



Notice of the Ordinary meeting of

Strategic Development and Property Subcommittee

Te Kōmiti Āpiti, Rautaki / Rawa

Date:	Thursday 24 March 2022
Time:	9.00a.m.
Location:	via Zoom

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

Nil

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 Minutes

5.1 17 February 2022

8 - 13

Document number M19239

Recommendation

That the Strategic Development and Property Subcommittee

1. Confirms the minutes of the meeting of the Strategic Development and Property Subcommittee, held on 17 February 2022, as a true and correct record.

6. Nelson Marina Governance Review

14 - 37

Document number R26685

Recommendation

That the Strategic Development and Property Subcommittee

1. Receives the report Nelson Marina Governance Review (R26685) and its attachment (A2852478).

Recommendation to Council

That the Council

- 1. Approves the formation of a Management Council Controlled Organisation (Management CCO) for Nelson Marina.***
- 2. Approves the development of a Statement of Expectation, Statement of Intent, a Management Agreement, and recommended board structure for Nelson Marina by the Strategic Development and Property Subcommittee for consideration by Council.***

7. Millers Acre Re-cladding Project

38 - 45

Document number R26657

Recommendation

That the Strategic Development and Property Subcommittee

- 1. Receives the report Millers Acre Re-cladding Project (R26657).***

Recommendation to Council

That the Council

- 1. Approves the allocation of an additional unbudgeted amount of \$625,000 in 2022/23 to complete the remedial cladding system for Millers Acre and installation of a comprehensive height safety harness point system; and***
- 2. Notes that investigation into improvements to the northern end of the ground floor of Millers Acre (currently leased to the Department of Conservation) to provide additional window opening and external customer access is underway and will be presented to a future Subcommittee as a matter of urgent business.***

CONFIDENTIAL BUSINESS

8. Exclusion of the Public

Recommendation

That the Strategic Development and Property Subcommittee

- 1. Confirms, in accordance with sections 48(5) and 48(6) of the Local Government Official Information and Meetings Act 1987, that Phil Stephenson remain after the public has been excluded, for Item 2 of the Confidential agenda Millers Acre – Cladding Inspection report, as he has knowledge relating to the inspection report that will assist the meeting.***

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:***

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 Property Subcommittee Meeting - Confidential Minutes - 17 February 2022	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">• Section 7(2)(h) To enable the local authority to carry out, without prejudice or disadvantage, commercial activities• Section 7(2)(a) To protect the privacy of natural persons, including that of a deceased person• Section 7(2)(b)(ii)

Item	General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Particular interests protected (where applicable)
			To protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information
2	Millers Acre - Cladding Inspection Report	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"> • Section 7(2)(b)(ii) To protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information
3	225 Akersten Street Commercial Tenancy	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"> • Section 7(2)(h) To enable the local authority to carry out, without prejudice or disadvantage, commercial activities • Section 7(2)(i) To enable the local authority to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)
4	Resource Consent for Brook Valley Holiday Park Long Term Residential Accommodation	Section 48(1)(a) The public conduct of this matter would be likely to result in disclosure of information for which	The withholding of the information is necessary: <ul style="list-style-type: none"> • Section 7(2)(a) To protect the privacy of natural persons,

Item	General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Particular interests protected (where applicable)
		good reason exists under section 7	including that of a deceased person

Karakia Whakamutanga



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

Te Kōmiti Āpiti, Rautaki / Rawa

Held via Zoom on Thursday 17 February 2022, commencing at the conclusion of the Council meeting

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

In Attendance: Group Manager Community Services (A White), Group Manager Corporate Services (N Harrison), Governance Advisers (C Anderson) and Governance Support Officer (A Bryce-Neumann).

Apologies : Nil

Karakia and Mihi Timatanga

1. Apologies

2. Confirmation of Order of Business

Item 7: Setting of Marina Fees and Charges for 2022/23 was not considered at the meeting.

3. Interests

There were no updates to the Interests Register, and no interests with items on the agenda were declared.

Attendance: T Skinner joined the meeting at 1.03pm

4. Public Forum

There was no public forum.

5. Confirmation of Minutes

5.1 21 October 2021

Document number M19018, agenda pages 7 - 12 refer.

Resolved SDAP/2022/001

That the Strategic Development and Property Subcommittee

- 1. Confirms the minutes of the meeting of the Strategic Development and Property Subcommittee, held on 21 October 2021, as a true and correct record.***

Murray/Bowater

Carried

5.2 3 December 2021

Document number M19140, agenda pages 13 - 18 refer.

Resolved SDAP/2022/002

That the Strategic Development and Property Subcommittee

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

Peters/Noonan

Carried

6. Chairperson's Report

Document number R26605, agenda pages 19 - 22 refer.

The Chairperson advised that Roger Gibbons was resigning as chair of the of the Marina Advisory Group and read a letter written by Principal Parks and Activities Planner, Andrew Petheram. Those present acknowledged Mr Gibbons contribution to the Marina Advisory Group.

The recommendation was amended to reflect that the recommendations to Council were not required to be included in the Subcommittee's recommendation.

Resolved SDAP/2022/003

That the Strategic Development and Property Subcommittee

- 1. Receives the report Chairperson's Report (R26605) and its attachment (A2837117);***
- 2. Notes that Mr Roger Gibbons has advised his intention to resign from the role of Chair of the Marina Advisory Group;***
- 3. Acknowledges the significant role that Mr Gibbons has played in the delivery of Marina facilities and services to the people of Nelson over many years;***
- 4. Supports the Marina Advisory Group's intention to appoint current Marina Advisory Group member Mr Rob Greenaway as the new acting Chair of the Marina Advisory Group; and***
- 5. Requests that the Mayor write to Mr Roger Gibbons thanking him for his excellent service to the Nelson Community as Marina Advisory Group Chair over many years.***

Noonan/Skinner

Carried

Resolved SDAP/2022/004

That the Council

- 1. Notes that Mr Roger Gibbons has advised his intention to resign from the role of Chair of the Marina Advisory Group***
- 2. Notes that the Strategic Development and Property Subcommittee supports the Marina Advisory Group's intention to appoint current Marina Advisory Group member Mr Rob Greenaway as the new acting Chair of the Marina Advisory Group***

Noonan/Skinner

Carried

7. Strategic Development and Property Quarterly Report Quarter Two 2021/22

Document number R26513, agenda pages 41 - 53 refer.

Group Manager Community Services, Andrew White, Group Manager Corporate Services, Nikki Harrison, Strategic Advisor, Tanya Robinson and Manager Property Services, Rebecca Van Orden presented the report and answered questions on Millers Acre and cost projections, Brook Motor Camp and Maitai Campground.

It was noted a report on Millers Acre cladding would be provided at the next subcommittee meeting.

Questions were asked regarding any risks associated with resource consents for the Maitai Campground, or delays associated with external consultants' capacity to deliver to deadlines.

