



17 February 2017

Pursuant to a requisition dated 14 February 2017 by Mayor Wallace  
an Extraordinary Council meeting will be held in the  
**Council Chambers, 2nd Floor, 30 Laings Road, Lower Hutt,**

on:

**Tuesday 21 February 2017 commencing at 9.00am**

## **Membership**

Mayor Ray Wallace (Chair)

Cr Glenda Barratt  
Deputy Mayor David Bassett  
Cr Josh Briggs  
Cr Simon Edwards  
Cr Michael Lulich  
Cr Chris Milne

Cr Campbell Barry  
Cr Lisa Bridson  
Cr Margaret Cousins  
Cr Tui Lewis  
Cr Gwen McDonald  
Cr Leigh Sutton

For the dates and times of Council Meetings please visit [www.huttcity.govt.nz](http://www.huttcity.govt.nz)



## **COUNCIL**

Membership:	13
Meeting Cycle:	Council meets on a six weekly basis (Extraordinary Meetings can be called following a resolution of Council; or on the requisition of the Chair or one third of the total membership of Council)

### **POWER TO (BEING A POWER THAT IS NOT CAPABLE OF BEING DELEGATED)<sup>1</sup>:**

- Make a rate.
- Make bylaws.
- Borrow money other than in accordance with the Long Term Plan (LTP).
- Purchase or dispose of assets other than in accordance with the LTP.
- Purchase or dispose of Council land and property other than in accordance with the LTP.
- Adopt the LTP, Annual Plan and Annual Report.
- Adopt policies required to be adopted and consulted on under the Act in association with the LTP or developed for the purpose of the Local Governance Statement.
- Appoint the Chief Executive.
- Exercise any powers and duties conferred or imposed on the local authority by the Public Works Act 1981 or the Resource Management Act 1991 that are unable to be delegated.
- Undertake all other actions which are by law not capable of being delegated.
- The power to adopt a Remuneration and Employment Policy.

### **DECIDE ON:**

#### **Policy issues**

- Adoption of all policy required by legislation.
- Adoption of policies with a city-wide or strategic focus.

#### **District Plan**

- Promotion of Plan Changes and Variations recommended by the District Plan Committee prior to public notification.

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<sup>1</sup> Work required prior to the making of any of these decisions may be deleted.

- The withdrawal of Plan Changes in accordance with clause 8D, Part 1, Schedule 1 of the Resource Management Act 1991.
- Approval, to make operative, of District Plan and Plan Changes (in accordance with clause 17, Part 1, Schedule 1 of the Resource Management Act 1991).

### **Representation, electoral and governance matters**

- The method of voting for the Triennial elections.
- Representation reviews.
- Council's Code of Conduct and Local Governance Statement.
- Elected Members Remuneration.
- The outcome of any extraordinary vacancies on Council.
- Any other matters for which a local authority decision is required under the Local Electoral Act 2001.
- All matters identified in these Terms of Reference as delegated to Council Committees (or otherwise delegated by the Council) and oversee those delegations.
- Council's delegations to officers and community boards.

### **Delegations and employment of the Chief Executive**

The review and negotiation of the contract, performance agreement and remuneration of the Chief Executive.

### **Meetings and committees**

- Standing Orders for Council and its committees.
- Council's annual meeting schedule.

### **Operational matters**

- The establishment and disposal of any Council Controlled Organisation or Council Controlled Trading Organisation and approval of annual Statements of Corporate Intent on the recommendation of the Finance and Performance Committee.
- Civil Defence Emergency Management Group matters requiring Council's input.
- Road closing and road stopping matters.
- All other matters for which final authority is not delegated.

### **Appoint:**

- The non-elected members of the Standing Committees (including extraordinary vacancies of non-elected representatives).
- The Directors of Council Controlled Organisations and Council Controlled Trading Organisations.

- Council's nominee on any Trust.
- Council representatives on any outside organisations (where applicable and time permits, recommendations for the appointment may be sought from the appropriate standing committee and/or outside organisations).
- The Chief Executive of Hutt City Council.
- Council's Electoral Officer, Principal Rural Fire Officer and any other appointments required by statute.

