

NOTICE OF MEETING

AUDIT COMMITTEE

TO: Stuart Bauld (Chairperson)
Alan Curtis
Cr John Kirikiri (Deputy Mayor)
Roy Tiffin

The Audit Committee will meet in the Committee Room, Centreway Road, Orewa on Friday, 12 June 2009, commencing at 11.30 a.m.

for: CHIEF EXECUTIVE
Rodger Kerr-Newell

OREWA
6 June 2009

* * * * *

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ITEM NO: 1

APOLOGIES

ITEM NO: 2

REPORT



TO Audit Committee
ON 12 June 2009
FROM Kevin Ramsay – Director: Corporate Services
APPROVED BY Kevin Ramsay – Director: Corporate Services
SIGNATURE

A handwritten signature in black ink, appearing to read "K Ramsay", written over a horizontal line.

SUBJECT CHARTER FOR AUDIT COMMITTEE
FILE REF CF/1/1

PURPOSE OF REPORT:

<input checked="" type="checkbox"/> Information only	<input type="checkbox"/> Strategic decision	<input type="checkbox"/> Policy decision	<input type="checkbox"/> Statutory process
<input type="checkbox"/> Community issue	<input type="checkbox"/> Contract decision	<input type="checkbox"/> Delegation	<input type="checkbox"/> Appointment
<input type="checkbox"/> Administrative matter			

IMPLICATIONS:

(i)	Is this matter significant in terms of Council's Policy on Significance? No
(ii)	Implications in terms of Vision Rodney? No
(iii)	Implications in terms of Long Term Council Community Plan / Annual Plan? No
(iv)	Implications in terms of other Council Strategic documents or Council Policy? No
(v)	Is a budget amendment required? No
(vi)	Have the views of affected or interested persons been obtained and is any further public consultation required? Not applicable

FINANCIAL IMPLICATIONS:

Capital cost implications	Nil
Is it currently budgeted for?	Not applicable
Funding source of capital costs	Not applicable
Ongoing operational cost implications	Not applicable
Is it currently budgeted for?	Not applicable
Funding & rating impact (whether resulting from capital expenditure or arising directly)	Not applicable

SUMMARY:

The purpose of this item is to formally receive the charter adopted by the Council (attached as **Appendix 1**) as this will form the base document for the Committee's role and operations.

RECOMMENDATION:

That the charter for the Audit Committee as adopted by the Council be received.

1.0 Background

There is no legal requirement for a charter but the Council decided that such a charter would give clear direction as to the expectations being placed on the Audit Committee and provide rules to guide the Committee's questions.

2.0 Issues

This charter was discussed as a draft with the Committee members at its informal meeting on 11 May 2009. Changes arising from that meeting were incorporated in the version tabled before the Council on 21 May 2009, where it was adopted without further amendment.

3.0 Options

As this is an information only item there are no real options associated.

4.0 Conclusion

That the charter be received and used to guide the Committee's operations.

APPENDIX 1

Charter for Audit Committee

(Based on the Australian National Audit Office's)

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Objective

The objective of the Audit Committee (the Committee) is to provide independent assurance and assistance to the Council on the Council's risk, control and compliance framework, and its external accountability responsibilities.

Authority

The Council authorises the Committee, within the scope of its role and responsibilities, to:

- obtain any information it needs from any employee and/or external party (subject to their legal obligation to protect information);
- discuss any matters with the external auditor, or other external parties (subject to confidentiality considerations);
- request the attendance of any employee, including the Chief Executive, at committee meetings; and
- obtain external legal or other professional advice, as considered necessary to meet its responsibilities, at the Council's expense.

Composition and tenure

The Committee will consist of four members appointed by the Council, three of which will be independent members.

The Committee members will appoint the chairperson of the Committee.

Members will be appointed for an initial period not exceeding three years after which they will be eligible for extension or re-appointment, after a formal review of their performance.

The Chief Executive, the Director: Corporate Services and the Group Manager: Financial Services will not be members of the Committee, but may attend meetings as observers as determined by the chairperson.

The members, taken collectively, will have a broad range of skills and experience relevant to the operations of the Council. At least one member of the Committee should have accounting or related financial management experience with an understanding of accounting and auditing standards in a public sector environment.

Role and responsibilities

The Committee has no executive powers.

The Committee is directly responsible and accountable to the Council for the exercise of its responsibilities. In carrying out its responsibilities, the Committee must at all times recognise that primary responsibility for management of the Council rests with the Chief Executive.

The responsibilities of the Committee may be revised or expanded in consultation with, or as requested by, the Council from time to time.

Risk management

The Committee's responsibilities are to:

- review whether management has in place a current and comprehensive risk management framework, and associated procedures for effective identification and management of the Council's financial and business risks, including fraud;
- review whether a sound and effective approach has been followed in developing strategic risk management plans for major projects or undertakings;
- review the effect of risk management framework on its control environment and insurance arrangements;
- review whether a sound and effective approach has been followed in establishing the council's business continuity planning arrangements, including whether disaster recovery plans have been tested periodically; and
- review the Council's fraud control plan and satisfy itself that the Council has appropriate processes and systems in place to capture and effectively investigate fraud-related information.

Control framework

The Committee's responsibilities are to:

- review whether management's approach to maintaining an effective internal control framework, including over external parties such as contractors and advisers, is sound and effective;
- review whether management has in place relevant policies and procedures, and that these are periodically reviewed and updated;
- determine whether the appropriate processes are in place to assess, at least once a year, whether policies and procedures are complied with;
- review whether appropriate policies and procedures are in place for the management and exercise of delegations;
- consider how management identifies any required changes to the design or implementation of internal controls; and
- review whether management has taken steps to embed a culture which is committed to ethical and lawful behaviour.

External accountability

The Committee's responsibilities are to:

- review the financial statements and provide advice to the Council (including whether appropriate action has been taken in response to audit recommendations and adjustments), and recommend their signing by the Council;
- satisfy itself that the financial statements are supported by appropriate management sign-off on the statements and on the adequacy of the systems of internal controls;
- review the processes in place designed to ensure that financial information included in the Council's annual report is consistent with the signed financial statements;

- satisfy itself that the Council has appropriate mechanisms in place to review and implement, where appropriate, relevant external audit reports and recommendations; and
- satisfy itself that the Council has a performance management framework that is linked to organizational objectives and outcomes.

