

Decision released from confidential session			
Recommendation from (agenda report)	Date of meeting	Recommendation to (decision-making meeting)	Date of meeting
		Council	17 December 2020
Report Title and number			
R20287 - Nelmac Limited - Statement of Expectation 2021/22			
Documents released			
Decision and Report – R20287			
Decision Resolved CL/2020/220			
<i>That the Council</i>			
<ol style="list-style-type: none"> 1. <i><u>Receives</u> the report Nelmac Limited - Statement of Expectation 2021/22 (R20287) and its attachment (A2479215); and</i> 2. <i><u>Confirms</u> the general matters to be included in the Nelmac Limited Statement of Expectation 2021/22 letter as those set out in paragraphs 6.1 to 6.17 in report R20287; and</i> 3. <i><u>Confirms</u> the specific matters to be included in the Statements of Expectation letters as:</i> <ul style="list-style-type: none"> - <i>Inclusion of a capital program in the Statement of Intent for at least the next five years which proactively addresses investment in the fleet and plant; and</i> 4. <i><u>Requests</u> officers to prepare and issue the Statement of Expectation based on the general and specific expectations as determined in points 2 and 3 above; and</i> 5. <i><u>Agrees</u> that Report (R20287) and the decision be made publicly available once the completed Statement of Expectation is made available on the Nelson City Council website approximately 30 days after it is received by the Council Controlled Trading Organisation.</i> 			

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Item 5: Nelmac Limited - Statement of Expectation 2021/22



Council

17 December 2020

REPORT R20287

Nelmac Limited - Statement of Expectation 2021/22

1. Purpose of Report

- 1.1 To provide direction to officers on the Councils' expectations for Nelmac for the Statement of Intent 2021/22. This is to allow officers to prepare a Statement of Expectations letter for delivery to Nelmac.

2. Summary

- 2.1 Although not legally required, it is best practice for shareholders to signal to Council Controlled Organisations (CCOs) and Council Controlled Trading Organisations (CCTOs) their expectations for each organisation in the next financial year. A letter will be prepared to the Board of Nelmac outlining both general and specific expectations of matters to be addressed in the next Statement of Intent.
- 2.2 This report identifies both the general and specific requirements proposed for inclusion in the Statement of Expectations. These include additional requirements arising from the recent changes to the Local Government Act 2002. The expectations are generally consistent with previous years.
- 2.3 Statements of Expectations are required to be made public on the shareholding councils websites and it is intended that this occur approximately 30 days after their issue to allow the CCO time to consider the expectations (and engage with shareholders) prior to the public notification.

3. Recommendation

That the Council

1. ***Receives*** the report ***Nelmac Limited - Statement of Expectation 2021/22 (R20287) and its attachment (A2479215); and***
2. ***Confirms*** the general matters to be included in the ***Nelmac Limited Statement of Expectation 2021/22 letter as those set out***

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*in paragraphs 6.1 to 6.17 in report R20287;
and*

3. ***Confirms the specific matters to be included in the Statements of Expectation letters as:***

- ***Inclusion of a capital program in the Statement of Intent for at least the next five years which proactively addresses investment in the fleet and plant.***
- ***[to be confirmed at meeting]***

4. ***Requests officers to prepare and issue the Statement of Expectation based on the general and specific expectations as determined in points 2 and 3 above; and***

5. ***Agrees that Report (R20287) and the decision be made publicly available once the completed Statement of Expectation is made available on the Nelson City Council website approximately 30 days after it is received by the Council Controlled Trading Organisation.***

4. Exclusion of the Public

4.1 This report has been placed in the public excluded part of the agenda in accordance with section 48(1)(a) and section 7 of the Local Government Official Information and Meetings Act 1987. The reason for withholding information in this report under this Act is to:

- Section 7(2)(h) To enable the local authority to carry out, without prejudice or disadvantage, commercial activities
- Section 7(2)(i) To enable the local authority to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)

5. Background

5.1 The preparation of Statements of Expectations is not required under the Local Government Act 2002. However, it is best practice for shareholders to signal to CCOs and CCTOs their expectations for each organisation in the next financial year (2021/22). These expectations can then be considered by these entities to guide their strategic direction and to assist in the development of the Statement of Intent (SOI) or Statement of Corporate Intent (SOCI) for that financial year.

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5.2 This also means that Council engages with these entities early and therefore any difference in expectations can be addressed early in the process.

5.3 Council officers maintain good relationships with their colleagues at each of these organisations and are always ready to assist them in the interpretation of Local Government Act requirements and the preparations of their respective SOIs/SOCI. The final Statement of Intent for 2020/21 is included as Attachment 1.

6. Discussion

General expectations to be included in Statements of Intent (SOIs)

6.1 SOIs must include a complete set of summary prospective financial statements for at least three years (preferably five years) i.e. statement of comprehensive income, statement of financial position and cash-flow statement.

6.2 SOIs should disclose measures such as earnings before interest and tax (EBIT) and earnings before interest, tax, depreciation and amortisation (EBITDA) and balance sheet ratios where applicable i.e. CCTOs.

6.3 SOIs must fully comply with Schedule 8 of the Local Government Act.

6.4 In the Public Records Act 2005, a local authority includes CCOs/CCTOs. As such, the requirements of this Act and its related mandatory Information and Records Management Standard - July 2016 applies for the management, retention, and disposal of records.

6.5 Compliance with legislation and reporting on Health and Safety matters must be given due emphasis.

6.6 Dividends are to be disclosed along with the dividend pay-out policies, where applicable. Further details are required around the impact from COVID-19 on the dividend stream and when dividends are expected to return to pre-COVID-19 levels.