## HUTT CITY COUNCIL

Extraordinary meeting to be held in the Council Chambers, 2nd Floor, 30 Laings Road,  
Lower Hutt on  
Tuesday 21 February 2017 commencing at 9.00am.

### ORDER PAPER

#### PUBLIC BUSINESS

1. APOLOGIES

2. PUBLIC COMMENT

Generally up to 30 minutes is set aside for public comment (three minutes per speaker on items appearing on the agenda). Speakers may be asked questions on the matters they raise.

3. CONFLICT OF INTEREST DECLARATIONS

4. FUNDING PROPOSAL RELATING TO THE UNREINFORCED  
MASONRY BUILDINGS LEGISLATION (17/226)

Report No. HCC2017/1/82 by the General Manager, Governance and  
Regulatory

2

MAYOR'S RECOMMENDATION:

"That the recommendations contained in the report be noted and discussed."

5. QUESTIONS

With reference to section 32 of Standing Orders, before putting a question a member shall endeavour to obtain the information. Questions shall be concise and in writing and handed to the Chair prior to the commencement of the meeting.

Kate Glanville  
SENIOR COMMITTEE ADVISOR

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**Report no: HCC2017/1/82**

## **Funding Proposal relating to the Unreinforced Masonry Buildings Legislation**

### **Purpose of Report**

1. To seek Council approval to enter into the draft funding proposal to allocate funds as a part-contribution to the Government's initiative to improve the seismic performance of unreinforced masonry building parapets and facades.

### **Recommendations**

It is recommended that Council:

- (i) receives the information contained in this report;
- (ii) notes that the Government announced its initiative in providing a \$3million funding package for the mandatory strengthening within 12 months of the street facing unreinforced masonry (URM) buildings on key routes and that the initiative includes buildings in Lower Hutt;
- (iii) notes that this funding package records the joint initiative with Central Government and Council paying up to half the cost of securing the works to a maximum of \$15,000 for a URM façade and/or \$10,000 for a URM parapet;
- (iv) notes that if the Council does not allocate funding, the mandatory strengthening requirement will remain but no public funding will be available;
- (v) agrees that, consistent with the funding proposal, it will allocate its portion to the building fund on the basis that the Government and Council contribution will be on a 2:1 ratio for the 2017/18 year, currently estimated to be at least \$375,000;
- (vi) agrees to enter into the funding proposal with the Central Government to give effect to paragraph (v) above;
- (vii) authorises officers to do all things necessary to finalise the funding

- proposal with the Ministry of Building, Innovation and Employment; and
- (viii) authorises the Chief Executive Officer to execute the funding proposal once finalised.

## Background

2. On 25 January 2017, the Government announced a \$3 million funding package for mandatory strengthening of the street facing unreinforced masonry (URM) of buildings on key routes with high foot or vehicular traffic in Wellington, Lower Hutt, Hurunui and Marlborough. The Government's contribution of up to \$3million is conditional on Council contribution.
3. The intention is to increase public safety on these key routes by reducing the vulnerability of URM parapets and facades in the event of a future earthquake.
4. The Ministry of Building, Innovation and Employment (MBIW) has provided Council with a draft funding proposal which sets out Central Government and Council contributions to the initiative. This is attached as Appendix 1.
5. The combined Government and Council funding will pay for up to half the cost of securing work to a maximum of \$15,000 for a URM façade, and/or \$10,000 for a URM parapet. Under the funding proposal, the Government and the Council's contribution are on a 2:1 ratio.
6. In other words, the costs of the works will be borne by the building owner funding half, with the balance split between the Government and the Council on a 2:1 ratio. For a building owner receiving the maximum amount of \$15,000 from the URM buildings fund for a façade, a \$10,000 contribution will come from Government and a \$5,000 contribution from the Council.
7. The Government funding is contingent on the Council also allocating funding. If the Council decides not to allocate funding, the mandatory strengthening requirement remains but no public funding will be available to the building owner.
8. Initial analysis shows there are about 15-80 affected buildings citywide. Of these, 50 are heritage-listed or contributing to listed heritage areas.
9. The final number of affected URM buildings will depend on whether they lie on a key route with high foot or vehicular traffic or on an emergency route. Council officers have provided information to the Government on the streets that should be included with the Government having a final say on which streets are to be included in the legislation. Officers are currently compiling the list of potentially affected buildings but this list will not be able to be confirmed until the Government announces the streets to be included for Lower Hutt. There is a relatively short timeframe to confirm the affected buildings before legislation 'goes live'.
10. This initiative will be proposed as an Order in Council made under *Hurunui/Kaikoura Earthquakes Recovery Act 2016*.