Legislative compliance

The Committee's responsibilities are to:

- determine whether management has appropriately considered legal and compliance risks as part of the Council's risk assessment and management arrangements; and
- review the effectiveness of the system for monitoring the Council's compliance with relevant laws, regulations, and associated government policies.

External audit

The Committee's responsibilities are to:

- act as a forum for communication between the Chief Executive, senior management, and internal and external auditors;
- provide input and feedback on the financial statements and the audit coverage proposed by the external auditor, and provide feedback on the audit services provided;
- review all external plans and reports for planned or completed audits and monitor management's implementation of audit recommendations;
- oversee the co-ordination of audit programmes conducted by the internal and external auditors and other review functions; and
- provide advice to the Council on action taken on significant issues raised in relevant external audit reports and good practice guides.

Responsibilities of committee members

Members of the Committee are expected to:

- contribute the time needed to study and understand the papers provided;
- apply good analytical skills, objectivity, and good judgement; and
- express opinions frankly, ask questions that go to the core of the issue, and pursue independent lines of enquiry.

Reporting

The Committee will regularly, but at least once a year, report to the Council on its operation and activities during the year.

The report should include:

- a summary of the work the Committee performed to fully discharge its responsibilities during the preceding year; and
- a summary of the Council's progress in addressing the findings and recommendations made in internal and external audit reports, and the Auditor-General's reports (if applicable).

The Committee may, at any time, report to the Chief Executive or the Council any other matter it deems of sufficient importance to do so. In addition, at any time an

individual Committee member may request a meeting with the Chief Executive or the Mayor.

Delegations to Audit Committee

The delegations made by Council to the Audit Committee are identified in Appendix 1.

Administrative arrangements

Meetings

The Committee will meet at least four times each year. A special meeting may be held to review the Council's annual report.

The chairperson is required to call a meeting if requested to do so by the Mayor or another Committee member. A meeting plan, including dates and agenda items, will be agreed by the Committee each year. The meeting plan will cover all of the Committee's responsibilities as detailed in this charter.

Attendance at meetings and quorums

A quorum will consist of a majority of Committee members.

Meetings can be held in person, by telephone, or by video conference. The Committee may ask the Director: Corporate Services, Group Manager: Financial Services or other employees to attend Committee meetings or participate for certain agenda items.

The Committee will meet separately with the external auditors at least once a year.

The Chief Executive may be invited to attend Committee meetings to participate in specific discussions or provide strategic briefings to the Committee.

Secretariat

The Chief Executive will appoint a person to provide secretariat support to the Committee. The Secretariat will ensure that the agenda for each meeting and supporting papers are circulated, after approval from the Chairperson, at least one week before the meeting, and ensure that the minutes of the meeting are prepared and maintained. Minutes must be approved by the Chairperson and circulated within two weeks of the meeting to each member and Committee observers, as appropriate.

Conflicts of interest

Once a year, Committee members will provide written declarations to the Mayor stating they do not have any conflicts of interest that would preclude them from being members of the Committee.

Committee members must declare any conflicts of interest at the start of each meeting or before discussion of the relevant agenda item or topic. Details of any conflicts of interest should be appropriately recorded in the minutes.

Where any member is deemed to have a real, or perceived, conflict of interest at a Committee meeting, it may be appropriate that they are excused from Committee deliberations on the issue where the conflict of interest exists.

Induction

New members will receive relevant information and briefings on their appointment to assist them to meet their Committee responsibilities.

Assessment arrangements

The Chairperson of the Committee, in consultation with the Mayor, will initiate a review of the performance of the Committee at least once every two years. The review will be conducted on a self-assessment basis (unless otherwise determined by the Mayor) with appropriate input sought from the Chief Executive, the internal and external auditors, management, and any other relevant stakeholders, as determined by the Mayor in discussion with the Chairperson of the Committee.

Review of charter

At least once a year, the Committee will review this charter. This review will include consultation with the Council.

Any substantive changes to the charter will be recommended by the Committee and formally approved by the Council.

DELEGATIONS TO THE AUDIT COMMITTEE

Purpose To provide assurance to the Council (and Community) on its risk, control and compliance framework, and its external accountability responsibilities.

Quorum Any three members

Delegated Powers

1. To oversee the Council's external audit process, and liaise with Council's audit service provider on its findings.
2. To oversee the effectiveness of Council's risk management and control frameworks for performance and reporting.
3. To monitor the performance of entities wholly or partially owned by Council and entities in which the Council has a financial interest.
4. To undertake such reviews or projects as may be delegated by the Council to the Audit Committee.

To remove any doubt the Committee has no executive powers. Its role is primarily an advisory one, reporting to the Council on its findings under the above delegations.

Membership Deputy-Mayor and three independent members of the community (one being the chairperson)

Note: From April 2009, the independent members are Stuart Bauld (Chairperson), Alan Curtis and Roy Tiffin.

Meeting Frequency Around six times a year (primarily focused on setting up external audit and reviewing audit results, along with review of material issues raised during the year)

REPORT



TO Audit Committee
ON 12 June 2009
FROM Lynne Booth – Manager: Business Services
APPROVED BY Kevin Ramsay – Director: Corporate Services
SIGNATURE

SUBJECT RISK MANAGEMENT POLICY AND FRAMEWORK
FILE REF CF/1/1

PURPOSE OF REPORT:

<input checked="" type="checkbox"/> Information only	<input type="checkbox"/> Strategic decision	<input type="checkbox"/> Policy decision	<input type="checkbox"/> Statutory process
<input type="checkbox"/> Community issue	<input type="checkbox"/> Contract decision	<input type="checkbox"/> Delegation	<input type="checkbox"/> Appointment
<input type="checkbox"/> Administrative matter			

IMPLICATIONS:

