

Bylaw and Policy Committee

AGENDA

Notice of Meeting:

A meeting of the Bylaw and Policy Committee will be held on:

Date: Tuesday 4 February 2020
Time: 9.00am
Venue: Council Chamber
137 Havelock Street, Ashburton

Membership

Chairperson	John Falloon
Deputy Chairperson	Angus McKay
Members	Rodger Letham Liz McMillan Stuart Wilson Mayor Neil Brown (ex-officio)

Bylaw and Policy Committee

Timetable	
9.00am	Meeting commences

ORDER OF BUSINESS

- 1 Apologies**
- 2 Extraordinary Business**
- 3 Declarations of Interest**

Presentation

Introduction to Bylaws and Policies (Presentation)

Reports

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31 January 2020

4 Terms of Reference – Bylaw & Policy Committee

Author *Phillipa Clark; Governance Team Leader*
GM Responsible *Hamish Riach; Chief Executive*

Summary

- The purpose of this report is to seek the Committee's consideration of the Terms of Reference for the Bylaw & Policy Committee and recommend their adoption by Council on 27 February 2020.

Recommendation

1. **That** Council adopts the Terms of Reference for the Bylaw and Policy Committee, as set out in **Appendix 1**.

Background

The current situation

1. The Bylaw & Policy Committee was established by resolution of the Council on 24 October 2019.
 2. The Bylaw & Policy Committee will develop and review Council bylaws and policies in a manner that promotes the current and future interests of the community (Local Government Act 2002). The Bylaw & Policy Committee will report to Council.
 3. The Bylaw & Policy Committee has no delegated authority to make decisions. Its role is to consider and review matters of strategy, policy or significance in its sphere of Council business.
 4. Council's Delegations Manual will be updated to reflect the changes.
 5. The Committee membership is comprised of six elected members, including the Mayor ex officio.
 6. The meeting frequency will be six weekly, or otherwise as required.
 7. The proposed Terms of Reference are set out in **Appendix 1**.
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Options analysis

Option 1

8. Adopt the terms of reference, as presented, or adopt an amended version. The advantage of having terms of reference is that they identify parameters for the Committee to work within and enable effective meeting administration.

Option 2

9. Council could choose not to adopt terms of reference. The Committee has no delegated authority and would not be prevented from undertaking its oversight role and making recommendations to Council.

Legal/policy implications

Legislation

10. The Local Government Act 2002, Schedule 7, Part 1

Clause 31 (3) sets out membership of committees and subcommittees, including

The members of a committee or subcommittee may, but need not be, elected members of the local authority, and a local authority or committee may appoint to a committee or subcommittee a person who is not a member of the local authority or committee if, in the opinion of the local authority, that person has the skills, attributes, or knowledge that will assist the work of the committee or subcommittee.

11. Council's Delegations Manual sets out the expectations of Council's standing committees:

Within its areas of jurisdiction, each Standing Committee is expected to:

- observe and pursue the goals, objectives and strategies in any strategic plan adopted by full Council
- maintain regular communications with other committees and full Council to ensure that the widest possible good is achieved for the community
- approve expenditure that exceeds delegated authority of Council officers, within the financial parameters of the Long Term Plan and Annual Plan
- ensure appropriate consultation and communication is undertaken with the community and affected stakeholders
- monitor and respond to changes in legislation governing their jurisdiction
- support Council staff to achieve programmes and projects contained in the Long Term Plan.

The Delegations Manual is currently being updated for adoption by Council on 27 February.

Financial implications

There are no financial implications associated with establishing the Committee.

Significance and engagement assessment

Requirement	Explanation
Is the matter considered significant?	No.
Level of significance	Low – not significant
Level of engagement selected	Inform.
Rationale for selecting level of engagement	This level of engagement is appropriate given the significance assessment.
Reviewed by Strategy & Policy	Not required.

Appendix one – terms of reference

Bylaw & Policy Committee Terms of Reference (draft)

Purpose

The purpose of the Bylaw and Policy Committee is to develop and review Council bylaws and policies in a manner that promotes the current and future interests of the community (Local Government Act 2002).

Membership

Membership of the Committee comprises:

- Cr John Falloon (Chair)
- Cr Angus McKay (Deputy Chair)
- Cr Rodger Letham
- Cr Liz McMillan
- Cr Stuart Wilson
- The Mayor, Neil Brown (ex-officio)

The quorum is four members.

Meeting Frequency

The Bylaw and Policy Committee will meet on a six (6) weekly cycle, or more frequently on an as-required basis as determined by the Chair and Group Manager Strategy and Compliance.

Committee members shall be given not less than 5 working days' notice of meetings.

Delegations

The Bylaw and Policy Committee has no delegated authority to make decisions. Its role is to consider all bylaws and review matters of strategy, policy or significance not covered by other standing committee's sphere of business, and (if appropriate) to make recommendations to full Council. For clarity, climate change policies will be considered by this committee.

Sphere of business

The Bylaw and Policy Committee has responsibility for the following functions where not covered by the other standing committees:

- Develop, monitor and review Council bylaws and policies
- Approve the bylaw and policy review schedules and monitor review progress
- Receive and consider information to inform bylaw or policy review
- Evaluate relevant information in an objective manner, based on the needs of the community and agree on policy provisions
- Determine and recommend the form and extent of public consultation methods as appropriate in accordance with s82 of the Local Government Act 2002, and approve consultation plans
- Recommend bylaws to Council for special consultative procedure
- Recommend draft policies, as appropriate, to Council for special consultative procedure

- Hear, consider and deliberate on submissions received under the special consultative procedure, or submissions received as part of any consultative process undertaken by Council in relation to any decision or power or recommendation within the committees terms of reference
- Recommend new or reviewed bylaws and policies to Council for adoption.

Reporting

The Bylaw and Policy Committee will report to the Council.

5. Bylaw and policy review update

Author	<i>Rachel Thomas; Policy Advisor</i>
Activity Manager	<i>Toni Durham; Strategy and Policy Manager</i>
GM Responsible	<i>Jane Donaldson; Group Manager Strategy and Compliance</i>

Summary

- The purpose of this report is to provide an update of bylaws/policies currently under review, upcoming reviews, and propose the policy projects to occur in 2020.
- The projects proposed reflects legislative and Council-driven review timeframes, officer views on community engagement, and the prioritisation and spread of work to manage within existing resources and avoid consultation fatigue.

Recommendations

- 1. That** Council receives this report.
- 2. That** Council approves the policy projects for 2020.

Background

Current situation

1. There are 43 Council policies and 16 bylaws (see Appendix One), accessible through [Council's website](#). Over the past five years, the number of bylaws and policies has reduced significantly, as many were no longer utilised or superseded by other legislation/Council documents.
2. Bylaw and policy development and review can be resource intensive and costly, in proportion to the significance of the matter under examination. This is an important driver for ensuring that policy and bylaw work meets an evidence-based need. There are two main reasons why bylaws or policies are adopted, and one or both will apply in all cases:
 - **Legislative requirement** – some acts specifically require Council maintains a bylaw or policy (e.g. dog control, revenue and financing, and significance and engagement).
 - **Identified need** - elected members, staff or the community may identify a need to maintain a bylaw or policy on a certain issue but there must be clear evidence of the need (e.g. a policy on smokefree outdoor areas has been adopted to try and change behaviour).
3. The timeframe for reviewing bylaws or policies is detailed on the bylaw or policy document. Bylaws are under statutory review timeframes, with new bylaws needing to be reviewed within five years, and ten years for pre-existing bylaws. The review timeframe for some policies is also set by legislation (i.e. the Gambling Venue Policy must be reviewed every three years under the Gambling Act 2003). For other policies, the review timeframe is recommended by officers based on the significance of the policy, and whether the policy or the content are 'new',

Community engagement 2020

4. There are several projects this year where the community will be asked for their input. Officers have considered the risk of 'consultation fatigue' (where the community become tired of hearing from Council on engagement projects), and will implement steps to ensure successful engagement.
5. Table 1 sets out the engagement projects by committee for 2020. Each committee will oversee the review for its subject area. The Bylaw and Policy Committee will oversee projects which implicate on multiple areas of Council.