11. The proposed Order in Council is expected to include the list of the approved streets, types of buildings needing to be secured and the timeframe for that work. The timeframe is expected to be one year from the date the building owner is notified by the Council.
12. MBIE is leading the development of the technical matters underpinning the initiative as well as the process for implementing the initiative. Council officers have been asked for their views on these matters.
13. The proposed Order in Council will be considered by the independent Hurunui/Kaikōura Earthquakes Recovery Review Panel before taking effect.
14. If the Order in Council is made, it is likely to come into force in mid to late February 2017. After the Order in Council takes effect, Councils will issue notices to certain building owners under section 124 of the Building Act who will then have 12 months to complete the work.
15. Ministry for Business, Innovation and Employment guidance on securing facades and parapets will be available from late February 2017. Council officers plan to send these out to affected building owners together with the notice to secure their facades/parapets.
16. Work covered by the Order in Council will be exempt from the requirement to obtain Building Consents and Resource Consents. The proposal does not allow the partial or full demolition of buildings.
17. The initiative is focused on securing URM parapets and facades rather than strengthening. However owners of URM buildings subject to this requirement may opt to strengthen rather than secure these elements. They will still be eligible for funding support for work fitting the initiative criteria as long as the work is completed within the timeframe required to access the fund. Council officers will be working closely with owners to encourage them to take a long term view with a permanent strengthening solution where possible rather than a temporary securing solution.

## **Discussion**

### *Risks and issues future consideration*

18. The initiative exempts qualifying work from obtaining a Resource Consent, the normal regulatory mechanism for protecting heritage from inappropriate development. Without this process in place there is a risk of work being carried out which causes a loss of heritage values. However, MBIE has sought to minimize this risk by producing technical guidance documents which includes specific heritage building methodologies. Further, as part of Councils role in implementing the initiative, Council officers will provide targeted guidance as required.
19. If the building fund is oversubscribed, the Government may decide to allocate additional funding, for example if demand exceeded the current funding available. Based on the current co-funding criteria the Council would need to consider approving additional funding.
20. Under the draft funding proposal, MBIE is managing the likelihood of oversubscription by selecting streets on "key routes". Any further

contributions from the Government are conditional on the approval of additional appropriation. MBIE will monitor the number of facades and parapets required and will provide early warning to Councils if there is a prospect of additional funding required.

21. The key routes are those which have these features:
  - a. High pedestrian routes/areas, i.e. areas where people are concentrated for social activities (cafes, theatres, malls etc), and are used for public transport (public transport hubs or stops); or are high foot traffic routes;
  - b. High vehicular traffic routes, i.e. arterial routes, relevant sections of state highways, or key local streets; heavy use bus stops; busy intersections where buses may be stationary; or areas of high concentration of vehicles during peak hours;
  - c. Emergency routes, i.e. routes likely to be used by emergency services.

#### *Other EQ related developments*

22. This initiative addresses one aspect of strengthening required for earthquake-prone buildings. Government legislation passed in 2016 is due to come into force this year introducing a risk based framework to enforce national time frames and procedures for addressing earthquake-prone buildings.
  - This will shorten strengthening timeframes for priority buildings. The majority of earthquake-prone buildings will need to have their strengthening completed within the next 10 years.
  - Officers note that the Council's Built Heritage Incentive Fund (BHIF) exists to assist building owners with strengthening heritage building (see information below).