Resolved SDAP/2022/005

That the Strategic Development and Property Subcommittee

- 1. Receives the report Strategic Development and Property Quarterly Report Quarter Two 2021/22 (R26513) and its attachments (A2824509 and A2809862).***

Skinner/Brand

Carried

8. Exclusion of the Public

Resolved SDAP/2022/006

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:***

Skinner/Brand

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 Property Subcommittee Meeting - Confidential Minutes - 21 October 2021	Section 48(1)(a) The public conduct of this matter would be likely to result in disclosure of information for which good reason	The withholding of the information is necessary: <ul style="list-style-type: none"> • Section 7(2)(a) To protect the privacy of natural persons, including that of a deceased person • Section 7(2)(h)

Item	General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Particular interests protected (where applicable)
		exists under section 7.	<p>To enable the local authority to carry out, without prejudice or disadvantage, commercial activities</p> <ul style="list-style-type: none"> • Section 7(2)(i) To enable the local authority to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)
2	Strategic Development and Property Subcommittee Meeting - Confidential Minutes - 3 December 2021	<p>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.</p>	<p>The withholding of the information is necessary:</p> <ul style="list-style-type: none"> • Section 7(2)(h) To enable the local authority to carry out, without prejudice or disadvantage, commercial activities • Section 7(2)(a) To protect the privacy of natural persons, including that of a deceased person • Section 7(2)(g) To maintain legal professional privilege
3	Strategic Development and Property Subcommittee Meeting - Confidential Minutes – 03 August 2021	<p>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</p>	<p>The withholding of the information is necessary:</p> <ul style="list-style-type: none"> • Section 7(2)(h) To enable the local authority to carry out, without prejudice or disadvantage, commercial activities
4	Confidential Status Report - Strategic Development and Property Subcommittee	<p>Section 48(1)(a) The public conduct of this matter would be likely to result in disclosure of information for which good reason</p>	<p>The withholding of the information is necessary:</p> <ul style="list-style-type: none"> • Section 7(2)(a) To protect the privacy of natural persons,

Item	General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Particular interests protected (where applicable)
		exists under section 7	including that of a deceased person <ul style="list-style-type: none"> • Section 7(2)(b)(ii) To protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information • Section 7(2)(h) To enable the local authority to carry out, without prejudice or disadvantage, commercial activities

The meeting went into confidential session at 1.38p.m. and resumed in public session at 2.11p.m.

Karakia Whakamutanga

There being no further business the meeting ended at 2.11p.m.

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

Resolved _____

Nelson Marina Governance Review

1. Purpose of Report

- 1.1 To agree to the formation of a Management Council Controlled Organisation as the governance structure for the future management of Nelson Marina.

2. Summary

- 2.1 Council engaged Infracure Limited to undertake a Section 17A review of the options available to Council for the future governance structure of Nelson Marina.
- 2.2 The report Nelson Marina s17A Governance Review (R26108) was tabled at the Strategic Development and Property Subcommittee on 3 December 2021, recommending the formation of a Management Council Controlled Organisation (Management CCO).
- 2.3 Consultation was required under Section 56 of the Local Government Act before a Council Controlled Organisation (CCO) could be established.
- 2.4 Council consulted on the proposed recommended governance structure of a Management Council Controlled Organisation (Management CCO) at the marina from 20 December 2021 to 20 February 2022 as was agreed at the Strategic Development and Property Subcommittee meeting of 3 December 2021.
- 2.5 After taking feedback received over this period into consideration, officers recommend the formation of a Management Council Controlled Organisation.

3. Recommendation

That the Strategic Development and Property Subcommittee

- 1. Receives the report Nelson Marina Governance Review (R26685) and its attachment (A2852478).***

Recommendation to Council

That the Council

- 1. Approves the formation of a Management Council Controlled Organisation (Management CCO) for Nelson Marina.***
- 2. Approves the development of a Statement of Expectation, Statement of Intent, a Management Agreement, and recommended board structure for Nelson Marina by the Strategic Development and Property Subcommittee for consideration by Council.***

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 under a third-party contract with the Council. Council chose to cancel that contract early as it was determined that more active management from Council was needed.
- 4.3 Council anticipates significant development of the Marina in the future. It is currently developing a Masterplan for the Marina.
- 4.4 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 provided a report that recommended that Council establishes a Management CCO for Marina governance (R26108).
- 4.6 At the Strategic Development and Property Subcommittee meeting on 3 December 2021, the Subcommittee approved the recommendation to establish a Council Controlled Organisation that manages the Marina as the preferred governance model for Nelson Marina.
- 4.7 The Subcommittee also approved undertaking public consultation on the proposal to establish a Council Controlled Organisation as per Section 56 of the Local Government Act.

5. Discussion

- 5.1 The consultation on the future governance of Nelson Marina was undertaken between 20 December 2021 and 20 February 2022 as per

Item 6: Nelson Marina Governance Review

Section 56 of the Local Government Act. A long consultation period was provided to allow for the holiday period over Christmas. The consultation was advertised through Shape Nelson, multiple marina newsletters, social media and in local print and online media.

- 5.2 The report and consultation page on Shape Nelson received 282 visits from 223 visitors. The consultation report was downloaded 109 times and 7 submissions were received.

Consultation Feedback

- 5.3 Consultation on the Marina Governance was carried out as approved by the Subcommittee on 3 December 2021 (R26108).
- 5.4 Seven (7) submissions were submitted over this period and are attached to this report as Attachment 1 (A2852478).
- 5.5 Of the seven (7) submissions, two (2) were in favour, two (2) were not in favour, two (2) did not know and one (1) did not express a defined opinion. General comments on the marina were also received.

Submissions in favour of a Management Council Controlled Organisation to Manage Nelson Marina

- 5.6 Those submissions in favour of the Management Council Controlled Organisation made the following comments:
- 5.6.1 Membership of the board should be made up of at least one third berth holders;
- 5.6.2 Marina should concentrate on providing marina related services and not restaurants, bars, public access and ancillary services. This should be provided by Council.
- 5.6.3 Need to ensure the marina remains affordable and does not push small boat owners out.
- 5.6.4 The Nelson Marina Advisory Group (NMAG) also wrote a submission in favour of a Management CCO with the following comments:
- 5.6.4.1 NMAG would like to be involved and remain engaged in the process of developing the Statement of Intent, Delegations, Management Agreement and Board appointments.
- 5.6.4.2 Although NMAG may change after the formation of a CCO with a board of directors, a marina users' consultative group should still be maintained, and Council should give consideration on how effective consultation with marina users will occur under the CCO structure.
- 5.6.4.3 Ultimately, NMAG would like to remain closely involved and engaged as the CCO is formed.

Submissions neither supporting nor not supporting a Management Council Controlled Organisation to Manage Nelson Marina

5.7 Those submissions neither supporting nor not supporting a Management Council Controlled Organisation made the following comments:

5.7.1 There are not many alternatives in Nelson for keeping a boat moored so whatever governance structure is agreed to, the cost to the users should be kept as the number one issue.

