to establish including public consultation
	Revenue increased	Self-funding - including cost of CAPEX	Marina Land protected for marina use - spatial plan	Vacant land opportunities
	Support services on site	Return to shareholders	Shared vision - assets, people, culture - Marina as a shared place and destination	Site operations control/controls. (Parking, Ramp, Security, waste etc)
	Increased LOS (linked to revenues / value proposition for users)	Return to shareholder	Recreation amenity value - marina is a destination	Optimal berth configuration
	Consider SOI / Charter	Council listening - intend to invest and fix	A whole of Land approach - avoid/prevent land disaggregation	Establishment phase to build sufficient infrastructure to support changes in fees
	Good social environment - culture	Funding budgeted and headroom for more investment	Increase in visitors - seen as destination/first port	Sort fuelling on site



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Governance - autonomy to deliver works programme based on signed off masterplan, speed to action	Perceptions about cross subsidies - rates payers and berth holders	Proud of facility, functional plus looks good / landscaping etc	Commitment to the masterplan - 3 year rolling funded programme
Hitting occupancy targets	Marina enhances Council reputation as an effective asset owner and manager	Site safety, mixed use, kids sea sports etc	Clarity of accountability for marina - roads, parking, marina, fuelling, ramp etc
People help out		Establish as first port of call	Master planning underway
Stronger rules and enforcement		Destination for Nelson	Improved environmental standards, bio security
Good value (too good?)		Marina contributing to jobs and service industry growth	Potential to leverage MCC capital projects team
New management team		NRDA 'Making the most of what we have'	Marina configuration and draft depth - future proof to changing boat profile
Marine Advisory group in place		Marina amenity value seen and understood	Environmentally sound / green flag
Users and Council connected		AMP - A grade rating	Stronger policy re liveaboards including moorings at boulder bank
Adequate LOS / 'self-service'			Easy to get the right staff - employer of choice in industry
Operations team 'own' the marina			Good sales/operations data informing sensible decisions
Quick and effective decision making			Sustainable management and operations model
			Commercially run and viable operation
			Good accounts
			No more deferred maintenance
			Stronger and faster executive decision making (for activity and budget already approved)
			Marina has required powers to enforce parking, ramp usage and berthing, liveaboards and others using Marina facilities
			# People already invested in CCTO as the solution
			Decision making needs to be faster

## Key

What works well
What needs to change
What does success look like
Risks, issues and other considerations

Interview grabs in italics

Higher priority in red



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### Appendix 3 – 2019 Review of Governance Options

#### Review of management options for Nelson Marina

Three options considered:

- Status quo – Council owned and operated via external contract
- Council Controlled Organisation (CCO)
- Incorporated society

Assume marina only at this stage – not marine sports facility.

#### Summary

	Contract	CCO	Society
<b>Asset ownership</b>	Council	Council transfers all assets to CCO or CCO leases from Council. Council as 100% shareholder owns all new assets acquired by CCO (such as marina management software)	Society leases marina from council. Society could own new travel lift or marina management software for example. Society could purchase certain assets from council. Wind up would require return of all assets to council
<b>Council's ability to change management system</b>	Can either quit contract (at a cost) or wait until contract term ends	Council 100% shareholder and can return entity to council at any time (e.g., QLDC)	Society winds up if it does not comply with its rules or by membership vote and returns assets to council as per rules
<b>Financial controls</b>	Within council	By board in accord with constitution (debt levels etc)	By committee in accord with rules (debt levels etc)
<b>Marina manger employed by and answerable to:</b>	Contractor	CCO board	Society committee
<b>Marina staff succession and retention of institutional knowledge</b>	Likely 100% loss of staff institutional knowledge at end of contract. Relies on internal council institutional knowledge bank – which can also be lost. Some reliance on marina advisory group	Normal gradual process of staff turnover. Board provides institutional knowledge bank (society of perpetual succession)	Normal gradual process of staff turnover. Committee provides institutional knowledge bank (society of perpetual succession)

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<b>Marina management intellectual property owned by:</b>	Contractor, and council for items specified in contract, but council has no access to contractor if contract changes	CCO and shareholder (council)	Society members – but rules would require property returned to council if society winds up
<b>Ability to respond to Council expectations and long-term plans</b>	Day-to-day management via contract – anything additional a variation. Council directs capital works but only according to annual plan (slow)	50% of voting rights held by Council. Immediate response to issues possible (no annual plan process)	Committee must act in accordance with society rules. Likely to reflect council's broad community benefit expectations if set in rules. Committee likely to have council members (but not majority voting rights). Immediate response to issues possible (no annual plan process)
<b>Ability to respond to marina users' changing demands and day-to-day issues</b>	Rapid if within contract scope. Slow otherwise – via contract variation and annual plan process	Fast – immediate direction from Board to manager and vice versa	Fast – immediate direction from committee to manager and vice versa
<b>No cost to ratepayers?</b>	Yes – but process relatively opaque	Yes – clear financial separation	Yes – clear financial separation
<b>LTP and annual plan targets met?</b>	Yes – should be	Plans not directly relevant, but council has influence via 50% voting rights and according to constitution.	Plans not directly relevant. Only where required by society rules.
<b>AMP / minimum asset maintenance requirements</b>	Via contract and Council audit	Via constitution. Marina no longer in council AMP	Via rules. Marina no longer in council AMP
<b>Achieve Marina Strategy</b>	Strategy owned and directed by council	Not directly relevant, but board should develop own strategy according to constitution. Council influence via 50% voting rights	Not directly relevant, but committee should develop own strategy according to rules. Council influence limited via committee membership and originally drafted rules

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<b>Financial risk</b>	Fully held by council	Fully held by CCO (insulates council from some risk), but council 100% shareholder. CCO operates according to constitution. Annual external audit of accounts	Fully held by society. Council has supported local incorporated societies in past, but marina has relatively reliable income. Society operates according to rules. Annual external audit of accounts
<b>Biosecurity risk</b>	Must comply with national and regional rules	Must comply with national and regional rules	Must comply with national and regional rules
<b>Risk consent compliance</b>	Must comply – audit of council by council	Must comply – audit at arm's length	Must comply – audit at arm's length
<b>Tax on income</b>	None paid	Probably required (specialist advice required)	Probably required (specialist advice required)





## Strategic Development and Property Subcommittee

3 December 2021

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REPORT R26108

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### 1. Purpose of Report

- 1.1 To inform the Subcommittee of the financial and non-financial results for the first quarter of 2021/22 financial year for the activities under the Strategic Development and Property Subcommittee's delegated authority.