Table 1 – Policy projects for 2020 by committee

Audit, Risk and Finance Committee	Bylaw and Policy Committee	Community Services Committee	Environmental Services Committee	Infrastructure Committee
<ul style="list-style-type: none"> • Appointment and Remuneration of Directors Policy • Annual Plan 2021-21 • Development and Financial Contributions Policy • Long-Term Plan pre engagement • Revenue and Financing Policy 	<ul style="list-style-type: none"> • Art Collection Management Policy • Asset Disposal Policy • Local Government Official Information Act 1987 Requests Policy • Sensitive Expenditure Policy • Procurement Policy • Walking and Cycling Strategy 	<ul style="list-style-type: none"> • Ashton Beach Donga • Ashburton Domain Development Plan • Community Grants and Funding Policy • Library Collection Management Policy 	<ul style="list-style-type: none"> • Plan Change 3 – Farmers Corner 	<ul style="list-style-type: none"> • Speed Limit Review • Stormwater Bylaw • Water Safety Plans

Long-Term Plan policies

6. The Audit, Risk and Finance Committee will make recommendations to Council on all Long-Term Plan (LTP) policies. The two major LTP policy reviews are the Revenue & Financing Policy and the Development & Financial Contributions Policy. These policies will be workshopped with the full Council prior to being presented to the Bylaw and Policy Committee.

Submissions to Government and others

7. Strategy and Policy are amongst staff who, from time-to-time, are involved in the drafting of submissions from Council to government or other organisations. Typically, Council has little control over the timing of this work, which can impede on existing work programmes.

Included in this agenda

8. This agenda includes:
 - **Asset Disposal Policy** – minor amendment and minor wording changes
 - **Local Government Official Information Act 1987 Requests Policy** – minor wording changes
 - **Procurement Policy** – minor amendment to address an internal processing issue.

On the next agenda

Community Services Committee – 12 March 2020

- **Library Collection Policy** – to be discussed with operational stakeholders. No substantive change anticipated at this point.

Bylaw and Policy Committee – 19 March 2020

- **Art Collection Management Policy** – to be discussed with operational stakeholders. No substantive change anticipated at this point.
- **Sensitive Expenditure Policy** – likely to recommend removal of this policy and development of an internal policy.

Audit, Risk and Finance Committee – 19 March 2020

- **Appointment and Remuneration of Directors of Council Organisations Policy** – likely to recommend change in procedure for the appointments committee.

- **Development and Financial Contributions Policy** – likely to recommend a narrower scope of detailed work on a draft 2021 policy after initial scoping in October and first-cut assessment since that time.
- **Revenue and Financing Policy** – update on the first principles review.

2021 review schedule

9. In 2016, several of Council's bylaws were reviewed and adopted. Bylaws are either set on a five or ten year review cycle (or may be earlier if the need arises). This means there are several bylaws due for review in 2021. The LTP 2021-31 will also be consulted on and adopted in 2021.
10. Bylaws and policies due for review in 2021 are:
 - Brothel Location Bylaw (2016)
 - Closed Circuit Television Policy (2016)
 - Dog Control Bylaw (2016)
 - Dog Control Policy (2016)
 - Elected Members' Allowances and Reimbursement Policy (2019)
 - Open Spaces Bylaw (2016)
 - Wastewater Drainage Bylaw (2016).

Options analysis

Option one – receive the report and approve the projects to be reviewed for 2020 (recommended)

11. Under this option, the report would be received and the proposed policy projects to be reviewed for 2020 would be accepted.
12. The advantage of this option is that officers have determined the priority of policy projects based on evidence of need; such as legislative review, existing timeframes set on policy documents, or identified need from officers or the community.
13. This proposes an achievable work programme for the policy and other staff involved. The disadvantage is that Council may not agree with the projects proposed.

Option two – propose alternative policy projects

14. Under this option, the report would be received but changes would be made to the policy projects scheduled for 2020. This could involve: bringing forward reviews for bylaws/policies identified as urgent, delaying reviews, and/or investigating the need for new bylaws/policies. Resource implications, as noted previously, are a driver for evidence-based reasons for changing the schedule.
15. Given the availability of finite staff resource, if Council wish to bring forward any reviews or investigate the need for a new bylaw/policy then some other work will have to be delayed or drop off the schedule to accommodate this.
16. The advantage of this option is that it allows elected members to present evidence-based rationale for urgent review of bylaws/policies.
17. The risk of this option is that the review schedule has been designed to accommodate for the work on the Long-Term Plan, and to ensure community engagement on projects is spread throughout the year. Changing the programme may put pressure on officers and the community.

Legal/policy implications

18. The review of each document will address the requirements under various Acts of Parliament. Further details will be provided in each specific report.

Financial implications

Requirement	Explanation
What is the cost?	The decision to accept this report and the policy projects proposed has no additional cost
Is there budget available in LTP / AP?	Yes
Where is the funding coming from?	This work will be completed by existing resources – Policy Advisor and Senior Policy Advisor, working alongside activity managers, stakeholders and decision-makers
Are there any future budget implications?	If Council choose to add additional items to the review schedule, there may be budget implications if work has to be outsourced.
Finance review required?	No.

Significance and engagement assessment

Requirement	Explanation
Is the matter considered significant?	No
Level of significance	Low – not significant
Level of <i>engagement</i> selected	Inform – one way communication
Rationale for selecting level of engagement	The community will be informed through publication of the minutes.
Reviewed by Strategy & Policy	Toni Durham; Strategy & Policy Manager

Next steps

19. There are no next steps for Council.

Appendix One – Council policies

Policy	Date of adoption	Review schedule	Purpose
Appointment and Remuneration of Directors of Council Organisations	2017	2022	Outlines Council's approach to appointment and remuneration of directors appointed to companies by Council.
Art Collection	2017	2020	Sets out acquisition and maintenance of Council's civic art collection.
Asset Disposal	2015	2020	Ensures disposal of Council assets achieves value for money and is conducted in an efficient, fair and transparent manner.
Backflow Prevention	2015	2020	Outlines Council's responsibility to ensure that measures are in place to mitigate the risk of backflow contamination and to provide guidance and a pragmatic approach to providing water supply backflow prevention devices within the Ashburton drinking water supply network operated by Council.
Buildings Over Pipelines	2001	-	Sets the process for Council officers to follow when processing application to build over/near pipelines that are part of asset networks managed by Council.
Climate Change	2019	2021	Intended as a guide for the actions and decisions of Council in relation to climate change.
Closed Circuit Television	2016	2021	Outlines how Council operates CCTV cameras and the use of images obtained from CCTV footage.
Communications	2019	2021	Provides guidance on the communication processes used by Council and sets standards for elected members in dealing with media enquiries.
Community Grants and Funding	2017	Under review	Details Council's approach to distributing community grants and funding.
Community Honours Awards	2019	2022	Details awards, eligibility and the nomination and selection criteria.
Council Owned or Managed Rural Reserves	2017	2022	Details the conditions for the temporary sole use of part of Council managed domains and reserves.
Customer Privacy	2017	2022	Outlines how Council collects and uses personal information in accordance with the Privacy Act 1993.
Dangerous Insanitary Buildings	2017	2022	Details Council's approach to dealing with dangerous and insanitary buildings.