5.7.2 Sometimes the private sector delivers better value and customer service.

Submissions against a Management Council Controlled Organisation to Manage Nelson Marina

5.8 Those submissions against a Management Council Controlled Organisation made the following comments:

5.8.1 The marina should be controlled directly by Council in the same way as parks and reserves.

5.8.2 A CCO introduces another layer of management of which the costs will be carried by marina users.

5.8.3 The marina should not be viewed as a means of returning a profit on investment.

5.8.4 If the Council wishes the marina to be viewed as a recreational facility for Nelson City, it should be prepared to part fund the facility from rates.

5.8.5 Income tax implications are not a valid reason for preferring a Management CCO over an Asset owning CCTO as tax should be calculated at a Council group level.

5.8.6 The section 17a review was not comprehensive enough and should have included financial modelling, analysis of past failings and benchmarking against other marinas.

5.8.7 The proposed model is a muddled mess of non-accountability and provides for political interference.

5.8.8 The recommended structure has been tried before through previous management and was a proven failure.

5.8.9 The marina should be made an Asset owning CCTO now and not be promised that this may happen in the future.

5.8.10 The recommendation in the Section 17a review for the marina executive staff to be an executive director on the new board is inappropriate.

Analysis of comments against the formation of a Management CCO through the consultation process:

- 5.8.11 Under the Management CCO, the marina will still be overseen and managed by Council through the Statement of Intent and Statement of Expectation. The board of the Management CCO will be accountable to Council as 100% shareholders of both the management company and the assets.
- 5.8.12 Operating under a Management CCO will increase the overheads of the marina but increased efficiencies in decision making and operations as well as dedicated governance will offset the additional costs, particularly during marina infrastructure development.
- 5.8.13 The marina is owned by Council and as shareholders, Council may have an expectation of a dividend from the marina in the future. This is not an unrealistic expectation given that the marina is an asset owned by all ratepayers.
- 5.8.14 Under the Management CCO proposal, the marina assets and operation would be retained as a Council activity and income from the assets and operation would be derived by the Council as exempt income. The Management CCO itself would be a taxpayer but if it is operated at or near break-even, it would have nil or minimal taxable profit. Those income tax positions would not be affected by the tax bill discussed below.

If the marina assets and operation were to be transferred to a Council-owned company (Owner CCO), the Owner CCO would be a taxpayer and, based on Council staff modelling of the tax implications, the tax shelter provided by the Owner CCO's tax deductible expenditure/loss would be limited (noting in particular that tax depreciation deductions in relation to marina assets would be limited, because they would be based on the group's historical cost for those assets).

Although Council is currently able to offset a taxpayer company CCO's income from tax at a group level (as has happened in the past with Nelmac Ltd through subvention payment arrangements utilising Council tax losses), a tax bill that is currently before Parliament proposes some significant changes to income tax settings for local authority groups from the 2022/2023 income year.

The Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Bill, which was reported back to Parliament by the Finance and Expenditure Select Committee on 3 March 2022 and is expected to be enacted shortly without any further material amendments (and may have been enacted by the date of this report), proposes changes that, in broad terms, are intended to limit the ability of local authorities to effectively shelter taxpayer company CCOs' income from tax at a group level.

Item 6: Nelson Marina Governance Review

In particular, the tax bill (as reported back to Parliament by the Select Committee) provides that, from the 2022/2023 income year:

- dividends derived by local authorities from both wholly-owned and partly-owned company CCOs will be exempt income, so that any imputation credits attached to such dividends will no longer give rise to any tax credit that may be used by the local authority (either directly or indirectly, by converting unused imputation credits to tax losses) to shelter group income from tax; and
- local authorities will not be allowed to claim concessionary tax deductions for charitable and other public benefit gifts, so that such deductions will no longer effectively preserve/increase local authority tax losses for sheltering group income from tax.

The proposed changes that will go ahead under the tax bill will mean that group level tax management arrangements currently available to the Council will no longer be available from the 2022/2023 income year.

- 5.8.15 Officers consider that the section 17a review was a comprehensive piece of work that investigated the various options to Council for governance of Nelson Marina. Additional legal advice was also sought to ensure that the findings were reviewed by external counsel.
- 5.8.16 The new Management CCO board will be accountable to Council through the Statement of Intent, Statement of Expectation, and the Management Agreement. Council will also appoint the board and be able to appoint and remove directors.
- 5.8.17 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 and provide for delegations from Council. The Board of Directors would report back to the Strategic Development and Property Subcommittee and/or Council directly and Council would still have ultimate control over the management of their assets.
- 5.8.18 Nelson Marina was managed by a CCTO under a management contract, but this was not their core role. Under the new proposed governance structure, the Management CCO for the marina will consist of a board of directors that are solely focused on the governance, management, performance, and development of the marina.
- 5.8.19 Officers recommend that the Management CCO is set up initially to help drive the marina forward and to provide direct governance over the roll out of the Nelson Marina Masterplan. Agreeing to a Management CCO does not preclude moving to an Asset Owning CCO in the future.

Item 6: Nelson Marina Governance Review

5.8.20 As per Council policy, no officers of Nelson Marina will be appointed to the board of the Management CCO.

6. Options

- 6.1 The Strategic Development and Property Subcommittee can recommend Council sets up a Management Council Controlled Organisation to operate Nelson Marina (option 1) or can decide not to make changes to the governance structure and remain as the status quo with Council directly operating Nelson Marina (option 2). **Option 1 is recommended.**

Option 1: Establish a CCO to manage the Marina (Management CCO) (Recommended Option)	
Advantages	<ul style="list-style-type: none"> • Well-known and established structure used in local government. • More commercially oriented structure while maintaining flexibility to respond to Council's non-commercial drivers. • Allows for direct community involvement in the management and direction of the marina. • Provides direct expert support to the Marina Manager. • Operates at arm's length from Council. • The CCO must implement the strategic direction set by the Council as its shareholder. • Provides for an independent board that is accountable to Council for the marina's performance. • Provides for a separate legal entity, with directors being responsible for overseeing the management of the marina. • 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.

Item 6: Nelson Marina Governance Review

	<ul style="list-style-type: none"> • Council will be able to appoint board members with relevant expertise and experience. • Process is straightforward as company law and the CCO provisions of the LGA 2002 provide a clear regime. • Any 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. • Provides for better outcomes to both the marina and greater Nelson community. • In the future, if desired, the Council could move to the "Owner CCO" model by transferring the marina assets to the CCO.
<p>Risks and Disadvantages</p>	<ul style="list-style-type: none"> • As the CCO is a company it would be taxable (although it will be operated at, or near, break-even so would have nil or minimal taxable profit). • Cost of setting up a new company and board of directors. • The cost of managing the governance of the Marina through the formation of a company with a Board of Directors will increase the operating costs of the Marina.
<p>Option 2: Council Owns and Operates the Marina (Status Quo)</p>	
<p>Advantages</p>	<ul style="list-style-type: none"> • No process is required. • The Council retains direct control of all Marina land, assets, and operations.
<p>Risks and Disadvantages</p>	<ul style="list-style-type: none"> • Less commercial or nimble than a dedicated and separate entity. • Viewed as less able to respond quickly and effectively by berth holders and other stakeholders. • Given the significant amount of investment that is likely to occur at the

Item 6: Nelson Marina Governance Review

7.