### 2. Recommendation

***That the Strategic Development and Property Subcommittee***

***2. Receives the report (R26108) and its attachment (A2660062).***

### 3. Background

- 3.1 Quarterly reports on performance are provided to each Committee on the performance and delivery of projects and activities within their areas of responsibility.
- 3.2 The financial reporting focuses on the year to date performance (1 July 2021 to 30 September 2021) compared with the year-to-date (YTD) approved capital and operating budgets.
- 3.3 Unless otherwise indicated, all information is against "Approved Budget", which is the 2021/22 annual budget plus any carry forwards, plus or minus any other additions or changes as approved by the appropriate Committee or Council.
- 3.4 Detailed capital project sheets are included in Attachment 1 (A2660062). Capital project sheets have been selected if their budget is at least \$250,000 for 2021/22, are multi-year projects with a budget over \$1 million, or have been assessed to be of particular interest to the Committee.
- 3.5 Capital project status is analysed based on three factors: quality, time, and budget. From the consideration of these three factors the project is summarised as being on track (green), some issues/risks (orange), or major issues/risks (red). Projects that are within 5% of their budget are considered to be on track in regard to the budget factor.

### 4. Financial Results

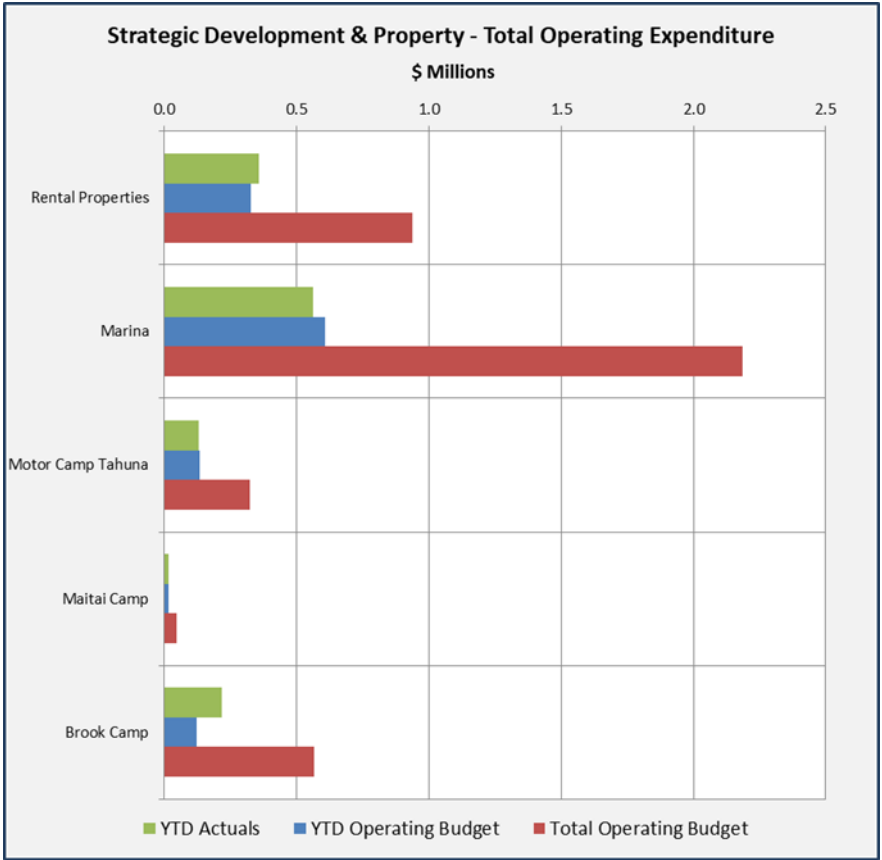
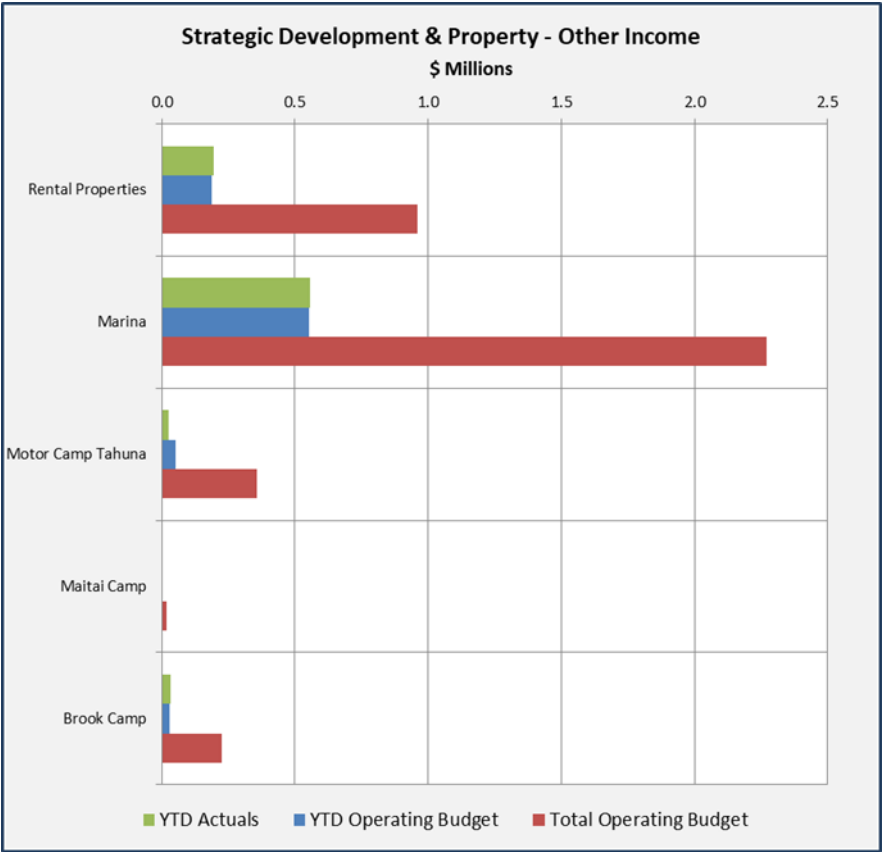
#### Profit and Loss by Activity