Policy	Date of adoption	Review schedule	Purpose
Development and Financial Contributions	2018	Under review	Outlines the approach used for charging of costs associated with servicing new development or connections to council infrastructure.
Dog Control	2016	2021	Details requirements and conditions for dog owners.
Elderly Persons Housing	2017	Review on hold	Provides guidelines on tenant eligibility for persons wanting to live in Council-owned elderly persons housing.
Elected Members Allowance and Reimbursement	2019	2020	Sets out expense allowances for elected members.
Equal Employment Opportunities			Sets out Council's commitment to equal opportunities for employment.
External Appointments	2017	2022	Details Council's position when requested to make Council appointments to external organisations and community groups.
Fraud and Corruption	2017	2020	Provides guidance for Council officers and elected members who encounter or suspect fraud and/or corruption.
Gambling Venue Policy	2019	2022	Sets out the location and number of gaming machines permitted in Ashburton District.
Library Collection	2017	2020	Sets out the criteria to be used in selecting, maintaining and withdrawing library material.
Local Alcohol Policy	2017	2023	Sets out guidelines for Council functions regarding liquor licensing.
Local Approved Products Policy	2019	2024	Provides the Psychoactive Substances Regulatory Authority with a local policy framework when making decisions on licence applications to sell psychoactive products in Ashburton District.
Local Government Official Information and Meetings Act 1987 Requests	2017	2020	Details Council's process and charges for responding to LGOIMA requests.
Mobility Parking	2019	2024	Ensures holders of mobility permits have access to appropriate vehicle parking.
Naming	2018	2023	Provides clarity and consistency in the naming of assets vested in Council and details the process for residents to suggest names which are of significance to the local area.
Partnerships with the Private Sector	2019	2024	Details Council approach to partnerships of a business nature with the private sector.

Policy	Date of adoption	Review schedule	Purpose
Procurement	2019	Under review	Details Council's principles and approach to procurement.
Property Holdings	2017	2022	Details Council's approach to properties, including: Glasgow leases, freeholding residential leasehold land, leased industrial properties and rural leasehold land.
Protected Disclosures	-	-	Sets out Council's approach to protected disclosures as per the requirements of the Protected Disclosures Act 2000.
Rates Postponement	2018	2021	Outlines Council's requirements for postponing rates payments.
Rates Remission	2018	2021	Details Council's approach to the provision of non-commercial community services, facilities and recreational opportunities in the district by way of rates remission.
Revenue and Financing	2018	Under review	Details Council's approach to funding its operating and capital expenditure, determining who pays for Council activities and on what basis, with a view to achieving the fairest funding mix for the community as a whole.
Sensitive Expenditure	2017	Under review	Sets guidelines around sensitive expenditure.
Significance and Engagement	2017	2020	Details Council's approach to determining the significance of proposals and issues and how Council will engage with the community on decisions.
Smokefree Outdoor Areas	2019	2022	Designates certain areas of Ashburton District as smokefree.
Stockwater Race Closures - Closure Guidelines	2011	-	Identifies the issues and options for closing lengths of stockwater race or areas serviced by the race network.
Temporary Closure of Parking Spaces	2017	2022	Sets out conditions for closing restricted parking spaces for exclusive use.
Treasury Management	2018	2021	Sets out procedures and guidelines to be used to safeguard Council's investments, maximise returns and minimise its risks, both in investing and its borrowing liability.
Use of Footpath for Alfresco Dining	2017	2022	Sets out the conditions that are to be met when a business within the Ashburton District wishes to make use of the footpath area in front of their

Policy	Date of adoption	Review schedule	Purpose
			premises to allow patrons to dine with or without alcohol.
Use of Pole Mounted Banners	2014	2019	Sets out the conditions for the attachment of display banners on streetlight poles.
Use of Sports Fields	2018	2020	Ensures a consistent approach is undertaken with regard to the management, development and maintenance of Council owned or managed sports fields and domains.

Council bylaws

Title	Date of adoption	Review schedule	Purpose
Advertising	2017	2027	Ensures that advertising signs are erected, maintained, and displayed in such a manner that they do not create a nuisance, cause offence or present a hazard or a danger to public safety.
Alcohol Control	2018	2023	Reduces the potential for alcohol-related offensive behaviour and harm, damage, disorder and crime.
Brothel Location	2016	2021	Regulates the location of brothels and minimise the potential and/or perceived community harm or offence.
Cemeteries	2017	2027	Protects the public from nuisance and to protect, promote and maintain health and safety regulating the use of cemeteries in Ashburton District.
Dog Control	2016	2021	Sets standards of control which must be observed by dog owners, covering matters such as dogs in public places, wandering dogs, ownership of three or more dogs and nuisances caused by dogs.
Explanatory	2016	2026	Provides a set of provisions which are common to and form part of, all Council Bylaws.
Keeping of Animals, Bees and Poultry	2016	2026	Outlines requirements for the keeping of animals, bees and poultry. The requirements are deemed necessary for the protection of neighbouring property owners.
Mobile Shops, Stalls and Hawkers	2016	2026	Regulates trading in public places in order to protect the public from nuisance and to protect, promote and maintain public health and safety.
Open Spaces	2016	2021	Protects Council's open spaces from damage or misuse and to allow for their effective management for the benefit and enjoyment of all users.

Title	Date of adoption	Review schedule	Purpose
Public Places	2018	2028	Ensures public places are used in a manner that will not cause obstruction, protects the public from nuisance, and maintains public health and safety.
Solid Waste	2018	2023	Sets conditions that ensure waste is collected and disposed of in a manner that protects the health and safety of the public and the Council's employees and contractors.
Trade Wastes	2013	2023	Controls and monitors trade waste discharges into public sewers to protect the public from nuisance, protect the environment and ensure compliance with discharge consent conditions.
Transportation and Parking	2015	2024	Sets controls for parking, all types of traffic and the use of the transportation network within Ashburton District, other than State Highways controlled by the New Zealand Transport Agency.
Wastewater Drainage	2016	2021	Controls and monitors trade waste discharges into public sewers.
Water Races	2019	2024	Defines Council's requirements for the protection of water races and maintenance of water quality.
Water Supply	2016	2026	Manages and protects Council's water supply systems from misuse or damage and to protect the public from nuisance.

6. Procurement Policy – minor amendment

Author	<i>Rachel Thomas; Policy Advisor</i>
Activity Manager	<i>Toni Durham; Strategy and Policy Manager</i>
GM Responsible	<i>Paul Brake; Group Manager Business Support</i> <i>Jane Donaldson; Group Manager Strategy and Compliance</i>

Summary

- The purpose of this report is to propose a minor amendment to the Procurement Policy.
- This amendment is required to address an internal process-related matter where the Chief Executive is required to approve *all* procurement exceptions, regardless of the value of the procurement.
- The Chief Executive and the Projects and Operations Manager requested this change to ensure efficiency.
- Officers recommend the policy is amended to only require Chief Executive approval for any procurement exceptions over \$75,000.

Recommendation

- 1. That** Council adopts the revised Procurement Policy.