	<p>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.</p> <ul style="list-style-type: none">• 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.
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Conclusion

- 7.1 The recommended option for the future governance of Nelson Marina is through the formation of a Management Council Controlled Organisation (Management CCO).
- 7.2 The 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 The Management CCO structure does not produce any tax implications to Council as any operating profit would be derived by the Council directly (as per the status quo), and the Management CCO would have nil or minimal taxable profit.
- 7.4 The increased cost of operating a management CCO is estimated at approximately \$107,000 per annum. This would be offset by increased efficiencies, expert advice and governance, and is a normal cost of running a business of this type.
- 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 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 Property Subcommittee and/or Council directly and Council would still have ultimate control over the management of their assets.
- 7.6 The decision to form a Management CCO does not preclude the ability to move to an Asset Owning CCO or CCTO in the future.

8. Next Steps

- 8.1 Council to agree to the formation of a Management CCO as the preferred governance model for Nelson Marina.
- 8.2 Develop and draft a Statement of Expectation.
- 8.3 Develop and draft a Statement of Intent.

Item 6: Nelson Marina Governance Review

- 8.4 Develop and draft a Management Agreement.
- 8.5 Incorporate and register a new Marina Management Company – 100% Council Owned.
- 8.6 Develop the new Board of Directors structure and make recommendations to Council for potential candidates for the open positions.
- 8.7 Review delegations to the new Management CCO by Council.
- 8.8 Bring all the above to the Strategic Development and Property Subcommittee and Council for approval.

Author: Nigel Skeggs, Manager Nelson Marina

Attachments

Attachment 1: A2852478 - Nelson Marina Governance Review Submissions [↓](#)

Important considerations for decision making

1. Fit with Purpose of Local Government

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.

2. Consistency with Community Outcomes and Council Policy

The recommendation is consistent with Council's objectives to provide effective governance of community assets.

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.

3. Risk

The primary risks for Council in not changing the Governance model of the Marina to a Management CCO are both financial and reputational.

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.

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.

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.

4. Financial impact

The immediate costs of setting up a Management CCO 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.

Ongoing additional costs will come in the form of Directors Fees, Company Secretary fees and the costs associated with running the board.

5. Degree of significance and level of engagement

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.

Item 6: Nelson Marina Governance Review

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.

6. Climate Impact

This decision does not have an impact on climate change. Responsiveness to climate impact would become a performance measure for a new Board.

7. Inclusion of Māori in the decision making process

No engagement with Māori has been undertaken in preparing this report.

8. Delegations

The Strategic Property and Development Subcommittee has the following delegations to consider the future Governance of Nelson Marina:

Areas of Responsibility:

- *Marina Precinct*

Delegations:

- *Powers to decide the developing, monitoring and reviewing of strategies, policies and plans, with final versions to be recommended to Council for approval.*

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.*

Nelson Marina Governance Consultation - Submissions Received through Shape Nelson:

Received 19th Feb from Alister Dickson

Do you support a Management CCO for Marina Governance? **Don't Know**

I have been involved in the marine industry in Nelson for nearly 40 years, working here as a boat builder, and have been dealing with local boat owners and visitors, many from overseas. Reading what the mayor and councillors and been saying lately about the marina seem to indicate that all the services are going to cost more. Cost is the single most important factor for many boat owners. Although a few could be considered as wealthy the vast majority are very average people who do not have excess funds but are struggling to have a home and a boat. There are not many alternatives to keeping a boat in a marina. My own boat is kept on a swing mooring as I can't afford the marina fee. I would suggest that if any changes are made to the marina control, that cost to the users be kept as the number one issue.

As a separate issue, over recent years, there has at times been a lack of friendliness when dealing with some individuals at the marina. My last slipping there was very different experience with friendly staff. I hope this continues.

Received 13th Feb from Sandy Fontwit

Do you support a Management CCO for Marina Governance? **Yes (qualified)**

First, this is a qualified "yes". I would have to know the details before I would give my unqualified support to ANY proposal. That's kind of basic isn't it?

I would support a Marina CCO IF it included the following:

1) The membership of the board of the CCO would have to include at least 1/3 actual boat owners, and most of that 1/3 would have to be berth holders. This is because the PRIMARY function of the Marina is to provide in-the-water berths for boats. Subsidiary marina functions are: haulout and out of the water maintenance, trailer boat storage, trailer boat/kayak/rowboat/paddleboard, etc. launching, marina-related business such as repair, rigging, etc. The Marina (as a marina) is NOT in the business of providing restaurants, coffee carts, places for people to walk their dogs, places to fish, although such activities may take place on Marina owned land.

2) If there has to be an obligatory Maori component on the board, which I do not support, then that number should be 17% or less of the total board since that is the current Maori population % in NZ. Maori don't have any special expertise in running marinas. They WERE very good navigators in the past, but that has does not guarantee that present day Maori have more expertise in marina business administration than any other ethnic group. If the intention of the CCO is to run a profit-making business which also caters to the actual needs of the users of the Marina, then that should inform the choice of board members, not some cultural/political trendy idea of "co-governance" which has no place here.

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3) I speak as a Marina berth holder, and a person who owns a relatively small (10m) yacht. I've read the Wardale Masterplan, and it is obviously biased in the direction of an assumed long-term trend toward bigger, more expensive motor yachts. I would argue that this assumes a level of continued NZ economic growth that may very well not be sustainable even in the near future. I note that there was no consultation other than this particular company. Given this bias in the Masterplan, I would argue that this will lead to reorganization of the physical Marina in favour of longer more expensive berths, thus forcing small boat owners out of the Marina. You can't do that and also maintain that the "Marina is for everyone". If this is the direction of Marina development that the CCO has to follow, then I don't support a CCO. A CCO needs a free hand in developing its own masterplan and any consultation should not be binding on the final plans.

As an aside, I note that there are quite a number of non-Nelson owned boats in the Marina. Many of these are very lightly used. 2 non-Nelson owned boats on my pier have never left the dock. I want to see Nelson owned boats given priority when new leases come up.

Received 10th Feb from Graham Caradus

Do you support a Management CCO for Marina Governance? **No**

The Marina should be controlled directly by the Council in the same way as other Council owned recreational facilities such as parks and reserves. Setting up a CCO simply introduces another layer of management into the management structure, the cost of which will be carried by the marina users. The fact that the marina is primarily part of a recreational facility for many Nelson ratepayers that lease berths for their vessels needs to be kept foremost in the minds of planners considering the future of the facility. It should not be seen as a means of returning a profit on investment any more than other recreational facilities controlled by Council. If the Council wishes the marina to be viewed as a recreational facility for Nelson City it should be prepared to part fund the facility from rates.

Received 1st Feb from Mike MacBrayne

Do you support a Management CCO for Marina Governance? **Don't Know**

Sometimes the private sector delivers better value and customer service

**Marina Governance Consultation
Submission by the Nelson Marina Advisory Group
20 February 2022**

Background

The Nelson Marina Advisory Group (“NMAG”, “the Group”) is a voluntary committee convened in early 2017 by the Nelson City Council to provide advice on the operations, management and development of the Nelson Marina. NMAG has recently advised Council on the appointment of the dedicated marina manager and the drafting of a Marina Masterplan – both of which have been progressed. NMAG contributed via Infracore to the review of governance options as analysed in the Nelson Marina s17A Governance Review (3 December 2021), and in 2019 provided an initial review of governance options which was considered by Infracore and is appended to their report. The Group is now excited about the potential for the marina to develop further under the CCO model preferred by the Governance Review.