(i)	Is this matter significant in terms of Council's Policy on Significance? No
(ii)	Implications in terms of Vision Rodney? Not applicable
(iii)	Implications in terms of Long Term Council Community Plan / Annual Plan? Not applicable
(iv)	Implications in terms of other Council Strategic documents or Council Policy? Not applicable
(v)	Is a budget amendment required? No
(vi)	Have the views of affected or interested persons been obtained and is any further public consultation required? Not applicable

FINANCIAL IMPLICATIONS:

Capital cost implications	Nil
Is it currently budgeted for?	Not applicable
Funding source of capital costs	Not applicable
Ongoing operational cost implications	Not applicable
Is it currently budgeted for?	Not applicable
Funding & rating impact (whether resulting from capital expenditure or arising directly)	Not applicable

SUMMARY:

Increasing demands for more information relating to risks and internal controls resulted in the development of risk management processes at Rodney District Council (RDC). The first part of the project was to identify what was in place and how it was being achieved. Analysis showed that different parts of the organisation were approaching it in a different way and it was not possible to get a corporate overview of the risk profile.

This led to the development of the Risk Management Policy and Framework which provides overall guidance for all areas of the organisation. Extensive training for managers has been undertaken, risk champions appointed and a database developed to provide a consolidated view of risk at RDC.

The next stage is the inclusion of the legal compliance module which will be discussed in more detail in the next agenda item.

RECOMMENDATION:

That the report be received.

1.0 Background

Over time there have been increasing demands for more information relating to risks and internal controls. At RDC different parts of the organisation were discussing, approaching and adopting risk management processes in different ways and they were not systematically identified, measured or managed on an aggregated basis.

More recent philosophies on risk management focus on the Enterprise Risk Management (ERM) philosophy and RDC has adopted this because:

- It is a structured and disciplined approach that aligns the organisation's strategies, processes, technology and knowledge;
- It aims to improve its ability to evaluate and manage;
- It is an integrated, forward-looking and process-oriented approach to managing all key business risks and opportunities – not just financial ones – with the intent of maximising value for the organisation as a whole.

The development of the Council's Risk Management Policy and Framework was the first step towards creating an organisational risk profile. This document covers the foundation elements of risk management and is aligned with the New Zealand Standard 4360. (This standard also forms the basis of the world wide standard ISO 31000.)

The aim of this document is to provide a framework that aligns the Council's strategies and purpose with a view to improving its ability to manage risk throughout the organisation. It sets the standard for adopting a common language and establishes a framework for oversight and governance. All areas of RDC have had input into the development of this document.

In addition risk champions have been appointed in each directorate. These people assist managers with the development of risk profiles and are responsible for ensuring risks and controls are reviewed on a regular basis.

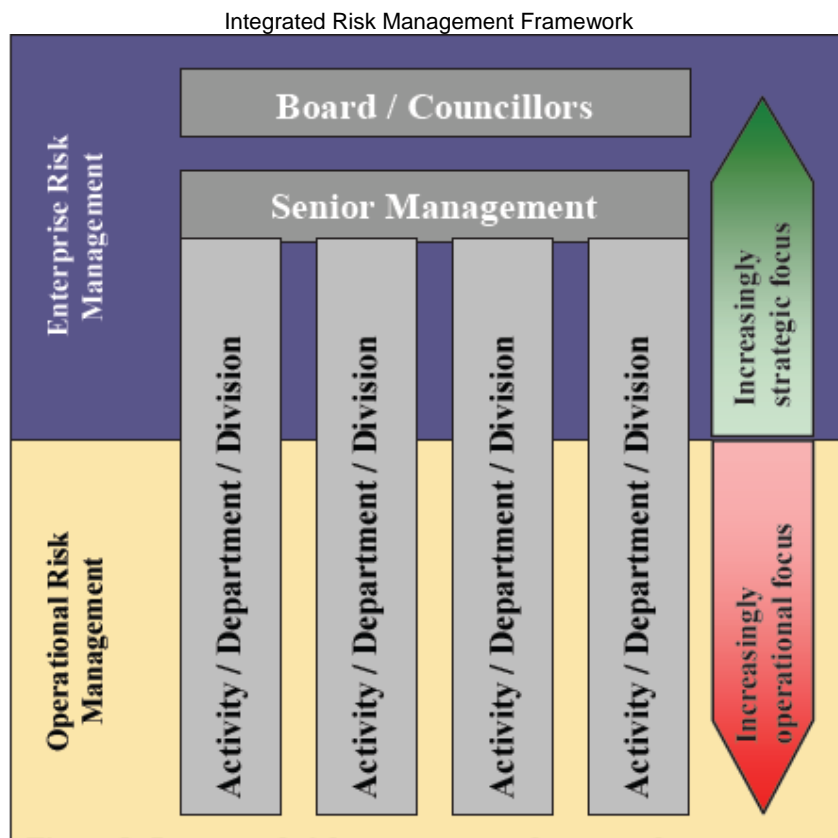
Once the Policy and Framework was approved by the Executive Team, training sessions were held with managers to assist them with the concept and processes.

A risk database (Quantate) has been configured to capture, analyse and report risks. It also has the capability to facilitate the monitoring of risk reviews and controls. The next phase of development will be the inclusion of a legal compliance module.

2.0 Issues

The Council now has a full corporate profile and the top 50 risks (by residual ranking) are attached to this report as **Appendix 1**.

The profiles include a mix of operational and strategic foci and the following diagram reflects the Council's general direction. To date the reports have not been viewed by the Council as the risk identification and analysis has had an internal focus.



Source: Paul Hume, Principal Risk Consultant, MWH, article in RiskPost, January 2008

As the processes in the risk area are being improved, the Council's progress towards maturity in risk management are also being monitored. The shaded boxes in **Appendix 2** shows progress to date.

3.0 Options

Integration of risk management will continue to be pursued as well as the development of a legal compliance framework. The Risk Management and Legal Compliance Policy and Framework is attached as **Appendix 3**. The Legal compliance additions to the document are shown as tracked changes as these require the Executive Team's approval. This is set down for 22 June. More detail on the Legal Compliance project has been included in the next item of this agenda.

4.0 Conclusion

The purpose of this report is to provide the Audit Committee with an overview of the Council's risk management process and progress to date.