Background

Current situation

1. Council's Procurement Policy recently underwent an in-depth review, and was adopted on 26 September 2019.
2. Since the policy was adopted, an internal process issue has been identified related to procurement exceptions. Under the current policy, the Chief Executive must approve each procurement, regardless of the procurement value, where the requirements in the policy are not met.
3. These requirements vary on the value of the procurement, as below:

Expenditure type	Purchase amount	Requirement
a) Minor	Less than \$10,000	Verbal or written estimates
b) Moderate	\$10,000 - \$74,999	Three written quotes or estimates
c) High	\$75,000 +	Open request for tender

4. The policy states the exceptions which must always be approved by the Chief Executive are as follows:

Circumstances for all types of expenditure where an exception may be granted:

- *The services required are specialist technical or professional services;*
- *Council is part of a joint procurement process;*
- *No acceptable responses were received through open competition for the same core requirements, carried out within the last 12 months;*
- *The products, services or works are an addition to, and necessary for the complete delivery of an existing supply arrangement, provided that the original supply arrangement was openly advertised and a change of supplier cannot be made for economic, technical or practical reasons*
- *The overall rates offered are the same or lower than that received through open competition for the same core requirements, carried out within the last 12 months.*

Additional circumstances for moderate expenditure:

- *The required goods or services are available from only one supplier or provider;*

- *Standardisation or compatibility with existing equipment or services is necessary or desirable.*

Additional circumstances for high expenditure:

- *The goods or service are only available from a few suppliers;*
 - *It is not practical or cost-effective to conduct an open tender or proposal;*
 - *There is limited time for the procurement process.*
5. The Projects and Operations Manager reports there are around 10-20 instances per year where an exception to the policy may be required. These purchases are normally related to service delivery items where only one supplier exists.
 6. Officers recommend the requirement for Chief Executive approval is removed for procurement under \$75,000. This means the onus will be on officers through the approval process to ensure procurement exceptions are only utilised where required. Under the new Procure 2 Pay system which was rolled out internally late 2019, management approval is required for all purchases prior to their receipt.
 7. Council will still maintain the authority to approve procurement exceptions above the Chief Executive's delegated limit of \$1.5 million.

Options analysis

Option one – adopt the revised Procurement Policy (recommended)

8. This amendment is required to address an internal process-related matter where the Chief Executive is required to approve all procurement exceptions.
9. Under this option, the following changes would be made to the 'exceptions' section of this policy:
 - Adding in a sentence to state: 'Council acknowledges there may be exceptional circumstances where the conditions in this policy cannot be met'
 - Removing the requirement for Chief Executive approval for minor or moderate procurement (i.e. up to \$74,999), and requiring Chief Executive approval for procurement \$75,000 and above.
10. The advantages of this option are:
 - ensures efficiency for officers seeking exceptions and for the Chief Executive – saving time and resources; and
 - there are sufficient controls to approve procurement purchases in place through the new Procure 2 Pay system (through the individual delegations of officers in the Delegations Manual and the requirement for manager to approve purchases prior to their receipt).

11. The disadvantages of this option are minimal; however there is a risk staff will use the exceptions as a means to avoid obtaining quotes. However, under the Procure 2 Pay when managers approve purchases they must check the details of the procurement (including the number of quotes obtained).

Option two – do not adopt the revised Procurement Policy (recommended)

12. Under this option, the existing process for exemptions would remain. This means the Chief Executive approval would be needed an exception is required. This could be a significant amount of work when considering the number of goods purchased by Council where there is only one supplier. The estimate from one staff member for their purchases alone is 10-20 per year therefore organisation-wide there could be anywhere from 50-100 exceptions required.
13. The only advantage of this option is the certainty that all procurement exceptions will be provided given they will have received the highest level of internal approval (Chief Executive). However, the disadvantages of this option outweigh this advantages.

Legal/policy implications

Local Government Act 2002

14. Council is required to act within the provisions of the Local Government Act when procuring services. Section 101 of the Local Government Act 2002 (Financial Management) requires a local authority to manage its revenues, expenses, assets, liabilities, investments, and general financial dealings prudently and in a manner that promotes the current and future interests of the community. A robust procurement policy is essential in being able to demonstrate that expenditure is made prudently and that the expenditure meets the needs of the current and future interests of the community.

Financial implications

Requirement	Explanation
What is the cost?	There is no cost to adopt or implement this policy
Is there budget available in LTP / AP?	Budget is not required
Where is the funding coming from?	Funding is not required
Are there any future budget implications?	No
Finance review required?	No

Significance and engagement assessment

Requirement	Explanation
Is the matter considered significant?	No
Level of significance	Low
Level of engagement selected	1. Inform – one way communication
Rationale for selecting level of engagement	The rationale for selecting the ‘inform’ level of engagement is that community input is not required given the change relates to internal business practice
Reviewed by Strategy & Policy	Toni Durham; Strategy & Policy Manager

Next steps

Date	Action / milestone	Comments
27 February 2020	Council approve policy	The policy will be in force from the date of adoption

Appendix one – draft policy

Refer to 7(d) Procurement Exceptions.

Policy

PROCUREMENT POLICY

TEAM:	Finance
RESPONSIBILITY:	Group Manager – Business Support
ADOPTED:	26 September 2019
REVIEW:	Every three years, or as required
CONSULTATION:	Internal consultation undertaken
RELATED DOCUMENTS:	Council documents:

Ashburton District Civil Defence Plan, Climate Change Policy, Conflicts of Interest Policy, Delegations Manual, Economic Development Strategy and Action Plan, Fraud and Corruption Policy, Health & Safety Approved Contractor Booklet, Long-Term Plan 2018-28, Sensitive Expenditure Policy, Significance and Engagement Policy, Transportation Procurement Strategy.

Relevant legislation includes but is not limited to:

Building Act 2004, Construction Contracts Amendment Act 2015, Consumer Guarantees Act 1993, Commerce Act 1986, Fair Trading Act 1986, Contract and Commercial Law Act 2017, Health and Safety at Work Act 2015, Human Rights ACT 1993, Public Finance Act 1989, Financial Reporting Act 2013, Privacy Act 1993, Official Information Act 1982, Land Transport Management Act 2005, Local Government Act 2002, Local Government Official Information and Meetings Act 1987, Resource Management Act 1991, Public Audit Act 2001, Public Records Act 2005.

Central Government guidelines, include but are not limited to:

Ministry of Business, Innovation and Employment, [Government Procurement Rules](#), 4th edition, June 2019

Ministry of Economic Development, [Guide 4 to Sustainable Procurement](#), July 2010

Ministry of Economic Development, [Mastering Procurement](#), March 2011

Office of the Auditor General, June 2007, [Managing Conflicts of Interest: Guidance for Public Entities](#)

Office of the Auditor General, June 2008, [Procurement guidance for public entities](#)

Office of the Auditor General, October 2010, [Guidance for members of local authorities about the local authorities \(Members' Interests\) Act 1968](#)

Policy Objectives

This policy provides a framework to apply a consistent procurement practice across all activities, in alignment with the Council's vision, strategic priorities and community outcomes. The objectives of this policy are to:

1. Ensure purchasing decisions are consistent, transparent, fair and lawful
2. Deliver procurement outcomes that promote the social, economic, environmental, and cultural well-being of the Ashburton District community in the present and for the future
3. Ensure products, services and works are fit for purpose and are procured using commercially astute and appropriate processes.

Specifically, this policy aims to:

- Promote transparency in how the Council manages procurement
- Ensure procurement practices are consistent with legislation and the approach of central government
- Provide a framework for common understanding of Council procurement practices for potential suppliers.

Council staff should read this policy in conjunction with the internal Procurement Guidelines.

Definitions

Business case is a management tool that supports decision-making when undertaking a new project, or procuring a product or service. A business case will include background information, the expected benefits of the project, options considered, expected costs, resources required and an analysis of potential risks. The requirement for submitting a business case is usually met by Long-Term Plan or Annual Plan budget processes, or Council or committee reporting.

Council means Ashburton District Council, or a duly authorised Council officer.

Emergency procurement means procurement required as part of the response to a sudden unforeseen event, where life, health, property or equipment is at immediate risk, or in order to maintain Council's service delivery to the community.