Submission

NMAG supports a Management Council Controlled Organisation (CCO) for Marina governance.

We support and agree with the analysis provided in the Governance Review. We believe the CCO option will enable the best balance – amongst the options under consideration – between providing a professionally managed commercial asset with the right degree of independence *and* accountability to the community, and the ability to deliver on public good outcomes as directed by Council over time.

Considering our support for the CCO option, NMAG is turning its mind to the most important aspects of its implementation. These are the Statement of Intent, Delegations, Management Agreement and Board appointments. These documents and people will be critical to the success of the CCO. NMAG is therefore very keen to remain engaged as the CCO is formed.

We are also considering the future of NMAG post-implementation of the CCO. We would expect a marina users’ consultative group to remain in place, but we believe that some functions of NMAG would be absorbed by the new Board of Directors – particularly maintaining momentum for the implementation of the Masterplan. We would be keen for Council to communicate with the Group regarding recommendations for Board appointments and the drafting of the governance documentation, and to also consider how ongoing effective consultation with marina users will occur under the CCO structure.

Ngā mihi

Rob Greenaway – Acting Chair, Nelson Marina Advisory Group
Members: Steve Thomas, Tam Hazan, Adrian Parlane, Michael Connolly

SUBMISSION ON PROPOSED MARINA GOVERNANCE MODEL

Executive Summary

I do not support the establishment of a Management Council Controlled Organisation to run the marina.

Following the appointment of a very competent Manager, Mr Nigel Skeggs I felt very excited and optimistic about the future of the marina. I am very disappointed that a self-interested bureaucracy, intent on retaining power and control, has been allowed to hijack the process of determining a "fit for purpose" governance structure and has promoted a so-called "enhanced status quo" model. After more than fifty years of mismanagement of the marina under the "status quo" model something far more radical is called for. The proposed governance model will place manacles on Mr Skeggs and see a continuation of the ineffective, politically driven governance that has resulted in the marina being in a run-down state with poor environmental performance; poor financial performance; poor customer satisfaction and an enormous amount of unrealized potential. The recommended option further demonstrates to me the extent to which an entrenched bureaucracy will go to preserve the "status quo". Who can forget the pet cremation fiasco when staff predicted all sorts of doom and gloom if NCC were to halt pet cremations? Councillors were told that the pet cremator was needed as part of the DHB pandemic plan (not true). There were suggestions that there would be carcasses in the street if NCC was to stop pet cremations (not true). Councillors were told that pet owners would have to travel to Brightwater to have their pets cremated (not true). In a repeat performance of bureaucratic obstinacy a whole lot of spurious reasons have been given as to why the status quo must remain for the marina. In particular, the suggestion that there is a tax issue associated with creation of a CCTO is a huge red herring and **completely fallacious**. I cannot determine whether staff are being duplicitous or are merely ignorant in raising tax as a reason for not implementing a CCTO.

Given the importance of the marina in terms of unrealized potential and monetary value it is disappointing to see that the Section 17A review was little more than a "tick the box" exercise conducted under a bulk deal arrangement with Infracore (3 reviews undertaken at the same time).

I have been very heartened by Council now using specialist "big name" law firms to advise it on complex legal issues rather than relying on provincial lawyers. That will mitigate against a repeat of fiascos like the Trafalgar Centre earthquake strengthening debacle or the embarrassing protest bylaw debacle. Council now needs to apply the same philosophy to Section 17A reviews and spend the necessary money to get the best advice available from competent practitioners. I am astounded that Infracore wrote its own brief for this project rather than the client (NCC) providing the brief. This alone suggests that

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NCC staff considered this project to be little more than a “ticking the box” exercise. The CV of Infracure’s consultant suggests that it is a consultancy that specializes in supply chain relationships; procurement and logistics. Infracure does not claim to be a governance adviser, nor is there any evidence that Infracure has any experience with marinas; financial modelling or tax. The Infracure report follows the \$50,000 Strategic Review into the marina that was undertaken by SLR Consulting in 2017 – a report where the economic analysis, undertaken by an environmental scientist, was messed up beyond recognition. It is time to bring in the “big guns” to do this exercise right and to provide Councillors with the very best independent advice.

What has been presented to Councillors is extremely lightweight and presents an inaccurate and incomplete analysis of the governance options available. Councillors would not be doing their jobs if they were to proceed on the basis of this report. **The report and its recommendations should be rejected.**

Councillors should also reject the Infracure report recommendation that the Marina Manager be appointed to the Board as an “Executive Director”. This recommendation flies against accepted governance practice and Office of the Auditor General recommendations¹. If implemented, this precedent will inevitably create difficulties with Council’s other CCOs and CCTOs.

At a personal level I feel somewhat vindicated by the report’s findings that existing fees and charges are too low – something I have pointed out many times over the past five or six years only to have been shot down by some Councillors and staff.

I also find it somewhat hilarious that Time has now become a consideration in the evaluation of options. I have been pressing for years now for a change in governance at the marina. It is frustrating to now find that some options are being discounted on the basis of time to implement!

DISCUSSION

1. The Tax Fallacy

- The Consultation document (para 5) states that Option 4 (Owner CCO[CCTO]) and the Limited Liability Partnership option (option 5) are not recommended “due to the tax implications to Council”.
- It is true that a CCTO is liable for company tax. Equally, the preferred Management CCO is also liable for company tax if it is a company (which seems likely).
- The question is not whether an entity is liable for tax or not, the question is whether or not any tax will be payable at a Group level.

¹ OAG “Local Authority Governance of Subsidiary Entities 2001” para 220

- There has been no financial modelling undertaken on what a CCTO might look like from a tax perspective. With a transfer of assets to a CCTO there will be a transfer of debt with an associated interest bill. The CCTO will also be able to claim tax depreciation on the assets it holds and on new assets it obtains. My belief is that any CCTO is unlikely to generate taxable income in the short term at least and in fact is more likely to generate tax losses but financial modelling is needed to confirm that.
- It is disappointing and a major shortcoming that financial projections weren't developed for each option considered as that exercise would give greater insight into the benefits/disbenefits of each option.
- Regardless, even if a marina CCTO were to have taxable income this tax liability could be offset by tax losses available to NCC. NCC gains tax losses from the imputation credits it receives from dividends paid by Port Nelson Ltd and Nelson Airport Ltd. These imputation credits have no value to NCC other than in being available to offset the tax liability of NCC subsidiaries with a greater than 66% NCC shareholding.
- The 2021 Annual report shows that NCC has \$1.90 million of tax losses available to it to offset the tax liabilities of its subsidiaries. It continues to receive further tax losses whenever imputed dividends are received from NAL and PNL.