#### **Consultation**

23. Officers have met with the Jackson Street Programme Co-ordinator to discuss the Government's initiative.
24. Officers are also planning to organise meetings with interested building owners with representatives from MBIE, Heritage NZ and other relevant agencies in Jackson Street and other areas.

#### *Publicity matters*

25. Since the Government's announcement, the Minister and MBIE have taken the lead in communicating the initiative to the public. This is because until streets are confirmed Council officers are not going to speculate on the streets and buildings that may be affected. This would be unfair to the Government process and potentially affected building owners. Officers have been liaising with MBIE staff on communication issues and the Council has supported the Government initiative publically by attending the initial press conference.
26. Council officers will commence sending out s124 notices to affected building owners from the time the legislation is passed. This will include a guideline document prepared by MBIE to help building owners understand the

process. Prior to sending out the letters, officers also intend to call affected building owners to give them a heads up.

27. Council officers will work with the Minister's office and MBIE to ensure as little time as possible between the Government's announcement of approved streets and letters being sent to affected building owners. Communicating with affected building owners and ensuring they have relevant and sufficient information will be a priority.
28. Information to answer potential questions will be available on the Council website and the customer contact centre and the building team will be prepped accordingly so that phone calls can be answered effectively.
29. Media enquiries about the Government's initiative will be answered by MBIE and the Minister's Office. Media enquiries about affected buildings in Lower Hutt and Council's support for the Government's initiative will be answered by the relevant officers and the Chief Executive. It is likely that the Mayor may also be asked for comment and he will work with Council's communications team to respond.

### **Legal Considerations**

30. Other relevant aspects of the draft funding agreement include allocation of responsibilities between MBIE and the Council. Note that MBIE will administer the fund and will liaise with building owners once the owners submit their URM fund application. The Council will be the main point of contact once we send the notice to the building owners to secure their buildings and until the section 124 notice is removed from the building.

### **Financial Considerations**

31. Payment will be made to building owners after the strengthening has occurred and been signed-off.
32. Given the current estimates of 15-80 affected buildings, officers have made a provision of \$375,000 as Council's contribution to the fund in the 2017/18 draft budget. Note that this amount will change as the number of affected buildings is confirmed. Officers are still working to confirm the numbers.
33. Most of the work is expected to occur in the 2017/18 financial year.

#### *Other funding options for affected building owners*

34. Note that the Council's Build Heritage Incentive Fund (BHIF) of \$50,000 for permanent comprehensive strengthening solutions remains unaffected by the URM initiative.
35. Building owners can apply to use the BHIF for the securing work under the URM initiative provided they meet the BHIF criteria.
36. Council's BHIF is designed to help owners preserve, restore and protect the heritage values of their buildings or structures. The fund is intended to be used for professional services (e.g. structural strengthening reports, maintenance reports, conservation plans, archeological site assessments, conservation work specifications or supervision work and technical advice), or emergency physical work. It only applies to buildings registered by the Historic Places Trust or that contribute to a heritage area or are listed in the

District Plan. The qualifying buildings must have high public access and/or visibility from public places.

***Other cost impacts***

37. Council officers will need to consider how costs involved in implementing the initiative are managed, for example the costs of Traffic Management Plans, and the issuing and signing-off of notices. However these are expected to be fairly minor and can be covered under existing budgets.

**Other Considerations**

38. In making this recommendation, officers have given careful consideration to the purpose of local government in section 10 of the Local Government Act 2002. Officers believe that this recommendation falls within the purpose of the local government in that it is a central government initiative aimed at addressing public safety issues in the event of an earthquake. It does this in a way that is cost-effective because it incentivizes and simplifies the process for building owners to fix URM facades and parapets.