APPENDIX 1

APPENDIX 2

APPENDIX 3

REPORT



TO Audit Committee
ON 12 June 2009
FROM Rob Goldsbury – Chief Legal Officer
 Lynne Booth – Manager: Business Services
APPROVED BY Kevin Ramsay – Director: Corporate Services
SIGNATURE

SUBJECT LEGISLATIVE / LEGAL COMPLIANCE
FILE REF CF/1/1

PURPOSE OF REPORT:

<input checked="" type="checkbox"/> Information only	<input type="checkbox"/> Strategic decision	<input type="checkbox"/> Policy decision	<input type="checkbox"/> Statutory process
<input type="checkbox"/> Community issue	<input type="checkbox"/> Contract decision	<input type="checkbox"/> Delegation	<input type="checkbox"/> Appointment
<input type="checkbox"/> Administrative matter			

IMPLICATIONS:

(i)	Is this matter significant in terms of Council's Policy on Significance? No
(ii)	Implications in terms of Vision Rodney? No
(iii)	Implications in terms of Long Term Council Community Plan / Annual Plan? No
(iv)	Implications in terms of other Council Strategic documents or Council Policy? No
(v)	Is a budget amendment required? No
(vi)	Have the views of affected or interested persons been obtained and is any further public consultation required? Not applicable

FINANCIAL IMPLICATIONS:

Capital cost implications	None
Is it currently budgeted for?	Not applicable
Funding source of capital costs	Not applicable
Ongoing operational cost implications	None
Is it currently budgeted for?	Not applicable
Funding & rating impact (whether resulting from capital expenditure or arising directly)	Not applicable

SUMMARY:

This report sets out the process and steps taken to date to put in place a legal/legislative compliance policy as part of the wider risk management policy.

RECOMMENDATION:

That the report be received.

1.0 Background

1.1 External audit requirements

Over a number of years Audit New Zealand/The Office of the Auditor General has increasingly applied pressure to local government to adopt legislative compliance policies. This process has already occurred within central government but has not, until recent times, been high on the agenda for local government. Since 2006, however, more pressure has been applied and it is now an expectation that local authorities will have legislative compliance policies in place.

On investigation it was discovered that there are few, if any, “templates” available for local government in this area.

1.2 Rodney District Council’s (RDC) investigation and proposal

RDC instructed GCL Consulting to investigate the legislative compliance systems that would be available to the Council and then to provide a recommendation as to a programme to follow in order to adopt and implement a policy. It was quickly realised that legislative compliance was itself a subset of the more general legal risk and that legal risk was a subset of the general risk profile for a council. It was accordingly decided to ensure that the legislative/legal compliance policy was integrated into the wider risk management policy.

GCL Consulting proposed, and the Council accepted, a project outline involving a seven stage process, as shown in **Appendix 1**. Stage 1 sought to develop an understanding of the place that legislative compliance and legal risks had within the overall risk management strategy. Stage 2 involved designing the policy framework taking into account both internal and external policies and standards. Stage 3 involves consultation with key stake holders. Stage 4 involves design of an implementation project plan. Stage 5 is formal adoption of the policy. Stage 6 involves implementation and Stage 7 will be continuing review and monitoring.

1.3 Progress to date

In essence stages 1 and 2 have been completed and the legal compliance programme has been “inserted” into the risk management framework (as a draft) (Refer to **Appendix 3** of previous agenda item).

The amended risk management framework has been seen by the Executive Team but the rest of stage 3 needs to be completed. It is anticipated that stage 3 would be completed by the end of June 2009 and that stage 5 (the formal adoption of the programme) would also occur in June 2009.

In conjunction with GCL Consulting Council officers are currently preparing stage 4 (the design of a project plan for implementation).

There are a number of elements to this:

- (a) It is envisaged that the policy will be supported by a “bottom up” reporting system which will highlight exceptions to identified risk profiles. The Quantate database and software which the Council already uses for its overall risk management monitoring would, ideally, provide the software tool to help this process. Quantate is, at present, developing a module to achieve this. It is understood that Quantate is currently in discussions with all the Regional Councils in the country (as well as RDC) and is making reasonable progress in the development of this module. The Council has been informed that the module should be available in the third calendar quarter of 2009.
- (b) In order to populate the database, the sections of individual Acts of Parliament need to be associated with people or positions within RDC so that an individual knows what legislation he or she has to apply and, therefore, reporting compliance with. GCL Consulting has, as part of stage 2, identified the legislative provisions that apply to the Council and identified the key “owners” of those pieces of legislation. Other councils (for instance Auckland City Council) have undertaken similar “drilling down” work in slightly different context and that work is being made available and will be used to cross check and supplement the work already carried out by GCL Consulting.
- (c) An essential element of implementation is for the “user” to have a plain English statement of what is expected of them and the standard against which they must report. The insurance brokerage AON is experienced in this area for commercial organisations and is working with Quantate and the Regional Council to develop these linkages for local government. RDC officers are investigating whether the Council could use AON to assist RDC in this exercise.
- (d) Over 130 Acts of Parliament apply to or are used by the Council. When broken down into sections there will be a large number of individual requirements. Clearly these requirements need to be ranked in order of risk in order to filter out the most important from the least important. AON, again, could potentially be used in this ranking process because of its experience in this area in the commercial world.

The project, as originally envisaged, anticipated that implementation would have occurred during the 2008/2009 financial year. It became apparent as the project unfolded that this time frame was not realistic. Delays in development of the Quantate module also put the project back. All things being equal it is now envisaged that implementation would take place during the 2009/2010 financial year. However, a caveat must be placed on this time frame as consideration needs to be given to whether this project should continue to be pursued bearing in mind the Auckland reorganisation. It may not be sensible to implement the software reporting package if the project would simply come to an end after November 2010. It is proposed that, once there is a clearer view of the transition process, the implementation phase of the project would be reviewed and, perhaps, a modified version might be implemented in the meantime.

2.0 Conclusion

Work on the policy and its implementation continues.