10 Income tax

	Council		Group	
	Actual 2021 \$'000	Actual 2020 \$'000	Actual 2021 \$'000	Actual 2020 \$'000
Components of tax expense				
Current tax	-	-	339	345
Adjustments to current tax in prior years	-	-	(76)	(111)
Deferred tax	-	-	30	(8)
Tax expense	-	-	293	226
Surplus/(deficit) before tax	9,817	7,170	15,138	10,285
Tax at 28%	2,749	2,008	4,819	2,880
Plus/(less) tax effect of:				
Non taxable revenue/adjustments	(2,749)	(2,008)	(4,224)	(2,052)
Tax expense	-	-	293	226

NCC receives imputation credits on the dividends it receives. Unused imputation credits are converted to tax losses. Available tax losses at 30 June 2021 are \$1.9 million (2020: \$2.0 million). In 2020, \$396,809 was used to offset a subscription payment received from Nelmac. At the time of report writing, the 2020 figure is still to be finalized but no material changes are expected to occur.

- In 2020 NCC started offsetting Nelmac's tax liability. Six years ago I queried why tax wasn't being managed at a group level and queried why Nelmac was paying tax. In the time since I raised this issue Nelmac has paid several hundred thousand dollars of unnecessary tax. There is no reason why a 100% subsidiary of NCC should be paying any tax while NCC holds tax losses.

- Regardless of all this, hopefully there will come a time when the marina is earning taxable income and maybe NCC no longer has tax losses available to it to offset the liability. At that point the marina will be very profitable and paying tax would be no hardship but instead would be a consequence of success.
- The tax argument is a complete red herring. Staff are being either duplicitous or ignorant in raising this as a reason to dismiss the CCTO option.

2. Inadequacy of the Section 17A Review

The purported Sec 17A review is a “once over lightly” exercise that falls far short of what is needed. I would have expected the following:

1. A full analysis of the current issues with the marina and an analysis of the governance failures that have caused these. This analysis should include the failure to comply with resource consents; the rundown state of the marina and the deferred maintenance backlog; the “junkyard” and weed-infested state of a huge swath of iconic land; the failure to collect fees from a number of berth-holders etc. The governance failures that lead to these situations need to be identified.
2. There should be a benchmarking and analysis of Nelson marina *viz a viz* other marinas and an analysis of the governance models that are used by the successful marinas (and the poorly run ones). My observation is that there is an inverse relationship between how successful a marina is and the level of Council involvement.
3. A major failing of the review is the absence of any financial modelling of the various options. In particular, the CCTO option has been dismissed on the basis of tax considerations without any modelling to show that a tax issue exists or not. More importantly, some key advantages of a CCTO have not been quantified, those being the financial impact on the NCC balance sheet. Again, NCC staff seem to operate on the premise that there is an unlimited source of capital available to undertake the ambitious works program of NCC and to also implement the forthcoming Marina Development Plan. That premise is likely to prove to be false when we go through a different economic cycle. A major advantage of a CCTO is that debt will transfer from Council’s balance sheet to that of the CCTO. Also, a CCTO will have the ability to self-fund through the issue of transferable long term berth leases to boat owners, thereby reducing borrowings. This is a widespread means by which other marinas through the country have been funded. There is no reason why ratepayers should be funding the capital works of a marina used by a small proportion of ratepayers and by many out-of-town users.
4. The review has not delved into the reasons why Nelmac is considered to have failed in being manager of the marina. From the information I have seen it appears that Infracore did not interview Nelmac on its experiences as

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manager. Surely Nelmac's insights would have been valuable in ascertaining where there are weaknesses in governance.

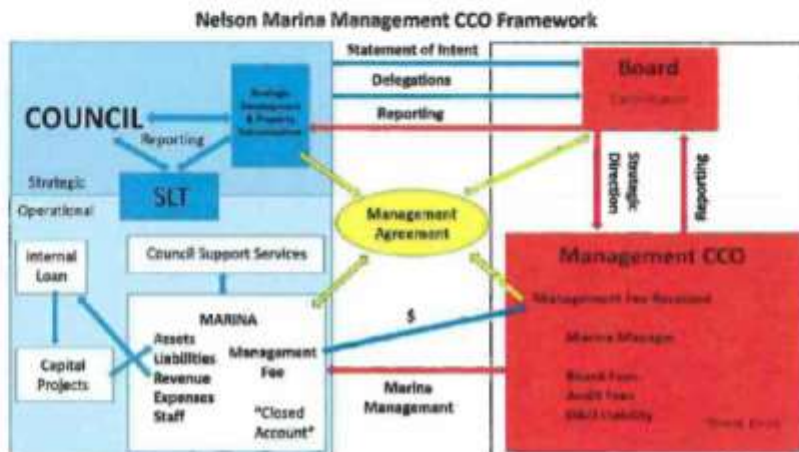
5. The Sec 17A report is highly focused on the processes needed to be followed to implement each option. The overall impression is that options not preferred by the entrenched bureaucracy are made to look like they involve convoluted process and will take extended time. On the other hand, the challenges of implementing an effective management CCO are downplayed and minimised. Timing and process considerations should not be primary determinants of a preferred governance model.

3. A Muddled Mess of non-accountability, meddling; political interference and contradictory objectives

The proposed governance model is a muddled mess, the kind of which bureaucrats love because No-one can be held to account or be held responsible. Bureaucrats love ambiguity and opacity. Recent examples of this tenet of local government management are the Greenmeadows Centre and the Waimea Dam, where it appears No-one is responsible for these fiascos. No-one frequently features within local government when things go wrong. No-one has a lot to answer for! The convoluted diagram below once again shows how responsibilities will become blurred as every man/woman and his/her dog will get the opportunity to dabble and meddle in marina affairs but without assuming responsibility or having accountability (one of the four pillars of good governance). It is highly likely that the Marina Manager will have a completely different understanding of how this framework will operate than what those residing in Civic House will have. This framework provides for a high level of political interference and micro-management in the running of the marina and a perpetuation of the political interference that occurs when the issue of marina charges arises. Historically (including this year), Council has proven to have a weak appetite for increasing charges to wealthy; connected and influential boat owners, especially in election years.

The muddled thinking is highlighted in the diagram below where there is a reference to a "closed account". A "closed account" is inconsistent with the objective that Council has agreed for the marina to provide a return to Council.

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This complicated structuring will require numerous agreements between the Management Company and NCC. It is all very well having these arrangements in place while there is a co-operative and competent manager in place but what happens if Mr Skeggs were to leave? Any governance structure should be enduring and not rely on the goodwill of an incumbent manager for it to work. The structure that has been arrived at will almost inevitably encourage bad behaviour such as power games; "white anting", and blame shifting. In my opinion this structure is doomed to fail in the long term.

4. Recommended Option has been tried before and is a proven failure

The recommended structure has, in essence, been tried before and has failed. NCC has previously contracted with a 100% owned CCO (Nelmac) for the provision of management services. The only difference between that arrangement and the recommended option is the proposed new CCO will have a narrower scope than Nelmac does. However, the key question to ask is why did Nelmac fail?