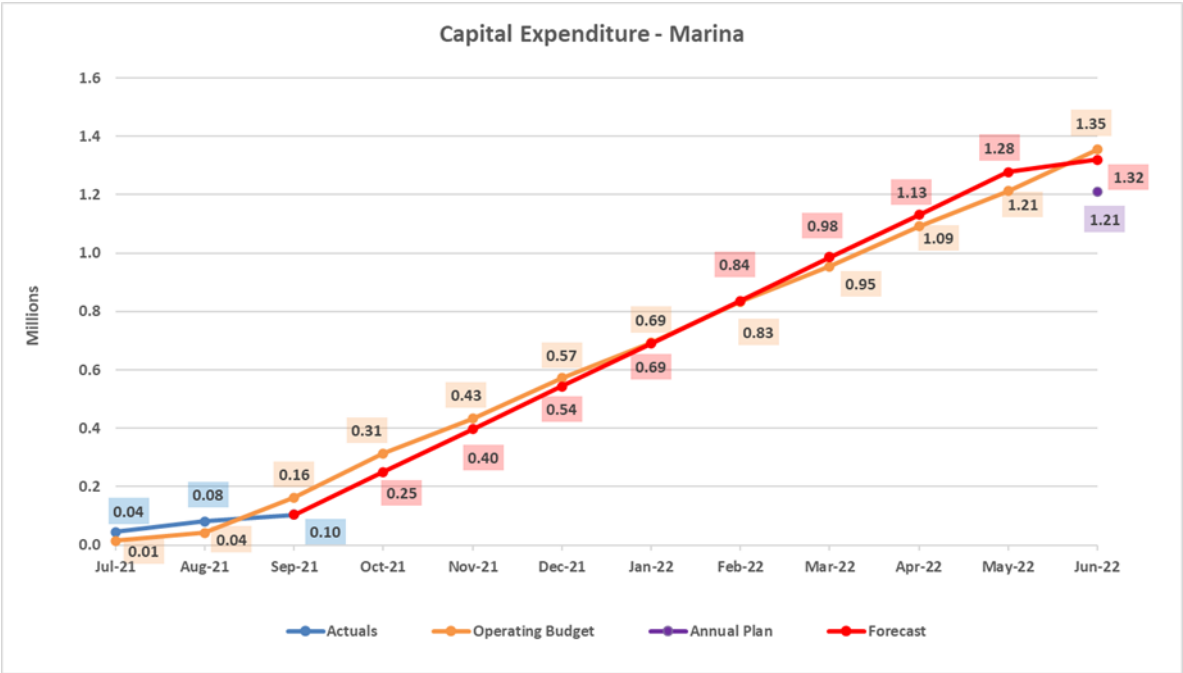
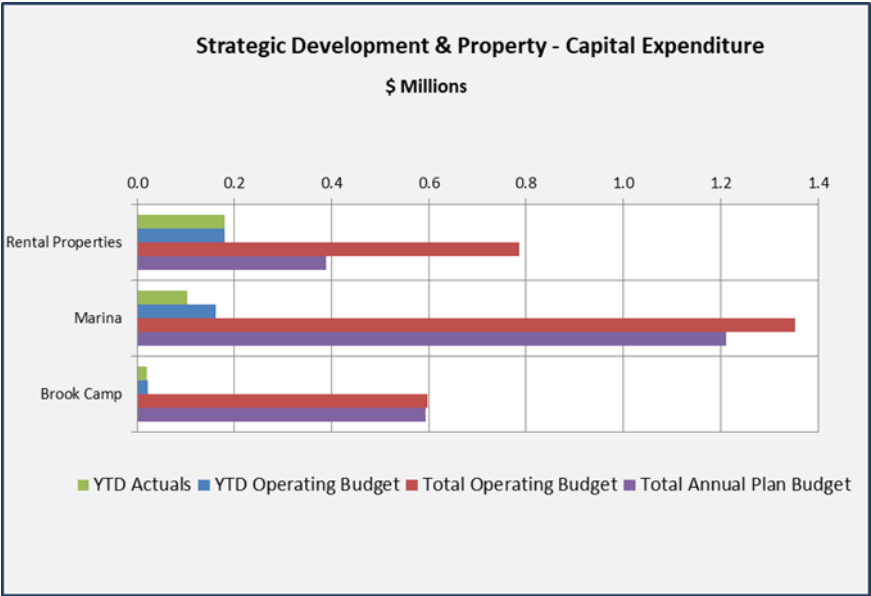
# Item 9: Strategic Development and Property Quarterly Report to 30 September 2021