APPENDIX 1



RDC Legislative Compliance Programme

Project Outline and Time line

Version 1, dated 20 December 2007

DRAFT Version prepared for the Chief Legal Officer

PROJECT OUTLINE

1. Stage One: Risk Management Strategy

1.1 RDC Risk Management Strategy- determine how the development of a Legislative Compliance Programme is aligned with the existing RDC Risk Management Policy and Framework.

1.2 Identification of Key Risks- develop an understanding of the Key Risks facing RDC as an organisation;

1.3 Identification of Key Legal Risks- develop an understanding of the key legal risks facing RDC as an organisation;

1.4 Understanding of differing perspectives on Legal Risk- develop an understanding of differing capacities of RDC i.e. RDC as policy developer; RDC as enforcement agency; RDC as regulator; RDC as consent holder; RDC as corporate citizen; RDC as employer; RDC as asset manager; RDC in its capacity as stakeholder of other entities e.g. Rodney Property; Rodney Water.

2. Stage Two: Design of Policy Framework

2.1 Policy Framework- A legislative compliance policy framework should be designed. Such a policy framework will be adopted by the CEO and the Senior Management Team ("SMT ") of RDC.

2.2 The RDC Legislative Compliance Policy Framework should have regard to the following:

- a. RDC Risk Management Policy and Framework;
- b. The Key Risks and Key Legal Risks facing RDC;
- c. AS/NZS 4360 2004 Risk Management Standard;

d. SNZ 4360:2000 Risk Management for Local Government;

e. S 3806 1998 Legal Compliance;

f. SOLGM Legal Compliance Programme.

2.3 Key Legislative Provisions- the key pieces of legislation affecting RDC operations should be identified and determined how they interact with the Key Legal Risks facing RDC;

2.4 Relevant RDC business units- the Key Legal Risks facing RDC need to be aligned with the relevant business units and the relevant legislative provisions to determine ownership of compliance;

2.4 Other components of the RDC Legislative Compliance Policy Framework should include the following:

a. . Roles and Responsibilities for the legal compliance programme should be allocated as follows:

- Senior Management Team– to endorse and actively support the legal compliance responsibilities within the council at large and their divisions in particular in the creation of a culture of compliance;
- Divisions –to identify and record specific compliance requirements and allocate responsibilities accordingly;
- All Staff - should recognise the importance of legal compliance in their daily work and to collectively and individually contribute to a culture of compliance. Job descriptions should include a reference to compliance responsibilities where appropriate;
- Legal Services Unit – to support the programme ,be a central point of coordination and to report to the Chief Executive and the Senior Management Team;
- Legal Service Providers - will provide advice and assistance.

b. Training and Development – the legal compliance programme requires all relevant staff to be trained and developed as required to ensure they have the requisite knowledge;

c. Continuous Improvement – the legal compliance programme provides that where examples of non-compliance or incomplete compliance are identified, systems should be modified and/or training undertaken as appropriate and as part of divisional/departmental business improvement programmes;

d. Complaints Handling – It requires procedures to be in place to record and respond to complaints from staff, ratepayers and customers;

e. Monitoring and regular reporting of compliance is to be provided through:

- Team meetings;
- Project Team meetings and reports;
- Divisional reports;
- Bi-annual Risk and Assurance Reports to the Leadership Team;
- Audit reports to the Risk and Audit Review Committee;
- External Audit Management Letters.

2.5 An assessment of monitoring /reporting tools should be undertaken as part of the design phase.

3. Stage Three: Consultation with SMT and other Key Stakeholders

3.1 Consultation- Consultation about the draft legal compliance programme should occur with the CEO, SMT and other key stakeholders (i.e. Risk Manager; Audit New Zealand; external legal providers).

3.2 Revision – following the consultation process the draft legal compliance programme should be finalised incorporating agreed amendments;

3.3 Review by External Legal Providers- the final draft should be reviewed by the external legal provider particularly in relation to identification of key legislative provisions.

4. Stage Four: Design of a Project Plan

4.1 Project Plan – a project plan for the adoption and implementation of the legal compliance programme should be developed for approval by the SMT.

5. Stage Five: Adoption of the legal compliance programme by RDC

5.1 Adoption by RDC- adoption of the legal compliance programme by CEO and SMT and promulgation of that within RDC.

6. Stage Six: Implementation

6.1 Current State Analysis - As a preliminary step an analysis should be done of what systems/processes are already in place in various business units in RDC to ascertain where any gaps may exist. Focus should be given to those areas of higher risk i.e. resource consents; building consents; LOGIMA; LIMs;

6.2 Design of new systems and processes /amendment to existing systems and processes- following the current state analysis then to design /amend existing systems and processes across differing business units to ensure compliance.

7. Stage Seven: Review and monitoring

PROJECT TIMELINE

Project Stage	Time frame for completion	Project Responsibility
Stage One	end of Jan 09	
Stage Two	mid March 09	
Stage Three	mid April 09	
Stage Four	mid May 09	
Stage Five	mid June 09	
Stage Six	2008/2009	
Stage Seven	2008/2009	

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ITEM NO: 5

REPORT



TO Audit Committee
ON 12 June 2009
FROM Rob Goldsbury – Chief Legal Officer
APPROVED BY Kevin Ramsay – Director: Corporate Services
SIGNATURE

A handwritten signature in black ink, appearing to read "K Ramsay".

SUBJECT AUCKLAND TRANSITION AGENCY
FILE REF CF/1/1

PURPOSE OF REPORT:

<input checked="" type="checkbox"/> Information only	<input type="checkbox"/> Strategic decision	<input type="checkbox"/> Policy decision	<input type="checkbox"/> Statutory process
<input type="checkbox"/> Community issue	<input type="checkbox"/> Contract decision	<input type="checkbox"/> Delegation	<input type="checkbox"/> Appointment
<input type="checkbox"/> Administrative matter			

IMPLICATIONS:

(i)	Is this matter significant in terms of Council's Policy on Significance? No
(ii)	Implications in terms of Vision Rodney? None at this stage
(iii)	Implications in terms of Long Term Council Community Plan / Annual Plan? None at this stage
(iv)	Implications in terms of other Council Strategic documents or Council Policy? None at this stage
(v)	Is a budget amendment required? No
(vi)	Have the views of affected or interested persons been obtained and is any further public consultation required? Not applicable

FINANCIAL IMPLICATIONS:

Capital cost implications	None
Is it currently budgeted for?	Not applicable
Funding source of capital costs	Not applicable
Ongoing operational cost implications	None
Is it currently budgeted for?	Not applicable
Funding & rating impact (whether resulting from capital expenditure or arising directly)	Not applicable

SUMMARY:

This report provides a brief summary of the interim arrangements put in place by the Local Government (Tamaki Makaurau Reorganisation) Act 2009 and that Act's effects on Council's business.