Procurement is all of the business processes associated with purchasing, from the identification of needs to the end of a contract or the end of the useful life and subsequent disposal of an asset.¹ Procurement starts with identifying a need and planning how to proceed. It includes the specification and sourcing of products or services, negotiation and contracting, the management of supply arrangements, and it finishes with the disposal of products or when the service contracts or agreements come to an end.

Public value means the best available result for Ashburton District for the money spent. It includes using resources effectively, economically and responsibly, and taking into account the procurement's contribution to the desired result for current and future generations, including:

- Council's strategic priorities and community outcomes
- The four well-beings of social, economic, environmental and cultural significance

¹ Based on the definition provided by the Office of the Auditor General; Procurement Guidance for Public Entities - Good Practice Guide, published June 2008.

- The total costs and benefits of a procurement (i.e. total cost of ownership).

Promoting public value does not mean selecting the lowest price but rather the best possible outcome for the whole-of-life of the goods, services or works.

Sustainable procurement is procurement that meets Council's organisational objectives while having a positive impact on public value, i.e. improving social, economic, environmental, and cultural well-being.

Policy Principles

Council follows the 'Five Principles of Government Procurement' which are included in the Government Procurement Rules, 4th edition. These are detailed as the following principles 1-5. Council has chosen to add a sixth principle related to sustainability. This principle establishes Council's commitment to ensuring social, economic, environmental and cultural interests and outcomes are considered.

In making decisions on procurement, Council will consider these principles, along-side other decision-making considerations:

1. Plan and manage for great results

- Manage resources in an effective and efficient manner
- Promote efficient purchasing practices and minimise procurement costs
- Appropriately manage risks associated with procurement processes.

2. Be fair to all suppliers

- Ensure procurement processes are free from bias and real and/or perceived conflicts of interest
- Promote fair and transparent competition between capable suppliers.

3. Get the right supplier

- Provide accurate and relevant information to potential suppliers
- Build demanding but fair and productive relationships with suppliers.

4. Get the best deal for everyone

- Deliver best public value over the whole life of the goods, service or asset
- Ensure decisions are balanced and consider the social, economic, environmental, and cultural outcomes for the community.

5. Play by the rules

- Establish clear processes for identifying methods of evaluation and ensure these are followed
- Ensure purchases are made in an open, fair, transparent and accountable manner
- Identify and manage conflicts of interest.

6. Be sustainable

- Promote Council's commitment to achieving public value
- Consider minimising environmental impacts over the whole life of the goods/services/works
- Require suppliers to adhere to social responsibility practices, including legislative obligations to their employees.

Background

The provision of products, services and works by Council suppliers is essential for the delivery of infrastructure and services to the community. An effective procurement function can make a significant contribution to the following Council community outcomes:

- A balanced and sustainable environment
- A prosperous economy based on innovation and opportunity.

Council's approach to procurement is to firstly consider the principles set out in this policy. These principles align with the Government Procurement Rules, 4th edition. Council will ensure that where possible procurement processes consider the social, economic, environmental, and cultural well-being of current and future communities. Considering these well-being's in procurement contributes to the achievement of Council's community outcomes and strategic priorities. Generally, procurements that are more significant will lead to a greater consideration of the four well-being's.

Council acknowledges procurement processes should adapt to the changing needs of the Ashburton District, and of society as a whole. This policy is a high-level principles based document which provides flexibility to adjust procurement processes to changing needs.

Policy Statement

1. Scope

This policy applies to all supply arrangements of any value for products, services or works, procured by or on behalf of Council.

This policy does not apply to the following activities:

- The employment of staff (excluding the engagement of contractors and consultants to supply services);
- The acquisition or lease of land or buildings (excluding the design, construction or refurbishment of buildings);
- Disposals and sales of Council assets;
- Investments, loans, guarantees, or other financial instruments;
- Gifts, donations and grants;
- Licences and agreements regarding commercial operations carried out by third parties (traders) on Council property;
- Non-contractual agreements between public sector agencies, such as memorandums of understanding; and,
- Statutory or ministerial appointments.

2. Procurement planning

Council will ensure that procurement processes are well conceived and implemented, the right people are involved at the right time, and risks are identified and managed.

Council recognises that poor procurement planning can compromise the efficiency and effectiveness of its procurement process and this typically impacts both Council and suppliers.

Council will ensure that adequate preparation is made prior to market engagement to ensure that its requirements and procurement processes are clear, and that expenditure is budgeted in the applicable Annual Plan or Long-Term Plans. The extent and nature of procurement planning will be proportionate to the total value, complexity and risks associated with the procurement.

Purchases should only be made when there is an approved budget, and if the purchase is within delegated financial authority. Any major alterations to the purpose of a budget must be considered by Council.

3. Public value

Council will seek to achieve public value benefits across procurement processes. Resources will be used effectively, economically and responsibly. Procurement assessments will not default to the cheapest solution at the cost of promoting social, economic, environmental, and cultural outcomes.

Public value may be achieved by:

- Considering the contribution the goods, services or works make to achieving Council's community outcomes, and strategic priorities
- Considering all costs and benefits over the lifetime of the goods or service
- Looking for new and innovative solutions
- Seeking opportunities to promote local value
- Engaging with businesses with good employment practices
- Considering whole of life costs
- Assessing warranties and ongoing maintenance requirements

4. Local value

Council will seek to achieve local value benefits through its procurement activity. Local value benefits in procurement processes are where there is a value in community well-being of Ashburton District residents.

Typical examples of local value benefits are local employment, the utilisation of local resources, or local economic development.

Local outcomes may be achieved through:

- Creating opportunities for local businesses to participate. However, these opportunities will not preclude other suppliers
- Considering potential commercial and practical advantages in purchasing locally produced products and services
- Considering local outcomes when planning major procurement activities, packaging work for contracts, developing specifications and defining selection criteria.

Council staff are required to obtain at least one quote from a local supplier for all verbal and written quotes, and closed tenders. This applies when there is at least one known local supplier who offers the good or service required.

5. Sustainability

Council is committed to sustainability, striving to ensure procurement processes achieve the best public value. Embedding sustainability principles into Council's procurement framework will assist Council to procure goods, services and works that provide social, economic, and cultural benefits, and minimise damage to the environment.

Sustainability will be considered at every stage in the procurement lifecycle, starting with planning and specifying requirements, then in market engagement, selection of products and/or suppliers, and contracting with suppliers. The weight given to the sustainability criterion will be assessed on the needs of the individual project.

Sustainability objectives for procurement may include:

- Protecting human health
- Promoting fair working conditions
- Achieving local value
- Reducing soil, water and air pollution
- Reducing energy consumption and mitigating climate change
- Reducing water consumption
- Reducing materials, packaging and waste
- Protecting habitats and biodiversity.

6. Whole of life costs

Where practicable, Council shall take into account the whole of life costs rather than just the initial “up-front” cost. Typically this involves consideration of the cost of the initial purchase, plus implementation/transition, support and maintenance, operations, and end-of-life/disposal. From time to time, other costs and benefits may also be relevant in the selection decision.