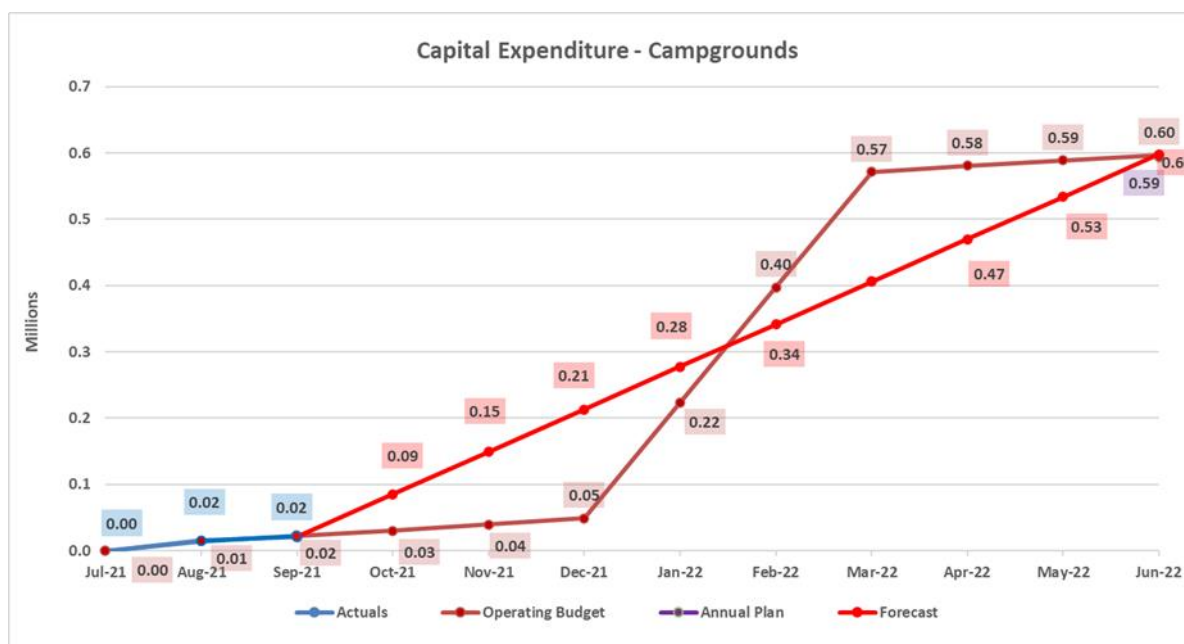
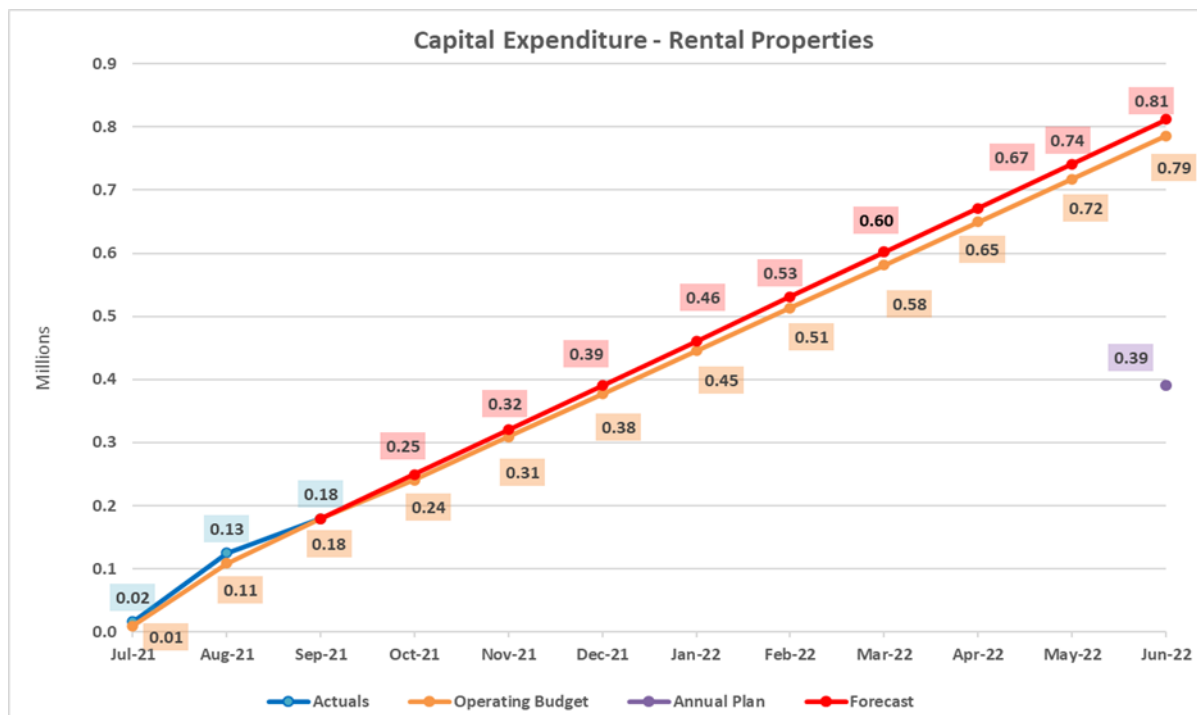
PROFIT & LOSS - CAMPGROUNDS						
	YTD Actuals	YTD Operating Budget	YTD Variance	Operating Budget	Annual Plan Budget	Forecast
<b>Income</b>						
Rates Income	45,063	45,066	(3)	180,251	180,252	180,251
Other Income	58,894	82,611	(23,717)	602,082	602,077	602,077
<b>Total</b>	<b>103,957</b>	<b>127,677</b>	<b>(23,720)</b>	<b>782,333</b>	<b>782,329</b>	<b>782,328</b>
<b>Expenses</b>						
Staff Operating Expenditure	82,389	49,770	(32,619)	199,084	199,085	199,084
Base Expenditure	162,917	164,249	1,332	370,235	370,217	374,217
Unprogrammed Expenses	78,793	19,851	(58,942)	129,201	129,200	129,200
Programmed Expenses	286	400	114	74,002	74,000	70,000
Finance Expenses	1,422	2,457	1,035	9,825	9,826	9,825
Depreciation	37,687	39,162	1,475	156,644	156,644	156,644
<b>Total</b>	<b>363,494</b>	<b>275,889</b>	<b>(87,605)</b>	<b>938,991</b>	<b>938,972</b>	<b>938,970</b>
<b>Surplus/(Deficit)</b>	<b>(259,537)</b>	<b>(148,212)</b>	<b>(111,325)</b>	<b>(156,658)</b>	<b>(156,643)</b>	<b>(156,642)</b>

PROFIT & LOSS - MARINA						
	YTD Actuals	YTD Operating Budget	YTD Variance	Operating Budget	Annual Plan Budget	Forecast
<b>Income</b>						
Rates Income	-	-	-	-	-	-
Other Income	555,596	552,814	2,782	2,269,764	2,269,765	2,269,766
<b>Total</b>	<b>555,596</b>	<b>552,814</b>	<b>2,782</b>	<b>2,269,764</b>	<b>2,269,765</b>	<b>2,269,766</b>
<b>Expenses</b>						
Staff Operating Expenditure	171,424	173,775	2,351	695,100	695,100	695,100
Base Expenditure	240,796	258,249	17,453	589,199	604,270	604,270
Unprogrammed Expenses	1,468	15,283	13,815	76,127	96,627	96,627
Programmed Expenses	26,362	32,290	5,928	313,903	312,400	312,400
Finance Expenses	57,446	58,137	691	232,548	232,548	232,548
Depreciation	65,362	69,894	4,532	279,569	279,569	279,569
<b>Total</b>	<b>562,858</b>	<b>607,628</b>	<b>44,770</b>	<b>2,186,446</b>	<b>2,220,514</b>	<b>2,220,514</b>
<b>Surplus/(Deficit)</b>	<b>(7,262)</b>	<b>(54,814)</b>	<b>47,552</b>	<b>83,318</b>	<b>49,251</b>	<b>49,252</b>