RECOMMENDATION:

That the report be received.

1.0 Background

1.1 Auckland Council Legislation

To implement its decisions regarding the Auckland Council, the government has indicated that there will be a total of three pieces of legislation. The first, the Local Government (Tamaki Makaurau Reorganisation) Act 2009 came into force on 25 May 2009. It will expire on 31 October and 1 November 2010. This report will deal with the implications of this Act

The Local Government (Auckland Council) Bill has been referred to a special Select Committee. The Government expects this bill to become law by about September 2009. It provides for the high level governance structure of the Auckland Council including the 20 member council (12 members from wards and 8 elected at large) and the 20 to 30 local boards. It also provides powers for the Local Government Commission to determine the boundaries of Auckland Council, the boundaries of the wards and the boundaries of the local boards.

The third bill is proposed to be put before parliament in about September 2009. This last bill will provide more specific detail and "fill in the gaps".

1.2 Local Government (Tamaki Makaurau reorganisation) Act 2009

As referred to earlier, this Act (in most respects) came into force on 25 May 2009 having received royal assent on 23 May 2009. The Act creates a unitary authority which will be called the Auckland Council. It also dissolves all the existing local authorities and their subsidiaries for the Auckland Region (including Rodney District Council) and transfers all the assets and liabilities of each of the councils to the Auckland Council. In a technical sense the existing local authorities cease to exist at midnight on 31 October 2010 and the Auckland Council comes into existence on 1 November 2010.

In the meantime, and in order to manage the transition, a body entitled the Auckland Transition Agency (ATA) is created.

The ATA has four main tasks:

- (a) To appoint an interim Chief Executive for the Auckland Council;
- (b) To create an organisational structure for the Auckland Council;
- (c) To write a change management program for the transition;
- (d) To supervise the decision making processes of the existing local authorities in the interim.

It is given some specific powers to manage this process and also is directed to and empowered to run the election for the Auckland Council.

1.3 Section 31

Sections 20 and 21 of the Act empower ATA to review any decision or meeting agenda of an existing council during the transition period and to either confirm, decline to confirm or seek further information in respect of any decision that falls within the parameters of section 31 of the Act. Both the “gateway” test for deciding whether ATA must approve a decision and the tests for whether such a decision is to be approved or declined are contained in section 31.

Section 31 sets out both specific and general decisions which might be subject to ATA approval.

The specific decisions that must be confirmed by the ATA (s31(4)) are:

- (a) Decisions in respect of which the ATA has notified the councils (under s20).
- (b) Decisions re LTCCPs, policies and plans:
 - to adopt or amend a LTCCP or to adopt an annual plan;
 - to adopt a policy required by the LGA 02;
 - any decision that is significantly inconsistent with, or is anticipated to have consequences that will be significantly inconsistent with, any policy or plan adopted by the Council under the LGA 02;
 - to set a rate (other than in accordance with its LTCCP);
 - to purchase or dispose of assets (other than in accordance with its LTCCP).
- (c) Decisions re CE appointments and termination:
 - to appoint a CE or to modify the terms and conditions on which the CE is employed;
 - to terminate the CE’s employment.
- (d) Decisions re contracts and borrowing:
 - to enter into any contract (other than an employment agreement)
 - that imposes or will continue to impose an obligation on the council after 30 June 2011; and
 - the consideration for which is, or is equivalent to \$20,000 or more;
 - to borrow money for a period that extends beyond 30 June 2011.
- (e) Council decisions re CCOs:
 - to establish, or become a shareholder in, a CCO;
 - to adopt or amend a policy concerning the appointment or remuneration of directors of a CCO;
 - to appoint a person as a director of a CCO;
 - to agree to, or modify, the statement of intent of a CCO.

The ATA will consider these decisions against the criteria in s31(1).

A council decision on a matter listed above is void and of no effect until it is confirmed by the ATA in writing.

The “general” provisions making decisions subject to approval by the ATA are set out in section 31(1) of the Act. It applies to any decision of an existing local government organisation (this includes councils and CCOs) that is made during the transition period and;

“That may, directly or because of its consequences, -

- i) significantly prejudice the reorganisation;
- ii) significantly constrain the powers or capacity of the Auckland Council or any subsidiary of the Auckland Council following the reorganisation;
- iii) have a significant negative impact on the assets or liabilities that are transferred to the Auckland Council as a result of the reorganisation.”

The Chief Executives of the existing councils are tasked with ensuring that any decision that is subject to either the specific or general requirements of section 31 have been properly confirmed in writing by the ATA. Further, as referred to above, unless and until a decision to which section 31 applies has been confirmed by the ATA, it is “void and of no effect”.

While the specific decisions that must be confirmed by the ATA are reasonably clear and understood, the exact parameters of the general obligations are less clear at the moment. It is to be hoped that the ATA will quickly develop some guidelines for councils in respect of section 31(1).

In a strictly legal sense non-compliance with section 31 does not create a liability risk for councils because any decision that should have been confirmed by the ATA and was not is void and of no effect. In other words the council will not be held liable in respect of any such decision.

In the wider sense, however, there are public perception and political risks associated with breaching the obligations under section 31. In this regard the Council will need to consider the implications of section 31 in its decision making processes. As a first step the report template will need to be amended to include a consideration of section 31.

2.0 Conclusion

The Council will need to ensure that its decisions comply with section 31 and that it seeks confirmation from the ATA as necessary. The precise way in which the general provisions of section 31 will work is unclear at this stage until guidelines are produced. The Council will need to consider section 31 in respect of each and all of its decisions from now on.