7. Procurement types

A summary of the types of procurement is provided below:

Expenditure type	Purchase amount	Suggested procurement method
a) Minor	Less than \$10,000	Verbal or written estimates Direct purchase in certain circumstances Petty cash can be used for incidental purchases
b) Moderate	\$10,000 - \$74,999	Written quotes or estimates Direct purchase in certain circumstances
c) High	\$75,000 +	Open tender Closed tender in certain circumstances
d) Exceptions	Any	Closed tender or alternative methods Direct purchase in certain circumstances

a) Minor expenditure – less than \$10,000

Council may use verbal quotes or estimates when the transaction value is less than \$10,000. Council may purchase directly from a supplier for minor expenditure when the cost of seeking quotes or tenders would be impractical, or disproportionate to the benefits obtained.

b) Moderate expenditure - \$10,000 - \$74,999

Written quotes or estimates will be obtained for expenditure above \$10,000 but below \$75,000. Three quotes will be sourced with identical specifications and work scope.

c) High expenditure - \$75,000 or above or deemed ‘significant’ (Significance & Engagement Policy) or ‘high risk’

High expenditure is high value expenditure, or where the procurement of a goods, service or works is deemed 'significant' under Council's Significance and Engagement Policy or 'high risk' (refer to Council's Corporate Risk Policy).

Generally, high expenditure is where the value of goods or works proposed to be purchased exceeds \$75,000. An open request for tenders will be issued (unless the exceptions set out in this policy apply), which contains all of the information that suppliers need to prepare and submit a tender.

A detailed description of the goods or services being procured, key timeframes, required service levels, the procurement method and evaluation process will be available. If evaluation criteria are being used, an indication of the relative importance of each criterion will also be provided.

d) Exceptions

Council acknowledges there may be exceptional circumstances where the conditions in this policy cannot be met.

~~A closed tender process (where a pre-qualified list of suppliers is invited to provide a tender) or alternative procurement methods (such as purchasing directly from the supplier or extending a contract) may be used where the Chief Executive, subject to the following circumstances, has granted approval:~~

Circumstances for all types of expenditure where ~~an exception may be granted:~~alternative procurement methods may be used:

1. The services required are specialist technical or professional services;
2. Council is part of a joint procurement process;
3. No acceptable responses were received through open competition for the same core requirements, carried out within the last 12 months;
4. The products, services or works are an addition to, and necessary for the complete delivery of an existing supply arrangement, provided that the original supply arrangement was openly advertised and a change of supplier cannot be made for economic, technical or practical reasons
5. The overall rates offered are the same or lower than that received through open competition for the same core requirements, carried out within the last 12 months.

Additional circumstances for moderate expenditure:

6. The required goods or services are available from only one supplier or provider;
7. Standardisation or compatibility with existing equipment or services is necessary or desirable.

Additional circumstances for high expenditure:

8. The goods or service are only available from a few suppliers;
9. It is not practical or cost-effective to conduct an open tender or proposal;
10. There is limited time for the procurement process.

~~A closed tender process (where a pre-qualified list of suppliers is invited to provide a tender) or alternative procurement methods (such as purchasing directly from the supplier or extending a contract) may be used where the Chief Executive, subject to the following circumstances, has granted approval:~~The Chief Executive must approve any procurement exceptions where the value of the procurement is \$75,000 or above (high expenditure).

~~The Chief Executive must approve procurement exceptions.~~ Council must approve procurement exceptions valued above the Chief Executive's delegated authority as detailed in the Delegations Manual.

8. Procurement methods

e) Multi-stage procurement

Council may use an Expression of Interest (EOI) to shortlist potential suppliers before seeking detailed bids from the shortlisted tenderers. An EOI is generally used when the information required from tenderers is specific but Council is unsure of the capability of suppliers to provide the required goods and services.

A Request for Proposal may be used for a single or a multi-staged process and is used when the project or requirement has been defined, but where an innovative or flexible solution is sought.

f) Emergency procurement

In an emergency situation, it may be necessary to bypass some aspects of the normal procurement process. Circumstances that mandate emergency procurement will normally only be when:

- Life, property or equipment is immediately at risk; or,
- Standards of public health, welfare or safety need to be re-established without delay (such as disaster recovery).

Emergency procurement provisions will only be used in genuinely unforeseen circumstances. The Chief Executive will determine circumstances where emergency procurement is required.

g) Collective arrangements

Council may participate in collective buying schemes that offer public value, such as all of Government supply contracts. In these circumstances, competitive procurement is undertaken by the group as a collective.

h) Standing arrangements

Standing arrangements are procurement agreements where Council purchases goods or services directly from a provider for a fixed period of time. These can be either direct or established through open tendering. Council may set up standing arrangements after a competitive or negotiated process.

9. Late responses

Late tenders or quotations will not be accepted, unless there are exceptional circumstances that have been provided for in the original request for quote, tender or proposal. Late responses must not be accepted if the supplier may have knowledge of the content of any other response or if it would be unfair to any other supplier to accept the late response.

10. Suppliers

a) Prequalified suppliers

Council may assess suppliers of particular goods and/or services against predetermined criteria with no specific contract in mind. An example of this is Council's 'Approved Contractors' process which set health and safety minimum standards for contractors who wish to provide services to Council.

Pre-qualification does not form a contractual or legal relationship between Council and any supplier. While preliminary standard criteria may have been met, suppliers may still be required to meet other evaluation and performance criteria as part of any specific procurement processes.

b) Notifying unsuccessful suppliers

Unsuccessful tenderers for all moderate or high procurement will be notified as soon as practicable once a supplier has been selected.

Further information about the successful bid will be provided upon request, subject to the Council's Local Government Official Information and Meetings Act 1987 Requests Policy.

11. Contract requirements

Any contractual relationship undertaken by Council must meet industry standards, guidelines and best practice, as well as any applicable third party requirements. In the interest of achieving public value, Council expects suppliers to:

- Respect ethical standards in the context of their own working environment
- Respect fundamental human rights
- Treat employees fairly
- Act with integrity and transparency
- Maintain a safe working environment at all times
- Respect the intellectual property rights of others
- Consider the wider implications of their actions in terms of the four well-being's detailed in the Local Government Act 2002 (s.10).

12. Contract extensions, variations and renewals

When the additional costs of a service or project are small in comparison to the costs of undertaking a discrete tender process, a contract extension or variation may be used.

When extension and variations are not specifically provided for within an existing contract, the extension or re-definition of a contract that increases the originally approved contract value must be approved by the Chief Executive. When the additional sum is beyond the delegated authority of the Chief Executive, the contract must be presented to Council for approval.

The refining of service delivery contracts to more closely reflect the amount of work required to maintain services does not need to be openly tendered, but can be managed directly by the appropriate Council officer.

7. *Review of Local Government Official Information and Meetings Act 1987 Requests Policy*

Author	<i>Richard Mabon; Senior Policy Advisor</i>
Activity Manager	<i>Toni Durham; Strategy & Policy Manager</i>
GM Responsible	<i>Jane Donaldson; Group Manager Strategy & Compliance Manager</i>

Summary

- The purpose of this report is to review the Local Government Official Information and Meetings Act 1987 Requests Policy.
- The policy remains sound and requires little in the way of updating.
- The enclosed Policy (Appendix One) contains highlighting and tracked changes to show where the Policy is proposed to change.
- The main change substitutes references to “unreasonable conduct” (an expression that does not appear in the Act) with reference to “frivolous, vexatious or trivial requests” which does appear in the Act.
- Council has applied CPI adjustment to the fees set out in the Ministry of Justice Guidelines. The Guidelines have not been reviewed since 2002. Council’s fee is \$41 per half hour (including GST) compared with \$38 per half hour in the Guidelines.
- The policy recommends that an updated policy be recommended to Council for adoption without consultation, due to the minor nature of the changes.

Recommendation

- 1. That** Council adopt the revised Local Government Official Information and Meetings Act 1987 Requests Policy enclosed as Appendix One.

Background

Previous Council Decisions

1. This policy was last reviewed in 2017 with a three year review period.

Interested and Affected Parties

2. The initial audience is Council managers responsible for responding to requests for official information.
3. The secondary audience is people who make requests for official information.