PROFIT & LOSS - RENTAL PROPERTIES						
	YTD Actuals	YTD Operating Budget	YTD Variance	Operating Budget	Annual Plan Budget	Forecast
<b>Income</b>						
Rates Income	(5,402)	(5,403)	(1)	(21,609)	(21,609)	(21,609)
Other Income	194,085	189,263	4,822	961,192	961,199	902,948
<b>Total</b>	<b>188,683</b>	<b>183,860</b>	<b>4,821</b>	<b>939,583</b>	<b>939,590</b>	<b>881,339</b>
<b>Expenses</b>						
Staff Operating Expenditure	48,765	47,625	(1,140)	190,494	190,494	190,494
Base Expenditure	198,700	146,591	(52,109)	219,884	219,886	234,234
Unprogrammed Expenses	5,120	6,884	1,764	24,506	24,500	24,500
Programmed Expenses	13,302	19,269	5,967	81,153	81,150	81,150
Finance Expenses	61,423	52,350	(9,073)	209,400	209,400	209,400
Depreciation	31,996	53,541	21,545	214,161	214,161	214,161
<b>Total</b>	<b>359,306</b>	<b>326,260</b>	<b>(33,046)</b>	<b>939,598</b>	<b>939,591</b>	<b>953,939</b>
<b>Surplus/(Deficit)</b>	<b>(170,623)</b>	<b>(142,400)</b>	<b>(28,225)</b>	<b>(15)</b>	<b>(1)</b>	<b>(72,600)</b>







#### 4.1 Rental Properties graphs include the following properties:

- Millers Acre Centre
- 157 Haven Road
- 48 Pascoe Street
- 163 Haven Road
- 199 Bridge Street
- 101 Achilles Avenue
- 225 Atkerson Street

- 81 Achilles Avenue
- Nursery Land – Atawhai Drive
- 11 Cross Quay
- 252 Haven Road
- 236-250 Haven Road

- 4.2 Brook Camp operating expenditure is greater than budget by \$94,000. Analysis on these costs needs to be undertaken, as a portion can be capitalised, as well as spilt with the Maitai Camp. This work will be undertaken in time for the next quarterly report.
- 4.3 Nelson Marina income is over budget by \$3,000 despite being unable to operate the hardstand during the COVID-19 lockdown period. Expenses are below budget by \$45,000, resulting in an operating deficit of \$3,000, compared to a budgeted operating deficit of \$45,000.
- 4.4 Nelson City Council uses phased budgets so budget and actual are shown in the same month ie rates and insurance are all paid and accounted for in July of each year rather than being accrued or split equally between all 12 months. For reporting this has been corrected for the monthly operating accounts by profit centre below. In Q1 Nelson Marina made an accrued operating profit of \$100,000.
- 4.6 Quarter 1 Commentary by Profit Centre:

**Berthing** – Berthing has made a profit of \$160,000 in the first quarter. August income was up by \$30,000 as this was accounted for in some annual payments and adjustments were made on missed billing from Nelmac.

**Boat Yard** – the boat yard (or hardstand) made a Q1 loss of \$25,000. The team are working very hard to increase efficiencies in the yard and the results of this were seen in September, where the yard has made a profit. This is the first month that a profit has been turned over for the yard in the last three years. Income was down significantly for August due to COVID-19 lockdown, when the yard was closed.

**Boat Storage** – the boat storage yard has been operating to budget and is running at 100% occupancy.

**Boat Ramp** – In Q1 the boat ramp made a operating loss of \$36,000. This is in keeping with historical figures and is the result of both non-payment of ramp fees by casual users and the low price for use of the ramp and parking. This will be addressed by legal enforcement and a proposed increase in fees and charges for the 2022/23 year.

**Commercial Property** – In Q1 the loss from commercial properties was \$5,000. This is the holding cost for the vacant land around the marina that is deriving very little income.

## 5. Updates

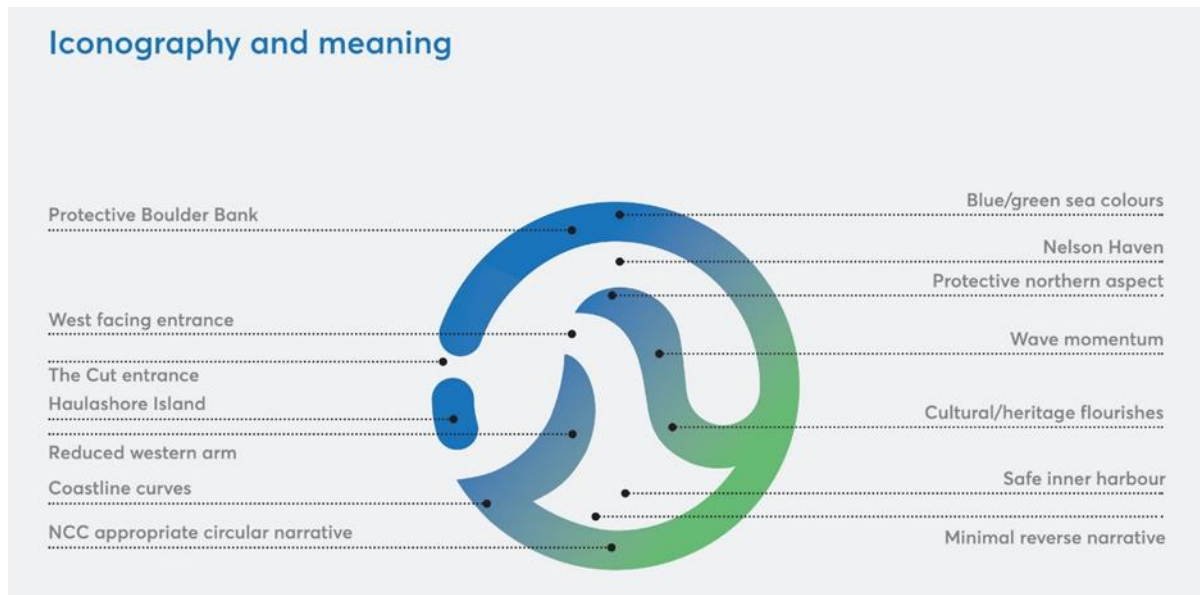
### Campgrounds

- 5.1 Staff provided an update to the subcommittee on 21 October 2021, which covered an update on the Brook Valley Holiday Park compliance capital. There is no further update to report on this project.
- 5.2 Staff have been meeting with the leasee of the Maitai Camp to discuss the implications of the abatement notice for long term residential activity.
- 5.3 The Housing Hui with social agencies continues to meet fortnightly to discuss progress with compliance at the campgrounds.
- 5.4 A new lease for Tahuna Beach Camp incorporated was prepared and adopted for the 28 October Council meeting.

