

SOUTH WAIRARAPA DISTRICT COUNCIL

24 OCTOBER 2018

AGENDA ITEM C3

RELEASE OF PUBLIC EXCLUDED INFORMATION

Purpose of Report

To inform councillors of the process that will be utilised for releasing material considered under public excluded and to seek feedback on the release of material considered by Council in the past five years under public excluded.

Recommendations

Officers recommend that the Council:

1. *Receive the Release of Public Excluded Information Report.*
2. *Resolve to release the 'Purchase of Land' report, decision and minutes from the public excluded meeting held on the 19 October 2018.*
3. *Provide feedback on further information required so a decision on releasing reports, decisions and/or minutes can be made; and/or*
4. *Resolve to delegate to the Chief Executive to review reports, decisions and minutes of public excluded items from 15 May 2013 – 21 March 2018 to determine which items should be released to the public.*

1. Executive Summary

Council officers have been investigating an appropriate process for releasing publicly excluded items of business to the public.

Local Government New Zealand (LGNZ) EquiP have provided guidance on this matter via their publication 'Guide to Standing Orders' and Council officers recommend that we utilise their process moving forward.

Council are asked to provide guidance on the release of publicly excluded reports, decisions and minutes from past meetings where documents remain locked up.

2. Public Excluded Release

2.1 Guide to Standing Orders

The LGNZ EquiP publication 'Guide to Standing Orders' note that different councils have different processes for releasing reports, minutes and decisions from public excluded meetings. The reason that information is withheld from the public does not necessarily endure. For example, information that was confidential when negotiations were being undertaken, may not be confidential once negotiations have finished. Documents may be released in part, with some parts remaining confidential.

Generally, information may only be publicly released by a decision of the meeting, or a decision of the chief executive.

LGNZ propose that a standard clause be placed in council report templates to prompt officer and then councillor consideration of releasing publicly excluded information at the time the report is considered. This eliminates double handling.

2.2 Release Clause and Process

The following clause will be included in future public excluded reports to address public excluded release:

(If in confidence) That the Report/Recommendation be transferred into the Open section of the meeting on {state when the report and/or recommendation can be released as an item of open business and include this clause in the recommendation}.

Council officers writing publicly excluded reports will complete the recommendation.

Once the condition has been met, the material will be released and placed on Council's website on the date the matter was considered.

3. Material Considered Under Public Excluded

The following material has been considered under public excluded business in the last five years. Council are asked to advise which reports, decisions, and minutes are required for further review so a decision on release can be made. Alternatively, delegation can be given to the Chief Executive to make the release determination.

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Publicly Withheld Information

#	Report	Date Considered	Reason Withheld	Comment
1	Purchase of Land (Featherston Golf Club)	19 September 2018	Good reason to withhold exists under Section 48(1)(a) 7(2)(i) i) enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)	Negotiations Complete.
2	Purchase of Land (Greytown Wastewater)	21 March 2018	Good reason to withhold exists under Section 48(1)(a) 7(2)(i)	Negotiations Complete.
3	Purchase of Land (Greytown Wastewater)	21 February 2018	Good reason to withhold exists under Section 48(1)(a) 7(2)(i)	Negotiations Complete.
4	Crown Redress for Wairarapa	20 September 2017	Good reason to withhold exists under Section 48(1)(a) 7(2)(i)	Negotiations not complete.
5	Solid Waste Contract	20 September 2017	Good reason to withhold exists under Section 48(1)(a) 7(2)(i)	Negotiations complete.
6	Chief Executive Officer's Remuneration	20 September 2017	Good reason to withhold exists under Section 48(1)(a) 7(2)(a) a) protect the privacy of natural persons, including that of deceased natural persons	Complete.
7	Crown Redress Proposal for Wairarapa with Ngati Kahungunu and Rangitane	9 August 2017	Good reason to withhold exists under Section 48(1)(a) 7(2)(i)	Negotiations not complete.
8	Water Rates Write Off	9 August 2017	Good reason to withhold exists under Section 48(1)(a) 7(2)(a)	Complete.
9	Council determination of actions from the public forum presentation by David Priestly	5 April 2017	Good reason to withhold exists under Section 48(1)(a) 7(2)(a)	Minutes only no report.
10	Crown Redress Proposal for Wairarapa with Ngati Kahungunu and Rangitane	10 August 2016	Good reason to withhold exists under Section 48(1)(a) 7(2)(i)	Negotiations not complete.

#	Report	Date Considered	Reason Withheld	Comment
11	Summary of Agreement on Final Wairarapa Moana Redress Matters	10 August 2016	Good reason to withhold exists under Section 48(1)(a) 7(2)(i)	Negotiations not complete.
12	Rates Remission Request	10 August 2016	Good reason to withhold exists under Section 48(1)(a) 7(2)(a)	Complete
13	Request for Council to Purchase a Local Amenity	29 June 2016	Good reason to withhold exists under section 7(2)(a)(i)(j) j) prevent the disclosure or use of official information for improper gain or improper advantage.	Reason no longer applies.
14	Request for Rates Remission	29 June 2016	Good reason to withhold exists under Section 48(1)(a) 7(2)(a)	Complete.
15	Crown Redress Proposal for Wairarapa with Ngati Kahungunu Rangitane	6 April 2016	Good reason to withhold exists under section 7(2)(i)	Negotiations not complete.
16	Chief Executive Review Report	28 October 2015	Good reason to withhold exists under Section 48(1)(a) 7(2)(a)	Complete.
17	Consideration of Recommendations from Wairarapa Alcohol Working Group in relation to the Local Alcohol Policy	22 April 2015	Good reason to withhold exists under Section 48 (1)(d) (2)(a)(i) (1) (d) that the exclusion of the public from the whole or the relevant part of the proceedings of the meeting is necessary to enable the local authority to deliberate in private on its decision or recommendation in any proceedings to which this paragraph applies. (2) (a) any proceedings before a local authority where – (i) A right of appeal lies to any Court or Tribunal against the final decision of the local authority in those proceedings	Complete.
18	Waste Water Matters Report (Hodder Land)	19 November 2014	Good reason to withhold exists under section 7(2)(b)(h) b) protect information where the making available of the information – (i) would disclose a trade secret; or (ii) would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information.	Negotiations Complete.