Improvement Opportunities

4. The policy remains fit for purpose. The letter of the policy, and the spirit in which it is administered are consistent with the guidelines of the Office of the Ombudsman and the Ministry of Justice charging guidelines.
5. The current policy refers to dealing with unreasonable conduct. This term does not appear in the legislation. Council has no powers to refuse a request on grounds of unreasonable conduct. S.17 of the Act allows Council to refuse requests for a variety of reasons, including (S.17(h)) the power to refuse vexatious, frivolous or trivial requests.
6. The policy has been amended to note the specific statutory language.

Options analysis

Option One – Amend the Policy

7. Under this option, Council would be making the changes to the LGOIMA Requests Policy set out in this report.
8. The changes provide stronger linkages to the Act in regard to “unreasonable conduct”. There are no disadvantages with this option.

Option Two – Rollover the Policy

9. Under this Option, Council would make only essential updates to the Policy.
10. This option is workable, but does not improve the linkages to the Act and may create an impression that Council has more powers to refuse a request than the law actually allows.

Legal/policy implications

11. These have been discussed under Options analysis

Financial implications

12. The policy can be implemented within operating budgets. No additional funding is proposed.

Requirement	Explanation
What is the cost?	Cost of this policy is the time spent in administering the policy and in responding to requests.
Is there budget available in LTP / AP?	Staff time funded in operating budgets
Where is the funding coming from?	Staff time is budgeted within operating budgets, and funded according to the activity revenue and financing policy.
Are there any future budget implications?	No. This is an established policy and activity.
Finance review required?	Not required.

Significance and engagement assessment

13. This matter has been assessed as having low significance.
14. From that assessment, community engagement on the policy will include normal communications around an agenda item for a committee meeting and a recommendation to a Council meeting. The administrative nature of much of the policy content and the limited changes proposed are such that the costs of wider consultation may well outweigh the benefits.
15. The range of options considered and the level of analysis is appropriate for a matter of this significance.

Requirement	Explanation
Is the matter considered significant?	No
Level of significance	Low
Level of <i>engagement</i> selected	Level 1 – Inform.
Rationale for selecting level of engagement	The policy has previously been consulted upon. There are no substantive changes to the purpose of the policy.
Reviewed by Strategy & Policy	Toni Durham, Strategy and Policy Manager

Next steps

- Recommendations from the Bylaw and Policy Committee will be considered by Council at its meeting on 27 February 2020.

Appendix one – draft policy

Policy

LOCAL GOVERNMENT OFFICIAL INFORMATION AND MEETINGS ACT 1987 REQUESTS

TEAM:	Customer Services
RESPONSIBILITY:	Customer Services
ADOPTED:	27 February 2020 (to be confirmed)
REVIEW:	Every 3 years or as required
CONSULTATION:	Consultation undertaken as per s82, Local Government Act 2002
RELATED DOCUMENTS:	Local Government Act 2002, Local Government Official Information and Meetings Act 1987, Privacy Act 1993, Ashburton District Council Schedule of Fees and Charges.

Policy Objective

1. To enable Council to respond to requests for official information under LGOIMA without incurring undue financial impacts on the organisation.
2. To provide clear guidance for requesters of information and Council staff regarding what information will be charged for.

Background

The Local Government Official Information and Meetings Act 1987 (LGOIMA) aims to make official information held by local authorities more freely available.

LGOIMA looks to promote:

- effective participation by the public in actions and decisions of the local authority;
- the open and public transaction of business of the Council; and
- accountability of elected members and Council Officers.

There are protections from disclosure. Reasons to refuse a request are set out in Section 17 of the Act.

If the reply to a request for information is likely to take a significant amount of time to research, collate and copy, the Ashburton District Council is allowed under LGOIMA, to charge for the provision of the information.

Council may work with an applicant to narrow the scope of their request to reduce the time involved in dealing with it.

Policy Statement

1. Official Information Response – Non-chargeable

- 1.1 When fulfilling requests for official information the following will be provided free of charge:
- The first one hour of staff time spent on fulfilling an official information request;
 - The first twenty single side pages of black and white photocopying or printing.

2. Official Information Response - Chargeable

- 2.1 When fulfilling requests for official information the following will be provided and charged for:
- Staff time taken to gather and provide information in excess of one hour.
 - Photocopying or printing in excess of the first twenty single side pages of black and white photocopying or printing.
- 2.2 This will be charged at a rate set in the Council's schedule of Fees and Charges contained in either the Council's Annual Plan or Long Term Plan.
- 2.3 All other charges incurred shall be fixed at an amount that recovers the actual costs involved. This includes:
- producing a document by computer or other like equipment,
 - colour photocopies,
 - reproducing a photograph, film, video or audio recording,
 - arranging for the requestor to hear or view an audio or visual recording, or
 - providing a copy of any maps, plans or similar documents.
- 2.4 The rates charged are as outlined in the Ministry of Justice Guidelines and may be amended in Council's schedule of Fees and Charges to reflect any changes in Ministry Guidelines.

3. Implementation of Charges

- 3.1 The requester will be advised of the estimated cost of their request (if any) as soon as practicable following Council receiving the request. The requester then has the option of proceeding, withdrawing or refining their request.
- 3.2 In accordance with section 13(4) of LGOIMA, Council may require that whole or part of any charge be paid in advance. A deposit will only be requested when the decision has been made to release the information.
- 3.3 Requestors are able to make a complaint to the Office of the Ombudsman in regards to the proposed charge.
- 3.4 The requester will be invoiced for any charges to be paid (net of any deposit already paid) at the time the information is provided and is subject to Council's normal invoicing procedures.
- 3.5 Charges may be waived in whole or in part at the discretion of the Chief Executive Officer. This will generally be in a situation where there is an agreed public interest in the disclosure of the information requested.

4. Managing frivolous, vexatious or trivial requests

- 4.1 Council acknowledges that while most LGOIMA requests are reasonable, there are circumstances where unreasonable conduct will occur.
- 4.2 Council may refuse a request for information under section 17 of the Act where the request is frivolous or vexatious or that the information requested is trivial.
- 4.3 Where a Council officer feels that a request is frivolous, vexatious or trivial, the matter will be escalated to the Chief Executive Officer.

8. *Review of Assets Disposal Policy*

Author	<i>Richard Mabon; Senior Policy Advisor</i>
Activity Manager	<i>Toni Durham; Strategy & Policy Manager</i>
GM Responsible	<i>Paul Brake; GM Business Support</i> <i>Jane Donaldson; GM Strategy & Compliance</i>

Summary

- The purpose of this report is to review the Assets Disposal Policy.
- The policy is basically sound. It requires some updating, and would benefit from plainer English and clarification of processes. The policy review highlighted a small gap in the Delegations Register which is proposed to be closed in the new Delegations Register.
- The enclosed Policy (Appendix One) contains highlighting and tracked changes to show where the Policy is proposed to change.
- Most changes provide for more plain English in the Policy, such as greater use of the active voice, and replacing phrases like “in accordance with” with plain English alternatives.
- Other changes update the Policy for changes to terminology and policies since 2015. For example, the Procurement Policy has replaced the former Plant Purchasing Policy.
- The closest thing to substantive changes to the Policy itself are changes that:
 - direct that some actions are mandatory, not optional, like establishing the value of an asset
 - require managers to take reasonable steps to determine whether the asset can be used elsewhere inside the organisation
 - ensure that the Finance Manager is responsible for updating the asset register
- The policy recommends that an amended policy be recommended to Council for adoption.

Recommendation

1. **That** Council adopt the revised Asset Disposal Policy enclosed as Appendix One.