### **The Marina**

- 5.5 The management of the Marina was brought back in house, with new management team taking over from Nelmac on 1 July 2021. This is the first quarterly report under the new management.
- 5.6 Nelson Marina is now run with eight full-time employees.
- 5.7 The Nelson Marina office is now manned from 8:00am to 7:00pm, seven days per week, and is now a full-service marina with dockside assistance during work hours. Staff are rostered on call for 24-hour emergency cover.
- 5.8 Q1 was a busy period for the marina from both an operational and strategic perspective. Key highlights are set out below:
  - Reconciled all old outstanding accounts, recovered \$32,000 in outstanding debt, placed 237 customers on direct debit for monthly invoicing.
  - Audited all vessels for insurance documents, EWOFF, and tag and test of shore power cables.
  - Increased occupancy of underutilised 8m, 9m, and Pile berths, reduced 10m waitlist from 18 months to 9 months.
  - Improved compliance, updated security and cleaning contracts.
  - Reviewed and amended Fees and Charges for the 2022/23 year.
  - Developed new Nelson Marina Logo (see below).





#### 5.9 Quarter 1 Strategic Highlights:

- **Masterplan** – the Masterplan process is ongoing and nearing completion. A survey was released to all marina users with data now received and collated. A full review of all land-based options has been completed, and work is ongoing to finalise various options for reconfiguring the marina's wharves and jetties.
- **S17a Governance review** – This has been completed and will be reported separately at this Strategic Development and Property Subcommittee.

#### 5.10 Quarter 1 Capital Projects and Improvements

- Reconfigured marina office with new reception and reception desk in old customer lounge, repainted office and set up new meeting room with AV system. Installed new pathways to office and sun protection.
- Gutted old marina supervisor's office, that had been abandoned for the previous eight years, and converted to a new customer lounge with 24-hour swipe card access and a staff room upstairs.

#### 5.11 Quarter 1 Compliance:

- Reviewed all resource consents to ensure full compliance.
- Reviewed Navigational Safety Bylaw.
- Developed and implemented Hardstand Activity Management Plan to conform with our resource consent.
- Developed new rules and health and safety induction process for the safe operation of the hardstand.

### Strategic Properties

#### 5.12 Staff provided a verbal update to the subcommittee in the public excluded portion of the Strategic Development and Property Subcommittee meeting on 21 October



2021, which covered activity for the duration of this first quarter report. There are no further updates to provide in this report.

### Activity Management Plan

- 5.13 The marina, campgrounds and strategic properties are assets contained within the Property and Facilities Activity Management Plan (AMP). The final AMP will be presented to Council on 9 December 2021 for adoption. The final AMP will be reported directly to Council as the issues it covers sit across more than one Committee.

## 6. Key Performance Measures

- 6.1 As part of the development of the Long-Term Plan 2021-31, Council approved levels of service, performance measures and targets for each activity. There is one performance measure that is within the Strategic Development and Property Subcommittee's delegation, Marina berth holder occupancy, which is reported in this quarterly report.
- 6.2 Performance measures are reported on quarterly, with an annual result of 'achieved', 'not achieved', or 'not measured' given at the end of the financial year. The scale to report on the performance measures during the year is as follows:
- On track
  - Not on track
  - Not measured yet

What Council will provide	Performance Measure	Target Year 1 (2021/22)	Staff comment Q1 2021/22	Achievement Q1 2021/22
Marina managed to meet demand	Occupation for marina berths (both permanent and visitors)	Greater than 95%	Achievement for quarter one is 93%. It is under the target as there was a berth reshuffle in this quarter. Several small (9 and 10 metre) berths are now available. All permanent berths over 10 metres are fully occupied.	Not on track

## **7. Conclusion**

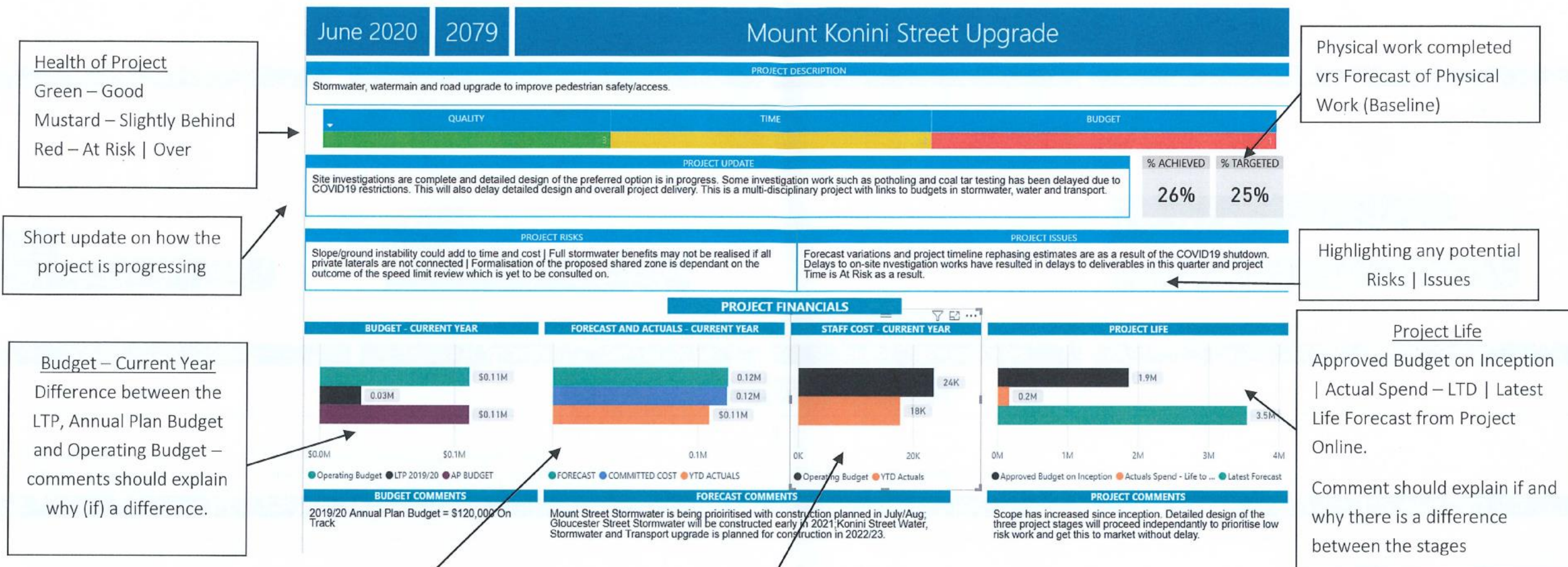
- 7.1 The review of performance for the first quarter of 2021/22 for the Strategic Development and Property Subcommittee is included in this report, with project reports and a performance measure attached.