6.7 Capital expenditure and asset management intentions should be included.

6.8 CCTOs should use the same information for both managing the business and reporting through to the shareholders i.e. the information used for setting and reporting against for the SOI should overlap and be a subset of the information used for internal reporting.

6.9 SOIs and other CCTO reports should be in a plain style, concise, relevant, accessible and focused on meeting the needs of the shareholding councils and the public they represent. The use of graphs, tables and charts is expected to convey both financial and non-financial information along with trends (past, current and future numbers).

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- 6.10 To be effective, the SOI must disclose the performance story for the CCTO, providing a clear and succinct understanding of the CCTO purpose, the goods and services it delivers and what success looks like. Providing a clear message to the boards on these requirements and other expectations will assist in ongoing improvements in the SOI and reporting.
- 6.11 The main aspects of the SOI performance story are:
- Strategic context
 - Specifying and presentation of the outcomes framework
 - Main measures and targets, outcomes and objectives
 - Linking the strategy outputs performance together
- 6.12 Risk management - Shareholders would like to understand in the SOI how the Board is considering and managing risks, including natural hazards and climate change.
- 6.13 Sustainability – Shareholders would like to understand in the SOI how the Board is addressing sustainability including carbon emissions and waste minimisation.
- 6.14 Health and Safety - given the Health and Safety at Work Act 2015 (the Act), it is appropriate for the Council to set out its expectations in relation to Health and Safety in the CCOs/CCTOs:
- 6.14.1 Under Section 44 (3) of the Act elected members do not have a duty to exercise due diligence to ensure that any council-controlled organisation complies with its duties or obligations under the Act unless that member is also an officer of that council-controlled organisation.
- 6.14.2 However, as shareholders, it is still appropriate to set out expectations of Health and Safety management in CCOs/CCTOs.
- 6.14.3 Council expects the Board of Nelmac to set appropriate Health and Safety strategy and policy, understand the nature of risks/hazards within the business, monitor performance and activities to ensure risk is being managed and review H&S systems and performance.
- 6.14.4 In addition to this, as a contractor to Council, Nelmac has to also meet our Health and Safety standards.
- 6.15 Governance performance - in order to aid Council when making decisions on Board remuneration and appointments, the Board should undertake regular evaluation of its own performance:
- 6.15.1 Council expects these reviews to be carried out at least once every eighteen months.

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- 6.15.2 The Chair of the Board should reference this evaluation when making recommendations on the re-appointment or recruitment of Board members.
- 6.16 In addition, Director recruitment must take account of the new requirement in the LGA to ensure that when identifying the skills, knowledge, and experience required of Directors consideration is given to whether knowledge of tikanga Māori may be relevant to the governance of that CCTO.
- 6.17 Shareholders require that CCTOs, before making a decision that may significantly affect land or a body of water, must take into account the relationship of Māori and their culture and traditions with their ancestral land, water, sites, wāhi tapu, valued flora and fauna, and other taonga. This is a new provision in the LGA.
- 6.18 The shareholders require that all CCTO's include in their SOI's how they are intending to respond to the challenges of COVID-19 including the likely economic downturn.

Specific expectations to be included in the SOI

- 6.19 Following a meeting with the Chair and other members of Audit, Risk and Finance Subcommittee on the financial aspects of the SOE, it is proposed that the following specific expectations be set out in the Statement of Expectation letter to the Board:
- 6.19.1 Inclusion of a capital program in the SOI for at least the next five years which proactively addresses investment in the fleet and plant.

7. Options

Option 1: accept or amend the matters to be included in the Statement of Expectation letter	
Advantages	<ul style="list-style-type: none">• Gives clear and early direction to CCOs/CCTOs to assist with the preparation of the 2021/22 Statement of Intent.
Risks and Disadvantages	<ul style="list-style-type: none">• None
Option 2: Amend the matters to be included in the Statement of Expectation	
Advantages	<ul style="list-style-type: none">• Provides clear and early direction to the board to assist with the preparation of the 2021/22 Statement of Intent

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Risks and Disadvantages	<ul style="list-style-type: none">• None
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8. Next steps

- 8.1 Once feedback has been received, the Mayor will sign the Statement of Expectation letter to Nelmac.

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Attachments

Attachment 1: A2479215 - Nelmac final SOI 2020/21

Released 12 Nov 2021

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Important considerations for decision making
1. Fit with Purpose of Local Government Nelmac assist Council to promote the economic and environmental well-being of Nelson City residents and businesses. Although not required by the Local Government Act, preparation of Statements of Expectation prior to the SOI/SOCI process is best practice.
2. Consistency with Community Outcomes and Council Policy The preparation of Statements of Expectation has not previously been codified under the LGA. However, it is best practice for shareholders to signal to CCOs and CCTOs their expectations for each organisation. With the passing of the "Local Government Act 2002 Amendment Act 2019" a number of changes affecting CCOs were made. These included a formal definition of a Statement of Expectations. These remain optional and are about relationships, engagement and collaboration.
3. Risk None.
4. Financial impact None.
5. Degree of significance and level of engagement This matter is of low significance because this decision is about setting expectations early in the SOI process and there are other decision points along the way. Engagement will occur with the CCOs and CCTOs but is not required with the wider community. The completed SOE will be made publicly available on the Councils website in due course. This new provision should enhance transparency in the process.
6. Climate Impact Climate change responsiveness has been identified by Council as a specific matter of interest in the Statement of Expectation letter.
7. Inclusion of Māori in the decision making process No engagement with Māori has been undertaken in preparing this report.
8. Delegations Council retains all responsibilities, powers, functions and duties in relation to governance matters for Nelmac Ltd.