**Appendices**

No.	Title	Page
1↓	Draft Proposal URM Buildings Fund	8

**Author:** Joycelyn Raffills  
General Manager, Governance and Regulatory

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**Reviewed By:** Helen Oram  
Divisional Manager Environmental Consents

**Reviewed By:** Brent Kibblewhite  
Chief Financial Officer

**Approved By:** Tony Stallinger  
Chief Executive

**Draft Proposal for  
the operation of the unreinforced masonry (URM) buildings fund**

BETWEEN

Ministry of Business, Innovation & Employment  
15 Stout Street  
Wellington

AND

*The [insert name of Council] Council*

Dated this [insert date] day of [insert month] 2017

## 1. Parties

- 1.1 This Agreement is between the Ministry of Business, Innovation and Employment (“MBIE”) and the [insert name of Council] Council (“Council”) (together, ‘the Parties’).

## 2. Definitions and Interpretations

- 2.1 In this Agreement, the following terms have the following meanings:

Term	Meaning
URM buildings fund	The fund established to support building owners carry out the required URM buildings securing work, comprising of both Government and Council contributions.
Heritage EQUIP fund	The Heritage Earthquake Upgrade Incentive Programme administered by the Ministry for Culture and Heritage
Section 124 notice	The notice issued by the Council under section 124 of the Building Act requiring the securing work to be completed in accordance with specified technical guidance and timeframes.

## 3. Background

### *The Project*

- 3.1 Due to the heightened risk of earthquakes following the Kaikōura earthquake of 14 November 2016, the Government requires building owners in certain areas to secure URM parapets and façades within 12 months. Adequately securing the vulnerable features of URM buildings will significantly reduce the life safety risks posed by these buildings.
- 3.2 An Order in Council under the Hurunui/Kaikōura Earthquakes Recovery Act 2016 modifies the Building Act 2004 to create a regulatory requirement for a certain class of buildings under section 121 to 122 of that Act. The class of buildings are URM buildings with street facing URM parapets and façades in certain areas and specified locations. These building will have notices issued to them by the Council under section 124 of the Building Act.
- 3.3 The URM buildings fund has been established comprising both Government and the Council contributions to support building owners carry out this work.
- 3.4 The purpose of this Agreement is to set-out the roles of MBIE and the Council for the operation of the URM buildings fund.

### *Parties’ roles*

- 3.5 MBIE will administer the URM buildings fund on behalf of the Government and each contributing Council.
- 3.6 Both the Government and the Council will contribute to the URM buildings fund. The URM buildings fund will provide half the costs of securing street facing URM features, up to a maximum of \$15,000 for a URM façade and/or \$10,000 for a URM parapet.
- 3.7 The URM buildings fund includes both Government and Council contributions on a 2:1 ratio. The Government contribution of up to \$3 million is conditional on the Council contribution. This means for a building owner receiving the maximum amount of \$15,000 from the URM

buildings fund for a façade, will receive a \$10,000 contribution from Government and a \$5,000 contribution from the Council.

- 3.8 Government and Council contributions have been estimated based on the maximum anticipated funding required.
- 3.9 The basis of the fund is that every building owner who is required to secure URM features and does so in accordance with the requirements is eligible for funding. The likelihood of oversubscription has been minimised by the selection of streets specified in the Order in Council. Further contributions from the Government are conditional on the approval of an additional appropriation.
- 3.10 MBIE will monitor the number of façades and parapets required and provide early warning to Councils if there is a prospect that additional funding is required.
- 3.11 The Council will be the main point of contact for building owners until the section 124 notice has been removed from the building.
- 3.12 MBIE will be the main point of contact for building owners from the time the building owner submits their URM buildings fund application until receipt of their URM buildings fund payment.

#### **4. Purpose and Scope**

- 4.1 The Parties wish to enter into this Agreement and work closely together during the URM buildings securing project to ensure the effective and timely operation of the URM buildings fund to support building owners carrying out the required securing work.
- 4.2 This Agreement establishes the way in which MBIE and the Council intend to work together during the URM buildings securing project and sets out a framework within which MBIE and the Council will perform their roles and responsibilities under this Agreement.