**Author: Rosie Bartlett, Manager Parks and Facilities**

### **Attachments**

Attachment 1: A2660062 - Strategic Development and Property - Quarterly Report Project Sheets

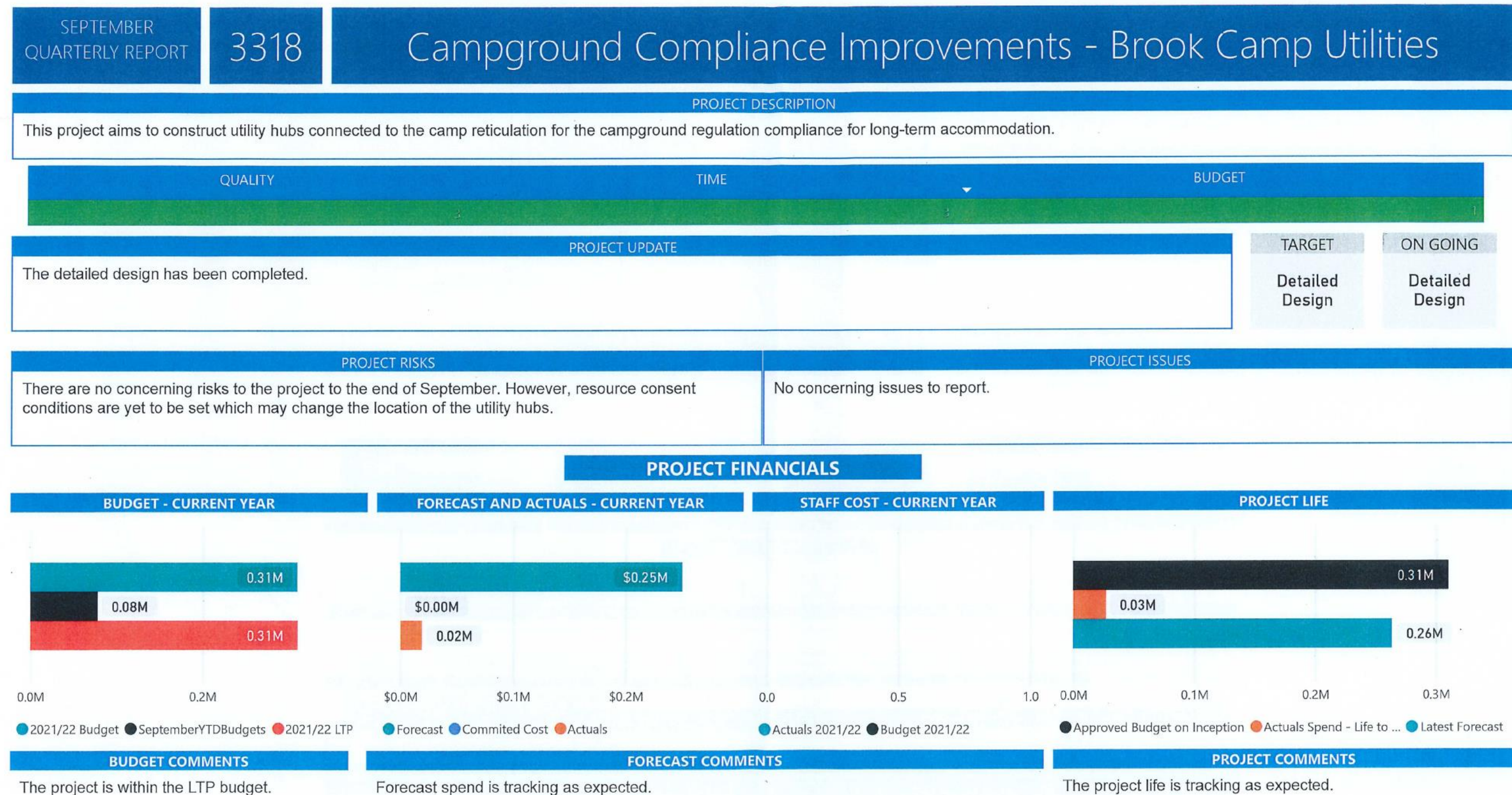
## Key to Understanding the Quarterly Report