Background

Previous Council Decisions

1. This policy was last reviewed in 2015 with a five year review period.

Interested and Affected Parties

2. The initial audience is Council managers responsible for asset disposal, transfer or write-off.
3. The secondary audience is the general public and ratepayers, who may be interested in obtaining assets, and also have an interest in the efficient and prudent use of public money and resources.

Improvement Opportunities

4. The policy remains fit for purpose. There are opportunities to update for changes to other policies and terminology over the past five years. There is also an opportunity to make the document easier to read with more use of plain English.
5. There are one or two examples in the policy where it suggests good practice rather than making an explicit requirement. This recognises that efficient disposal of some assets of low value requires sensible judgements about compliance. It is proposed to clarify the policy by stating that these actions are mandatory, but need to be proportionate to the likely value of the asset.

Options analysis

Option One – Amend the Policy

6. Under this option, Council would be making the changes to the Asset Disposal Policy set out in this report.
7. The changes add clarity about what is expected of Managers and make the Policy more accessible through more use of plain English. There are no disadvantages with this option.

Option Two – Rollover the Policy

8. Under this Option, Council would make only essential updates to the Policy.
9. This option is workable, but does not bring the advantages of added clarity and accessibility contained in Option One.

Legal/policy implications

Local Government Act 2002

10. There is no statutory requirement for an Asset Disposal Policy.
11. Delegations must comply with the Local Government Act 2002. Decisions made without correct delegated authorities can be overturned by judicial review. This is a legal risk, a financial risk and a reputational risk.

Financial implications

12. The policy can be implemented within operating budgets. No additional funding is proposed.

Requirement	Explanation
What is the cost?	Cost of this policy is the time spent in administering the policy and in the disposal of assets.
Is there budget available in LTP / AP?	Staff time funded in operating budgets
Where is the funding coming from?	Staff time is budgeted within operating budgets, and funded according to the activity revenue and financing policy. Asset disposal is funded within the separate activities.
Are there any future budget implications?	No. This is an established policy and activity.
Finance review required?	Not required.

Significance and engagement assessment

13. This matter has been assessed as having low significance.
14. From that assessment, community engagement on the policy will include normal communications around an agenda item for a committee meeting and a recommendation to a Council meeting. The administrative nature of much of the policy content and the limited changes proposed are likely to minimise any benefit from greater community engagement.
15. The range of options considered and the level of analysis is appropriate for a matter of this significance.

Requirement	Explanation
Is the matter considered significant?	No
Level of significance	Low
Level of engagement selected	Level 1 – Inform.
Rationale for selecting level of engagement	The policy has previously been consulted upon. There are no substantive changes to the purpose of the policy.
Reviewed by Strategy & Policy	Toni Durham, Strategy and Policy Manager

Next steps

16. Recommendations from the Bylaws and Policy Committee will be considered by Council at its meeting on 27 February 2020.

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Appendix one – draft policy

Policy

ASSET DISPOSAL POLICY

TEAM:	Business Support
RESPONSIBILITY:	Group Manager-Business Support
ADOPTED:	27 February 2020 (proposed)
REVIEW:	Every five years, or as required
CONSULTATION:	None required
RELATED DOCUMENTS:	Local Government Act 2002, Public Finance Act 1989, Consumer Guarantees Act 1993, Fair Trading Act 1986 ADC Delegations Manual, Procurement Policy, Significance and Engagement Policy, Property Holdings Policy,

Policy Objective

The objective of this policy is to ensure that Council disposes of assets by observing the principles of the Policy.

Definitions

Asset: Includes, but is not limited to, equipment, furniture and fittings, collections, livestock, plant, vehicles, land and buildings for which Council may have legal title.

Council means Ashburton District Council.

Disposal: The sale, retirement or exchange of Council assets that are surplus to requirements. Disposal excludes the sale or transfer of assets to another Council team, reserve board or memorial hall committee.

Managers: includes all activity and budget managers, Group managers and the Chief Executive. It also includes Reserve Boards and Memorial Hall Boards who manage public assets on behalf of Council under delegated authority.

Write off: Specifically refers to the removal of the asset from the Council's asset register at nil value.

Policy Principles

These principles underpin the intent and implementation of this asset disposal policy:

1. Council manages asset disposal by meeting its statutory and legal duties

2. Council maximises the value gained from all asset disposal
3. Council undertakes asset disposal in an open, fair, transparent and accountable manner
4. Council manages risk associated with asset disposal in an appropriate manner
5. Council minimises disposal costs.

Policy Statement

1. Surplus Assets

Managers are responsible for determining when assets are surplus to business requirements, and for organising their disposal, subject to clauses 2, 3, 4, 5, 6, 7 and 8 of this Policy, as applicable. Assets considered surplus to business requirements should be disposed of promptly, avoiding prolonged storage and loss of value.

Managers responsible for organising the disposal of assets shall seek approval in writing by the Finance Manager or any member of the Executive Team.

Managers must inform other parts of the organisation, including all Reserve Boards and Memorial Hall Boards of the availability of assets for transfer at an agreed price.

Managers must establish wherever practicable the likely market value of any asset considered surplus to requirements, in a manner that reflects the nature and likely value of the asset. Managers must also consider likely levels of public interest or sensitivity when seeking approval for asset disposal.

2. Authority to approve the write-off or disposal of any asset

The disposal or write-off of any asset must be approved by the Finance Manager or any member of the Executive Team, under the Council's Delegations Manual. The approving manager will consider:

1. the reasons for declaring the asset surplus,
2. the steps taken to ensure that the asset is surplus to the business needs of the organisation;
3. the method recommended for its disposal; and
4. the level of public interest in the disposal of the asset.

Disposal or write-off of an asset likely to be of high public interest or with a value exceeding the financial delegation of the Chief Executive must be referred to the relevant Council Committee for recommendation to Council for approval.

3. Strategic Assets

Council retains a register of strategic assets in its Significance and Engagement Policy.

Under s.97 of the Local Government Act 2002, any decision to transfer the ownership or control of a strategic asset to or from the Council can only be taken if explicitly provided for in Council's Long-Term Plan or through an amendment to the current Long-Term Plan.

4. Transferring Ownership

Managers may transfer asset ownership internally when the value of the asset is less than \$1,000. Assets over a value of \$1,000 may be transferred at the discretion of the Chief Executive. Internal

transfer includes transfer to reserve boards and memorial hall boards.

5. Methods of Asset Disposal

Surplus assets with an estimated market value of \$200 or more must be disposed of by public tender, auction or other such means to ensure a transparent and competitive disposal process (unless of a value up to \$1,000 to a community group as below). This does not include assets identified for internal transfer of ownership under clause 4 of this policy.

The method chosen for asset disposal should be efficient in terms of time and cost, proportionate to the approximate value of the item.

Managers will either first offer surplus assets with an estimated market value of less than \$200 to Council employees for purchase or for disposal to a community group as below.

Where a community group approaches Council for preferential access to surplus asset, the Manager can approve disposal up to a value of \$200. The Chief Executive can approve disposal of assets to a community group up to \$1,000.

6. Disposal of real property

Council must dispose of land and buildings by following the Property Holdings Policy and the Council Delegations Manual.

The council must obtain an independent valuation before offering real property to the market for sale.

7. Disposal of vehicles and plant

Council vehicles and plant must be disposed of by trade-in, public auction or tender, carried out under the Procurement Policy.

8. Record Keeping

All sales of surplus assets require the generation of a Council invoice. Invoices must be approved by the manager of the Council Team which owns the asset, and an appropriate member of the Finance team.

If an asset is traded in, the supplier's invoice must show the total cost of the new item and the allowance for the traded item separately.

The Finance Manager is responsible for ensuring that the disposal, transfer or write-off of Council assets is appropriately recorded in the Council's asset register.