REPORT



TO Audit Committee
ON 12 June 2009
FROM Morna Macfarlane – Manager: Finance
APPROVED BY Kevin Ramsay – Director: Corporate Services
SIGNATURE

A handwritten signature in black ink, appearing to read "Kevin Ramsay", written over a horizontal line.

SUBJECT EXTERNAL AUDIT ARRANGEMENTS
FILE REF CF/1/1

PURPOSE OF REPORT:

<input type="checkbox"/> Information only	<input type="checkbox"/> Strategic decision	<input type="checkbox"/> Policy decision	<input type="checkbox"/> Statutory process
<input type="checkbox"/> Community issue	<input type="checkbox"/> Contract decision	<input type="checkbox"/> Delegation	<input type="checkbox"/> Appointment
<input checked="" type="checkbox"/> Administrative matter			

IMPLICATIONS:

(i)	Is this matter significant in terms of Council's Policy on Significance? No
(ii)	Implications in terms of Vision Rodney? No
(iii)	Implications in terms of Long Term Council Community Plan / Annual Plan? No
(iv)	Implications in terms of other Council Strategic documents or Council Policy? No
(v)	Is a budget amendment required? No
(vi)	Have the views of affected or interested persons been obtained and is any further public consultation required? No

FINANCIAL IMPLICATIONS:

Capital cost implications	Nil
Is it currently budgeted for?	Not applicable
Funding source of capital costs	Not applicable
Ongoing operational cost implications	Nil
Is it currently budgeted for?	Not applicable
Funding & rating impact (whether resulting from capital expenditure or arising directly)	Not applicable

SUMMARY:

A Letter of Undertaking as well as an Audit Arrangements Letter needs to be in place to outline the scope, costs and responsibilities of an audit. The purpose of this agenda item is to review these two draft letters as produced by Audit New Zealand and, subject to any proposed amendments, make a recommendation for signing.

At the time of preparation of this agenda item the draft letters from Audit NZ were not available but it is intended to have these circulated as a supplementary item before the Committee meeting on 12 June.

RECOMMENDATION:

That the Letter of Undertaking and Audit Arrangements Letter be recommended for signing.

1.0 Background

Audit New Zealand has been assigned by the Auditor-General as this Council's external audit service provider or auditor.

To clarify the relationship, roles and responsibilities of the Council and its auditor there are three letters that are produced. As you go from the first to the third the details become more and more specific.

1. **Audit Engagement Letter** – this letter outlines the terms of the overall audit engagement and the respective responsibilities of the auditor and the Council. The last audit engagement letter was agreed in August 2008, and the terms remain in effect until a new audit engagement letter is issued.
2. **Letter of Undertaking** – this letter sets out the actual basis of the audit for a three year term including the audit staff involved, which entities will be covered by this undertaking, and basis for fee setting. The last letter of undertaking was dated Sept 2006 and covered the audits for the 2006, 2007 and 2008 financial years. A new letter is therefore required for the next three financial years.
3. **Audit Arrangements Letter** – this letter details the specific timings, fees and personnel to be involved with a single audit. A new letter is required each year for that year's audit.

2.0 Issues

After discussion the Committee may wish to suggest changes to the contents of these two letters. These are drafts for that very reason and although the content is generally consistent with previous years (main exception being fees), we have an opportunity for the Audit Committee to review with a new perspective, as to the appropriateness of the drafts.

3.0 Options

The Committee can basically agree with the content of the letters and recommend that they be signed by the Council, or suggest amendments for discussion with our auditors.

4.0 Conclusion

That unless any concerns are raised, the letters be recommended for signing.

REPORT



TO Audit Committee
 ON 12 June 2009
 FROM Morna Macfarlane – Manager: Finance
 APPROVED BY Kevin Ramsay – Director: Corporate Services
 SIGNATURE

SUBJECT REPORT FROM AUDIT NEW ZEALAND ON FINDINGS OF INTERIM
 AUDIT FOR 2008/2009
 FILE REF CF/1/1

PURPOSE OF REPORT:

<input type="checkbox"/> Information only	<input type="checkbox"/> Strategic decision	<input type="checkbox"/> Policy decision	<input type="checkbox"/> Statutory process
<input type="checkbox"/> Community issue	<input type="checkbox"/> Contract decision	<input type="checkbox"/> Delegation	<input type="checkbox"/> Appointment
<input checked="" type="checkbox"/> Administrative matter			

IMPLICATIONS:

(i)	Is this matter significant in terms of Council's Policy on Significance? No
(ii)	Implications in terms of Vision Rodney? No
(iii)	Implications in terms of Long Term Council Community Plan / Annual Plan? No
(iv)	Implications in terms of other Council Strategic documents or Council Policy? No
(v)	Is a budget amendment required? No
(vi)	Have the views of affected or interested persons been obtained and is any further public consultation required? No

FINANCIAL IMPLICATIONS:

Capital cost implications	Nil
Is it currently budgeted for?	Not applicable
Funding source of capital costs	Not applicable
Ongoing operational cost implications	Nil
Is it currently budgeted for?	Not applicable
Funding & rating impact (whether resulting from capital expenditure or arising directly)	Not applicable

SUMMARY:

The Council's external auditor (Audit New Zealand) should provide a report on the interim audit of the Council's Annual Report to advise on progress to date. The purpose of this agenda item is to review that interim report and identify any actions that arise as a result of the findings.

At the time of preparation of this agenda item the interim report was not available but it is intended to have this circulated as a supplementary item before the Committee meeting on 12 June.

RECOMMENDATION:

That Audit New Zealand's report on the Interim Audit for the 2008/2009 Annual Report be received.

1.0 Background

Audit New Zealand has been assigned by the Auditor-General as this Council's external audit service provider or auditor.

Audit New Zealand prepares reports on its findings from every audit of the Council's Annual Report with an interim report being provided as a progress update on initial findings and then a final report at the end of the process.

This interim report will identify any areas of concern arising from the initial areas that have been audited, and the Council can then determine actions that it believes are required to be undertaken as a result.