Questions I have are

- Did NCC have clear requirements of Nelmac?
- What monitoring did NCC perform on Nelmac? Did NCC hold regular meetings with Nelmac to review performance? Did NCC ever formally express concern about Nelmac performance?
- Did NCC make its requirements in regard to the marina clear through its annual SOI? What feedback did NCC provide Nelmac with regards to its performance?
- Did Nelmac's management contract for the marina require regular reporting to NCC on marina performance? Were there Key Performance Indicators under the contract that Nelmac was required to comply with or report against? If so, did Nelmac meet the performance objectives?
- Did NCC provide Nelmac with clear and unambiguous objectives?

It is my belief that Nelmac has been made a scapegoat for governance failures that should be sheeted home to Civic House. Clearly there has been insufficient monitoring in the past of Nelmac's performance.

Creating a new CCO won't remedy the management and governance failures at Civic House. Creation of a CCTO will.

5. False Promise of a Future CCTO

The suggestion that a management CCO could, in time, evolve into a CCTO is nothing more than a cynical ploy by the entrenched bureaucracy to moderate opposition to maintenance of the status quo and appease those who want to see more radical change at the marina. Now is the time to make long term decisions on the future governance of the marina, based on sound advice and analysis. An "enhanced status quo" is just kicking the can down the road.

6. Inappropriate Executive Director Recommendation

The Infracore recommendation to appoint the marina manager to the Management CCO flies in the face of accepted wisdom. It is quite inappropriate for a manager to sit on a Board that will be evaluating his performance. Any appointment of the manager to the Board blurs the separation between management and governance. There have been many examples of governance failure pursuant to appointment of executive directors, the most recent being the appointment of Greg Miller as Executive Chair of KiwiRail, against Treasury advice. KiwiRail is still recovering from the ensuing loss of senior staff amidst allegations of bullying behaviour and poor workplace culture.

The NZ Shareholders Assn has a firm position against executive directors, based on corporate failures (Fletcher Challenge Ltd being the supreme example).

The Auditor General has also expressed a view that

"In our view, effective monitoring and oversight, including setting clear expectations about the CCO's purpose and strategic alignment, should obviate any need for councillor-directors [or manager directors] to provide an additional layer of oversight."²

(Note: words in square brackets pick up where the Auditor General has extended his view to managers as well as Councillor -directors.)

Appointment of the marina manager to the CCO Board will also establish an unhealthy precedent with respect to all of NCC's other CCOs and CCTOs.

² OAG "Governance and Accountability of Council-controlled Organisations CI 5.25

7. Other

It wasn't surprising to read in the Infracore report that *"new management have found NCC's accounting and financial reporting systems are suboptimal for a commercial operation."*

NCC uses an NCS (Napier Computer Systems – (MAGIQ Software)) system. It was around 20 years ago now, when I was working for Contact Energy, that we threw out the NCS system on the basis it wouldn't meet our future needs. In all the time I have been taking an interest in NCC affairs I have never once seen any reference to an IT Plan. It appears very much like NCC's main IT system is old and no longer fit for purpose – another run-down asset that is neglected in favour of "photo-opportunity" projects.

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Nigel Skeggs

Subject: FW: Feedback on the draft RPS

From: pat morris <pam.rtm@gmail.com>
Sent: Tuesday, 8 February 2022 9:22 p.m.
To: Nelson Plan <nelsonplan@ncc.govt.nz>
Subject: Feedback on the draft RPS

CAUTION: External email.

Do not click links or open attachments unless you recognise the sender and know the content is safe.

Good Morning,

Based on some years of experience in the marina I have no idea what a 'CCO' will actually do. There would seem to be a great deal of publicity without any resultant activity. I have serious concerns over cost effective management and the NCC's disastrous handling of the hard stand area as well as the Akersten St. site. I am also concerned that these exorbitant costs will be loaded on to the marina. There is a matter of the 'Marina Development levy' taken from berth holders and that now seems to have been swept into some alternative purpose - even the new Marina Manager does not know where it is!

Despite the great increase in staffing my recent early booked haul out was a mess and my 'credit' for leasing my berth had to be requested.

R.T.Morris

Millers Acre Re-cladding Project

1. Purpose of Report

- 1.1 To recommend to Council the approval of additional unbudgeted funding in next financial year (2022/23) to complete the Millers Acre recladding project.

2. Recommendation

That the Strategic Development and Property Subcommittee

- 1. Receives the report Millers Acre Re-cladding Project (R26657).*

Recommendation to Council

That the Council

- 1. Approves the allocation of an additional unbudgeted amount of \$625,000 in 2022/23 to complete the remedial cladding system for Millers Acre and installation of a comprehensive height safety harness point system; and*
- 2. Notes that investigation into improvements to the northern end of the ground floor of Millers Acre (currently leased to the Department of Conservation) to provide additional window opening and external customer access is underway and will be presented to a future Subcommittee as a matter of urgent business.*

Item 8: Millers Acre Re-cladding Project

3. Background

- 3.1 The Monolithic plaster and weatherproof paint coating system on the Millers Acre Centre, which is approximately seventeen years old, has deteriorated, resulting in moisture ingress issues, with moisture tracking through the cracks in the cladding system to the concrete walls, and into the building structure.
- 3.2 It was identified that the cladding system needed to be remediated to prevent further moisture ingress, damage to the building, dampness and mould. This project was required to ensure that Council could continue to provide a quality property for the tenants and the community.
- 3.3 It was resolved during the Deliberations on Annual Plan Consultation Document in June 2020 that that Council:
- Approves a budget of up to \$850,000 for remedial work at the Millers Acre site; and*
- Requests officers contract an external expert to investigate and advise on the causes of the building issues at Millers Acre and report back on next steps and how to avoid such problems in future*
- 3.4 It was advised in the deliberations report that:
- 3.4.1 Water damage was identified in the building at Millers Acre with some parts having stachybotrys present. Mould testing in the affected sites found a strain of Stachybotrys chartarum in air and wall samples taken from the i-SITE. Mould was also found at three other sites, Datacom, Simply New Zealand and the New Zealand Trade and Enterprise Office.
- 3.4.2 Work to remediate, disinfect and remove the mould occurred during level 3 lockdown.
- 3.4.3 Budget was originally included for \$100,000 to design and consent a solution to the buildings weather-tightness issues, but it is now recommended that the full budget be provided for the work of \$850,000 in 2020/21.
- 3.4.4 The preferred solution has not yet been confirmed, but this budget will enable design, consent, construction of the preferred solution, and provides for a level of contingency.
- 3.5 An investigation into the exterior cladding of Millers Acre has been completed and is provided in a separate report to be considered at this meeting in confidential business (report number R26660).
- 3.6 Millers Acre is currently occupied by tenants, and Council staff have communicated regularly with the tenants on the activities to date. The tenants have been patient, although frustrated at times, with the length of time that the building has been wrapped and the ongoing construction impacts on their activities.