#### **5. General Principles of the Agreement**

- 5.1 The following outlines the general principles that underpin the nature of the working relationship between the Council and MBIE:
  - The Parties will work together to establish and maintain a relationship based on co-operation and partnership;
  - Any issues concerning the other Party's performance will be discussed with that Party in the first instance;
  - The Parties will communicate with each other openly and freely.

#### **6. Agreement on responsibilities and required:**

##### ***MBIE required actions***

- 6.1 MBIE will provide centralised administrative processing of URM buildings fund applications on behalf of all contributing Councils.
- 6.2 MBIE will provide each contributing Council the URM buildings fund information pack and application form for provision to building owners on each issue of a section 124 notice, consisting of Technical Guidance on securing URM building elements and a basic process diagram outlining the steps involved in applying to the URM buildings fund.

- 6.3 MBIE will liaise with the Ministry for Culture and Heritage (MCH) to ensure the URM buildings fund applicants are not receiving Heritage EQUIP funding, or have an application lodged with MCH for consideration.
- 6.4 MBIE will review the URM buildings fund applications and determine the amount due to the building owner based on evidence of costs incurred by the building owner.
- 6.5 MBIE will manage the government contribution to the URM buildings fund, make payments to building owners on behalf of Government and the Council, report to the Council on the payments made and keep records for auditing purposes.
- 6.6 MBIE will direct debit the Council's nominated bank account the Council contribution for each funding application.

#### **Council required actions**

- 6.7 Council will provide the URM buildings fund information pack to each building owner that receives a section 124 notice requiring URM features to be secured. Council will communicate with building owners that the URM buildings fund is not available to building owners currently receiving Heritage EQUIP funding.
- 6.8 Council agrees to delegate to MBIE the role of determining the amount due to a building owner based on works completed, and taking into account government and Council contributions.
- 6.9 Council authorises MBIE to direct debit the Council's nominated bank account the Council contribution for each funding application.

#### **Information sharing**

- 6.10 Council will advise MBIE the details of building owners issued with section 124 notices (building name, street address, details of building owner, URM building issues identified). This will be an important reference when processing URM buildings fund applications.
- 6.11 Council will advise MBIE when a section 124 notice is removed from a building.

#### **Reporting**

- 6.12 The Parties are to provide written (email) reports as soon as is reasonably possible on:
  - a. any risks or issues that MBIE or the Council need to be aware of (including any risks that will, or may have the effect of causing delay to the URM buildings securing project;
  - b. an assessment of the significance of any risks identified under 6.12 (a); and
  - c. any steps planned to resolve such risks and minimise disruption to the required actions at clause 6.1 (where such risks occur or are likely to occur); and
  - d. any other issues of which the Parties may need to be aware of sooner than the regular report under clause 6.5.

#### **Address for Reporting**

- 6.13 The Parties will provide reports required under this Agreement via email to the other Party's Key Contact Person (clause 9) in the first instance, unless, in the circumstances, it is unreasonable to do so.

#### **Meetings**

- 6.14 The Parties agree to meet or teleconference at least monthly, or as and when required.

## 7. Dispute Resolution

### *Principles*

7.1 Each Party shall use all reasonable efforts to:

- a. Give notice of any dispute between the Parties arising under or in connection with the Agreement (Dispute) promptly; and
- b. Meet within five working days of notice of Dispute with the purpose of attempting to resolve the Dispute; and
- c. Use all reasonable endeavours to resolve the Dispute as expeditiously as possible; and
- d. Ensure that any Dispute that is reasonably foreseeable is dealt with at a sufficiently early stage to ensure that there is minimum impact on the ability of either Party to perform its obligations under this MOU; and
- e. Continue performing responsibilities and required actions under this Agreement (as far as possible given the nature of the Agreement Dispute) despite any Dispute.