REPORT



TO Audit Committee
 ON 12 June 2009
 FROM Warren Stevens – Group Manager: Finance
 APPROVED BY Kevin Ramsay – Director: Corporate Services
 SIGNATURE

SUBJECT 2009 – 2019 LONG TERM COUNCIL COMMUNITY PLAN
 FILE REF CF/1/1

PURPOSE OF REPORT:

<input checked="" type="checkbox"/> Information only	<input type="checkbox"/> Strategic decision	<input type="checkbox"/> Policy decision	<input type="checkbox"/> Statutory process
<input type="checkbox"/> Community issue	<input type="checkbox"/> Contract decision	<input type="checkbox"/> Delegation	<input type="checkbox"/> Appointment
<input type="checkbox"/> Administrative matter			

IMPLICATIONS:

(i)	Is this matter significant in terms of Council's Policy on Significance? No
(ii)	Implications in terms of Vision Rodney? No
(iii)	Implications in terms of Long Term Council Community Plan / Annual Plan? No
(iv)	Implications in terms of other Council Strategic documents or Council Policy? No
(v)	Is a budget amendment required? No
(vi)	Have the views of affected or interested persons been obtained and is any further public consultation required? Not applicable

FINANCIAL IMPLICATIONS:

Capital cost implications	Nil
Is it currently budgeted for?	Not applicable
Funding source of capital costs	Not applicable
Ongoing operational cost implications	Nil
Is it currently budgeted for?	Not applicable
Funding & rating impact (whether resulting from capital expenditure or arising directly)	Not applicable

SUMMARY:

LTCCP implications as they relate to the strategic direction and the control systems are required to ensure appropriate overview and audit of the LTCCP outcomes.

RECOMMENDATION:

That this report be received for information.

1.0 Background

The Council has as a requirement under the Local Government Act 2002 to prepare an LTCCP setting out the direction of the Council over the next ten years. This is the Council's third LTCCP and the projected rates for year one of the new plan is very close to the projections set out in the 2006 – 2016 LTCCP. This report sets out the key issues emanating from that document and the impact they might have on the Council's financial outcomes.

2.0 Issues

The LTCCP contains a number of key challenges that the Council will face over the next ten years which can be summarised broadly under the following issues:

- 2.1 The implication of a number of key infrastructure projects on the Council's borrowings, treasury policy and balance sheet ratios. The key project being the construction of the Penlink project along with a number of water and wastewater projects that are required before new developments can proceed.
- 2.2 The implementation of a volumetric water charge previously recovered by way of a rate now to be recovered as a charge outside of the Local Government (Rating) Act 2002. Because traditionally wastewater charges have been included in the rating invoices, the public may not recognise that they will now receive this charge with their water account or a new separate bill where a property is not connected to Council-owned water supplies. Significant communication is being undertaken to minimise the risk of confusion and increased debt.
- 2.3 The recovery of Development Contributions (DCs) through the Local Government Act 2002 with the risk that the Council may end up in court resulting in a significant portion of its projected revenue being at risk. Other councils have in recent time been forced to discount their original charges as a result of developer opposition to the DC process.
- 2.4 The risk of not recovering the expected level of funds from property sales resulting in the Council being outside of its Treasury Parameters. The Council has budgeted for \$100 million of sales over the current and next 2 years. There is a risk that with a further downturn in the economy the projected income to reduce debt will not be realised, or may be realised later than anticipated.

- 2.5 That the assumptions made around the likely economic growth and the forecast capital expenditure results in infrastructure being constructed before there is sufficient growth to warrant it. The result of reduced DC income through slower economic growth has potential implications for the level of rates resulting from the higher interest costs.
- 2.6 The economic downturn lasts longer than predicted with a resulting increase to the Council's debt profile through rate arrears and Financial Contributions being uncollectable. The Council is experiencing increased levels of late payments of rates as an increasing number of householders join the unemployment queue.

3.0 Options

- 3.1 To minimise the impact of the issue raised above, the Council will need to have a more proactive process for the approval of capital expenditure, including detailed quarterly forecasts setting out the expected cashflows for the following three years.

4.0 Conclusion

That the Audit Committee recommend to the Council that a capital expenditure approval system including detailed cash flow be implemented.

REPORT



TO Audit Committee
 ON 12 June 2009
 FROM Kevin Ramsay – Director: Corporate Services
 APPROVED BY Kevin Ramsay – Director: Corporate Services
 SIGNATURE

SUBJECT FUTURE AGENDA ITEMS
 FILE REF CF/1/1

PURPOSE OF REPORT:

<input type="checkbox"/> Information only	<input type="checkbox"/> Strategic decision	<input type="checkbox"/> Policy decision	<input type="checkbox"/> Statutory process
<input type="checkbox"/> Community issue	<input type="checkbox"/> Contract decision	<input type="checkbox"/> Delegation	<input type="checkbox"/> Appointment
<input checked="" type="checkbox"/> Administrative matter			

IMPLICATIONS:

(i)	Is this matter significant in terms of Council's Policy on Significance? No
(ii)	Implications in terms of Vision Rodney? No
(iii)	Implications in terms of Long Term Council Community Plan / Annual Plan? No
(iv)	Implications in terms of other Council Strategic documents or Council Policy? No
(v)	Is a budget amendment required? No
(vi)	Have the views of affected or interested persons been obtained and is any further public consultation required? Not applicable

FINANCIAL IMPLICATIONS:

Capital cost implications	Nil
Is it currently budgeted for?	Not applicable
Funding source of capital costs	Not applicable
Ongoing operational cost implications	Nil
Is it currently budgeted for?	Not applicable
Funding & rating impact (whether resulting from capital expenditure or arising directly)	Not applicable

SUMMARY:

The purpose of this item is to enable a general discussion at the end of the meeting to identify any specific areas that the Committee wishes to look into for future agendas.

RECOMMENDATION:

That the following issues be placed on a future agenda for discussion.

1.0 Background

The role and operation of the Committee have been determined, which means that the general areas of involvement for the Committee are known. There may also be specific areas that the Committee believes need investigating and so these can be raised at this time.