#	Report	Date Considered	Reason Withheld	Comment
			19h) enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)	
19	Lease of Land Report	31 October 2014	Good reason to withhold exists under section 7(2)(b)(h)	Negotiations Complete.
20	Wastewater Matters Report Investigation of Hodder Land to Purchase	31 October 2014	Good reason to withhold exists under section 7(2)(b)(h)	Negotiations Complete.
21	Organisational Structure of a Piece of Council Owned Land (Gliding Operations/Papawai Land)	23 April 2014	Good reason to withhold exists under section 7(2)(b)(h)	Negotiations Complete.
22	Roading Contract	23 April 2014	Good reason to withhold exists under section 7(2)(b)(h)	Negotiations Complete.
23	Greytown Wastewater Land Purchase	10 September 2013	Good reason to withhold exists under section 7(2)(a)(b)(h)	Negotiations Complete.
24	Featherston Land Swap	15 May 2013	Good reason to withhold exists under section 7(2)(a)(b)(h)	Negotiations Complete.
25	Greytown Waste Water Land Purchase	15 May 2013	Good reason to withhold exists under section 7(2)(a)(b)(h)	Negotiations Complete.

4. Reasons for Withholding Information

Provided for information in Appendix 1 are the only reasons information can be withheld from the public under the Local Government Official Information and Meetings Act 1987. The section of the Act, legal reason, and a plain English interpretation has been provided.

5. Appendices

Appendix 1 – Local Government Official Information and Meetings Act 1987
Reasons to Exclude Public

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Reviewed By: Paul Crimp, Chief Executive

**Appendix 1 – Local
Government Official
Information and Meetings
Act 1987 Reasons to Exclude
Public**

Overall clause – section 48 of LGOIMA – right of local authorities to exclude public		
Sections 6 & 7 of LGOIMA – specific reasons to exclude the public		
7(2)(a)	The withholding of the information is necessary to protect the privacy of natural persons, including that of deceased natural persons.	To protect a person's privacy
7(2)(b)(i)	The withholding of the information is necessary to protect information where the making available of the information would disclose a trade secret	To prevent disclosing a trade secret
7(2)(b)(ii)	The withholding of the information is necessary 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.	Commercial sensitivity
7(2)(ba)	The withholding of the information is necessary in the case only of an application for a resource consent, or water conservation order, or a requirement for designation or heritage order, under the Resource Management Act 1991, to avoid serious offence to tikanga Maori, or to avoid the disclosure of the location of waahi tapu	To avoid serious offence to Maori or to avoid disclosing a location of waahi tapu
7(2)(c)(i)	The withholding of the information is necessary to protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information would be likely to prejudice the supply of similar information, or information from the same source and is in the public interest that such information should continue to be supplied	Due to an obligation of confidence and to ensure the information avenue remains open, when it is in the public interest for it to do so
7(2)(c)(ii)	The withholding of the information is necessary to protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information would be likely otherwise to damage the public interest	Due to an obligation of confidence and to protect the public interest

Overall clause – section 48 of LGOIMA – right of local authorities to exclude public		
Sections 6 & 7 of LGOIMA – specific reasons to exclude the public		
7(2)(d)	The withholding of the information is necessary to avoid prejudice to measures protecting the health or safety of members of the public	To protect the health and safety of members of the public
7(2)(e)	The withholding of the information is necessary to avoid prejudice to measures that prevent or mitigate material loss to members of the public	To protect material loss to members of the public
7(2)(f)(i)	The withholding of the information is necessary to maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to members or officers or employees of any local authority, or any persons to whom section 2(5) of this Act applies, in the course of their duty	To allow free and frank expression of opinions
7(2)(f)(ii)	The withholding of the information is necessary to maintain the effective conduct of public affairs through the protection of such members, officers, employees, and persons from improper pressure or harassment	To protect people from harassment
7(2)(g)	The withholding of the information is necessary to maintain legal professional privilege	To protect all communications between a legal adviser and clients from being disclosed without the permission of the client.
7(2)(h)	The withholding of the information is necessary to enable any local authority holding the information to carry out, without prejudice or disadvantage, commercial activities	To enable commercial activities
7(2)(i)	The withholding of the information is necessary to enable the Council to carry out, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)	To enable commercial or industrial negotiations
7(2)(j)	The withholding of the information is necessary to prevent the disclosure or use of official information for improper gain or improper advantage	To prevent use of the information for improper gain or advantage

Overall clause – section 48 of LGOIMA – right of local authorities to exclude public

Sections 6 & 7 of LGOIMA – specific reasons to exclude the public

6(a)	Good reason for withholding official information exists if the making available of that information would be likely to prejudice the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial	To protect maintenance of the law
6(b)	Good reason for withholding official information exists if the making available of that information would be likely to endanger the safety of any person	To protect a person's safety