### *Escalation*

7.2 Each Party shall use all reasonable efforts to:

- a. Resolve any dispute between officials within five working days of first meeting;
- b. Where unable to Resolve any dispute between officials within five working days at a less than General Manger Level, escalate to General Manager level;
- c. Where unable to resolve any dispute at General Manager level within ten working days; escalate them to a DCE or CE level.
- d. If the DCE or CE is unable to resolve the dispute they may escalate the Dispute to each Party's responsible Minister of Crown.

Wherever a dispute arises, each Party agrees to liaise through the Party's Key Contact Person (clause 9) in the first instance, unless, in the circumstances, it is unreasonable to do so.

## 8. Term of Agreement

8.1 The Agreement will commence from the date it is signed by the Parties and continue until 30 June 2018 or earlier if the Parties agree in writing.

## 9. Contact Person

9.1 A Key Contact Person is designated by each Party, to be kept informed of matters that arise relating this Agreement. The Key Contact Person will develop an effective working relationship with the other Party's Key Contact Person. The Parties' Key Contact Persons are:

- MBIE Key Contact Person: John Gardiner
- Council Key Contact Person: [insert name].

- 9.2** If the Key Contact Person changes, notification should be provided to the other Party in writing and there should be a handover process so that the new Key Contact Person can quickly settle into the role.
- 9.3** Any notices, reports or other communications under this Agreement should be directed to the Party's Key Contact Person, unless, in the circumstances, it is unreasonable to do so. The email address for each party is:
- MBIE Key Contact Person: John Gardiner, john.gardiner@mbie.govt.nz
  - Council Key Contact Person: [insert name, email].

## **10. Protocols for Publicity**

- 10.1** As a courtesy and in the interest of clear communication, neither Party will comment publicly on any matters that relate directly or indirectly to policies, practices, procedures or actions of another Party in respect of this Agreement, without first advising and/or discussing the matter with the other Party.
- 10.2** Wherever appropriate and possible, both Parties will coordinate publicity and media activity.

## **11. Information Management**

### ***Confidentiality***

- 11.1** With the exception of information that is already available in the public domain, and unless stated otherwise, the Parties agree that all information communicated to one Party by the other, in any manner in connection with the Agreement is Confidential Information and will be kept confidential at all times.

### ***Permitted Disclosure of Confidential Information***

- 11.2** The obligation of confidentiality at clause 11.1 does not apply to:
- any disclosure of Confidential Information required by law; or
  - any disclosure of Confidential Information in a manner prescribed by government rules and or guidelines; or
  - any disclosure of Confidential Information to a Party's employees and contractors on a need-to-know-basis; or
  - any disclosure of Confidential Information on a need-to-know-basis:
    - a Minister; or
    - any of that Party's advisors; or
    - any other government agency.

provided that any person to whom confidential information is disclosed is bound in writing by obligations no less onerous than those contained in clause 11, prior to disclosure.

- 11.3** In any Permitted Disclosure, the Parties must take reasonable steps to ensure that electronic and hard copies of the Confidential Information are not available for viewing by personnel who do not have a genuine need-to-know.

***Disclosure***

- 11.4** If one of the Parties is required, by law, to disclose any Confidential Information, that Party shall immediately give notice and inform the other Party in a manner and at a time reasonably sufficient for the other Party to express its view in relation to such disclosure (which view shall be taken into account by the Party required to disclose such information).
- 11.5** Subject to any legal requirements, each Party will give notice to the other Party if it receives a request for confidential information.

**12. Variations to Agreement**

- 12.1** This Agreement can be amended by written variation signed by both Parties.

Signed for and on behalf of  
the [insert name of  
Council] Council:

\_\_\_\_\_

Name:

\_\_\_\_\_

Title:

\_\_\_\_\_

Date:

\_\_\_\_\_

Witness:

\_\_\_\_\_

Name:

\_\_\_\_\_

Title:

\_\_\_\_\_

Signed for and on behalf of  
MBIE:

\_\_\_\_\_

Name:

\_\_\_\_\_

Title:

\_\_\_\_\_

Date:

\_\_\_\_\_

Witness:

\_\_\_\_\_

Name:

\_\_\_\_\_

Title:

\_\_\_\_\_