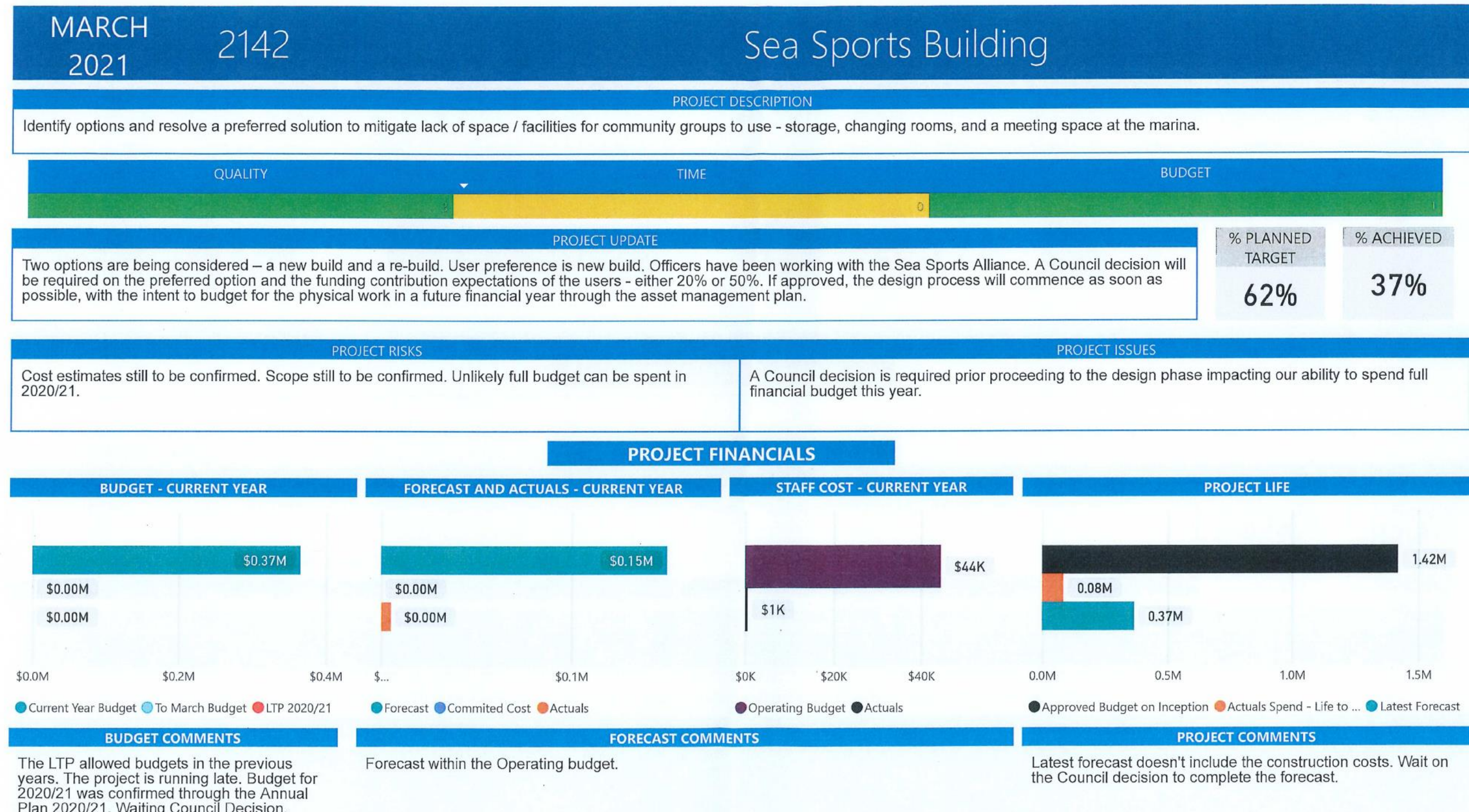
### Glossary

<b>% Achieved</b>	Portion of the Project that has been completed to date
<b>% Targeted</b>	Portion of the Project that was planned to have been completed to date
<b>Budget - Current Year</b>	
<b>LTP 2019/20</b>	Budget Initially approved in the Long Term Plan 2018-28
<b>AP Budget</b>	Revised budget approved in the Annual Plan 2019-20
<b>Operating Budget</b>	Latest approved budget, which includes approved changes since the Annual Plan 2019-20
<b>Budget Comments</b>	Brief explanation of changes over time to the current year approved budget
<b>Forecast and Actuals - Current Year</b>	
<b>Forecast</b>	Latest forecast current year spend indicated by officers in Project Online
<b>Committed Costs</b>	Physical work completed by dollars forecasted
<b>YTD Actuals</b>	Current year actual spend to date
<b>Forecast Comments</b>	Brief explanation of changes between forecast and approved budget
<b>Project Life</b>	
<b>LTD</b>	Initial project budget approved on inception of the project
<b>Actuals</b>	Life of project actual spend to date
<b>Forecast</b>	Latest forecast life of project spend indicated by officers in Project Online
<b>Project Comments</b>	Brief explanation of changes between life of project initial approved budget and latest forecast



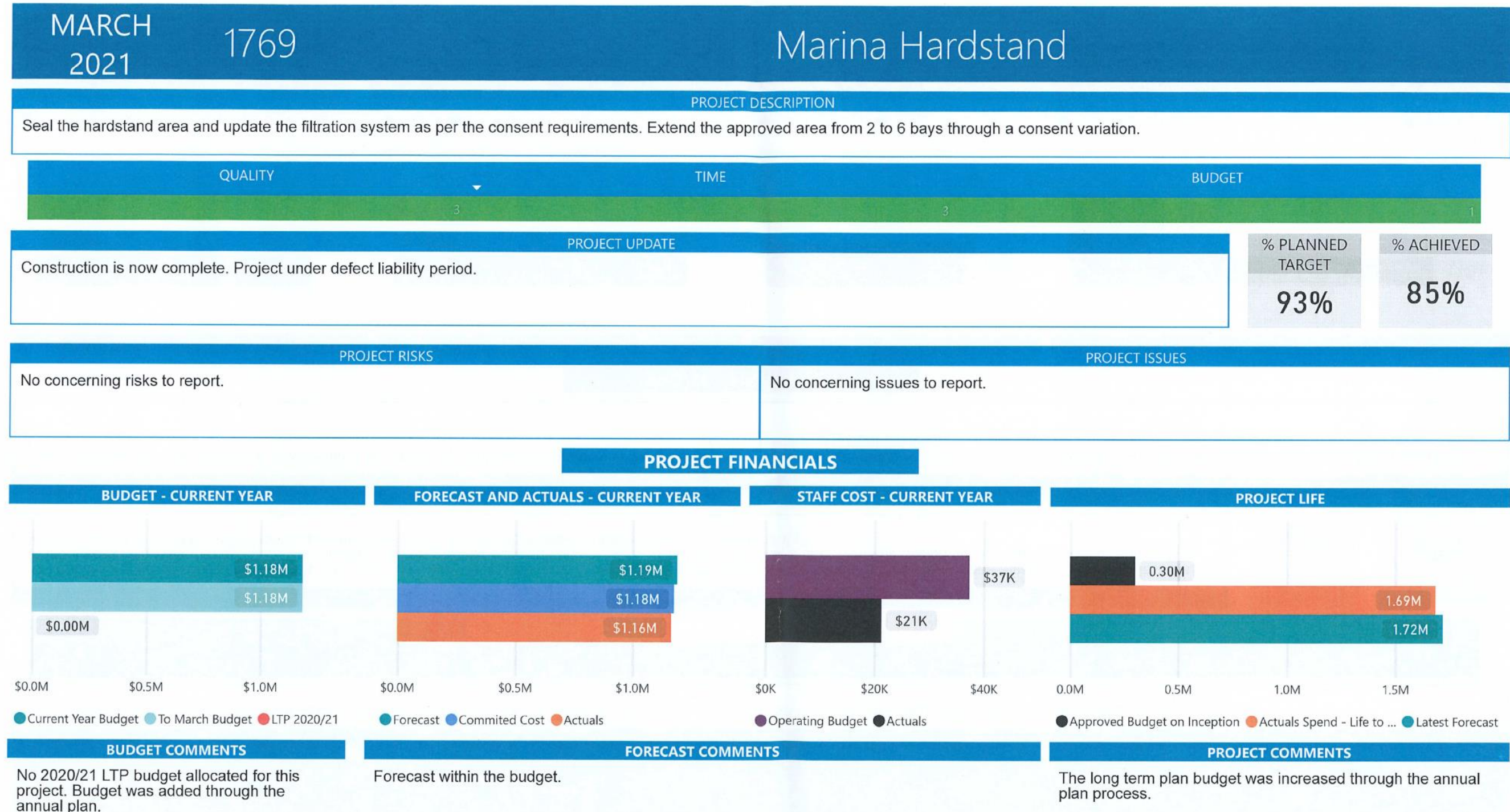






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