Item 8: Millers Acre Re-cladding Project

4. Discussion

- 4.1 The remediation process is being undertaken by Scott Construction Limited in two stages.
 - 4.1.1 Stage one included the deconstruction of the exterior coating and outer layer of polystyrene formwork to enable the structure to dry and for structural inspections to take place to agree on new cladding and to enable stage two to commence.
 - 4.1.2 Stage two includes the design and installation of a new cladding system.
- 4.2 A contractor was secured through the Early Contractor Involvement model and included early engagement with a designer (Arthouse), cladding removal, drying process and investigation, construction methodology and cost estimating, and new cladding execution.
- 4.3 The Millers Acre cladding project has now progressed to the second stage of the investigation works and new cladding definition. This has enabled the final costing to be determined and has revealed an additional budget requirement of approximately \$611,000.

Financial

- 4.4 The budget for this project was set in May 2020 and indicated an expected funding requirement of \$850,000 for a full remedial solution (design, consenting and construction). A budget of \$850,000 was approved through the 2020/21 Annual Plan process.
- 4.5 The initial project budget was set prior to engaging the designer and the contractor and was based on a high-level cost estimate base on a visual survey. The investigation that commenced after the designer and contractor were engaged identified that the water ingress was more comprehensive than what was expected from the visual inspection. The water ingress had impacted not only the cladding but also the formwork. The additional budget requirement is due to the lack of knowledge of the true extent of the water ingress at the time that the \$850,000 budget was allocated and a more intensive investigation process which resulted in a longer than expected period to dry the structure, to determine the root cause of the leaking, and the extension of the damage to the interior of the cladding system.
- 4.6 The total estimated cost to complete the project now that all the issues are identified and a new cladding system has been selected is \$1,460,000 leaving a short fall of \$610,000.
- 4.7 The cladding specification that is being detailed in the current detailed design is a Plaster Cladding System provided by Sto Plaster Systems New Zealand (Sto). Sto is a New Zealand company based in Wellington that is a leading supplier of exterior facade insulation systems and manufacturer of high-quality exterior and interior render facade systems and coatings. Sto have developed a full range of render façade systems

Item 8: Millers Acre Re-cladding Project

that have been tested and certified by BRANZ for New Zealand construction industries.

- 4.8 To date \$576,000 has been spent or committed for this project (20/21 and 21/22 financial years).
- 4.9 The reviewed budget for the project is as follows:

Item	Cost
Construction (Stage 1 - Physical Works)	\$ 556,000
Construction (Stage 2 - Physical Works)	\$ 493,000
Contingency (Physical Works) 10% for committed, 30% for estimated	\$ 232,000
Design and investigation, structural assessment and scope definition for remediation (Professional Fees)	\$ 163,000
Contingency (Professional Fees) 10%	\$ 16,000
TOTAL	\$ 1,460,000
BUDGET (LTP)	\$ 850,000
ADDITIONAL FUNDING REQUIREMENT	\$ 610,000

- 4.10 In addition to the \$610,000 required to complete the recladding and associated design corrections, it is proposed that a height safety system be installed on the roof of Millers Acre at a cost of \$15,000. This will allow working at heights access for technicians and will provide time and cost savings in the long term for the increased maintenance regime that will be required to meet the warranty conditions of the new cladding system.
- 4.11 The majority of the re-cladding work will be undertaken next financial year. Approval is sought now so that the contract with the contractor can be finalised, and the cladding can be ordered. Work this year will focus on the remedial work that will allow the cladding to be installed. It is anticipated that the re-cladding works will be completed by March 2023.

Future Works

- 4.12 To improve the area to the northern end of the ground floor, which is currently tenanted by the Department of Conservation (DOC), the recladding has presented an opportunity to add openings in the cladding to provide for larger windows and a door on the river side of the building. This improvement would result in a more attractive tenancy, and the provision for a customer entrance with linkage to the riverside walkway.

Item 8: Millers Acre Re-cladding Project

4.13 Costings and a business case for this are being worked on and will be presented to a future Subcommittee for approval. However, the re-cladding work is deemed critical and cannot wait for this work.

5. Options

5.1 The following options have been considered, and option one is the recommended option.

Option 1: Recommend to Council that additional funding for the Millers Acre recladding and height safety system be approved (\$625,000) – Preferred option.	
Advantages	<ul style="list-style-type: none"> • Millers Acre continues to provide a high-quality commercial lease option for Nelson • Cladding system and design provides for long term solution (with maintenance needs met) • Long term cost savings for increased maintenance regime with the new cladding system.
Risks and Disadvantages	<ul style="list-style-type: none"> • Unbudgeted expenditure.
Option 2: Do not recommend to Council that additional funding for the Millers Acre recladding and height safety system be approved (\$625,000).	
Advantages	<ul style="list-style-type: none"> • Additional budget may not be required, however it is unlikely that an acceptable solution to ensure that the building meets the Building Code can be delivered within budget.
Risks and Disadvantages	<ul style="list-style-type: none"> • Further delays to the recladding project • Tenants become more dissatisfied with the construction timeframes and end their tenancies. • Difficulty in replacing tenants due to low quality asset offering. • Reputational risk.

6. Next Steps

6.1 If Council approval is received, the last stage of construction can commence with the installation of the cladding and the height safety system.

6.2 Council staff will continue investigation into the additional window openings and external access to the northern ground floor space

Item 8: Millers Acre Re-cladding Project

occupied by DOC and will report back to Strategic Development and Property Subcommittee for a recommendation to Council for additional funding.

Author: **Rebecca Van Orden, Manager Property Services**

Attachments

Nil

Important considerations for decision making
1. <i>Fit with Purpose of Local Government</i> Council owns a number of buildings in strategic sites which have been purchased with future development in mind and to provide for Economic and Social outcomes.
2. Consistency with Community Outcomes and Council Policy Budget for the remediation of the cladding system has been included in Council's Long Term Plan 2021-31. Miller's Acre is considered in the Property and Facilities Activity Management Plan, with the level of service increasing to Grade 2 reflecting the strategic importance of this asset.
3. Risk The failure of the cladding system creates a financial and reputational risk for Council.
4. Financial impact The budget for this project was set at a business case provided in May 2020 which indicated an expected funding requirement of \$852,000 for a full remedial solution (design, consenting and construction). A budget of \$850,000 was approved through the 2020/21 Annual Plan process.
5. Degree of significance and level of engagement This matter is of low significance. While Millers Acre is a strategic property, it is not considered a strategic asset under schedule 2 of the Significance and Engagement Policy. The level of service at the completion of the project will not be impacted, as the building will continue to provide a quality commercial property available for lease. There is an expectation that Millers Acre will continue to generate some public interest and there is a higher level of significance for the current lease holders. Council staff will continue to communicate directly with lease holders on construction progress and to respond to specific queries from the public.
6. Climate Impact There is no direct climate impact from the consideration of this report
7. Inclusion of Māori in the decision making process No engagement with Māori has been undertaken in preparing this report.
8. Delegations

Item 8: Millers Acre Re-cladding Project

The Strategic Development and Property Subcommittee has the following delegations to consider the Millers Acre Cladding Inspection Report.

Areas of Responsibility:

- 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)

Powers to Recommend:

- All other matters within the areas of responsibility or any other matters referred to it by Council