

<b>Decision released from confidential session</b>			
<b>Recommendation from (agenda report)</b>	<b>Date of meeting</b>	<b>Recommendation to (decision-making meeting)</b>	<b>Date of meeting</b>
		Council	01 February 2024
<b>Report Title and number</b>			
Statement of Expectations 2024/25 – Nelson Marina (R28106)			
<b>Documents released</b>			
Decision CL/2024/019 and Report R28106			
<b>Decision</b>			
<p>That the Council</p> <ol style="list-style-type: none"> <li>1. Receives the report Statement of Expectations 2024/25 - Nelson Marina (R28238); and</li> <li>2. Confirms the general matters to be included in the Nelson Marina Statement of Expectations 2024/25 as those set out in paragraphs 6.1 to 6.17 of report R28106; and</li> <li>3. Confirms the following specific matters to be included in the Nelson Marina Statement of Expectations as set out in paragraph 6.18 on: <ol style="list-style-type: none"> <li>A. Accounting; and</li> <li>B. Benchmarking; and</li> <li>C. Financially sustainable and prudent Masterplan implementation; and</li> <li>D. Planning and reporting; and</li> <li>E. Good employer obligations; and</li> <li>F. Resilience; and</li> <li>G. Governance; and</li> <li>H. Risk; and</li> <li>I. Assets and security; and</li> </ol> </li> <li>4. Agrees that Report (R28106) and the decision be made publicly available once the completed Statement of Expectations is published on the Nelson City</li> </ol>			

Council website, approximately 30 days after it is received by the Nelson Marina Board.

Released 01 October 2024

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Item 10: Statement of Expectations 2024/25 - Nelson Marina

Council



14 December 2023

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**Report Title:** Statement of Expectations 2024/25 - Nelson Marina  
**Report Author:** Martin Croft - Strategic Adviser Community Services  
**Report Authoriser:** Andrew White - Group Manager Community Services  
**Report Number:** R28106

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## 1. Purpose of Report

1.1 To provide direction to officers on Council's expectations for the Nelson Marina Statement of Intent (SOI) 2024/25. This is to allow officers to prepare a Statement of Expectations (SOE) for delivery to the Board of the Nelson Marina.

## 2. Summary

2.1 Council decided at its meeting in March 2022 to establish a Nelson Marina Management Council Controlled Organisation (Marina CCO).

2.2 Although not legally required, it is best practice for Council to signal to Council Controlled Organisations (CCOs) any expectations for the next financial year.

2.3 A SOE will be prepared and sent to the Nelson Marina Board outlining both general and specific expectations of matters to be addressed in the next year's SOI.

2.4 This report identifies both the general and specific requirements proposed for inclusion in the SOE. The expectations recommended by staff are generally consistent with previous years.

The SOE is required to be made public on Council's website and it is intended that this occur approximately 30 days after its issue to allow the CCO time to consider the expectations prior to the public notification.

## 3. Recommendation

***That the Council***

***1. Receives the report Statement of Expectations 2024/25 - Nelson Marina (R28106); and***

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2. ***Confirms the general matters to be included in the Nelson Marina Statement of Expectations 2024/25 as those set out in paragraphs 6.1 to 6.17 of report R28106; and***
3. ***Confirms the following specific matters to be included in the Nelson Marina Statement of Expectations as set out in paragraph 6.18 on:***
  - A. ***Accounting; and***
  - B. ***Benchmarking; and***
  - C. ***Financially sustainable and prudent Masterplan implementation; and***
  - D. ***Planning and reporting; and***
  - E. ***Good employer obligations; and***
  - F. ***Resilience; and***
  - G. ***Governance; and***
  - H. ***Risk; and***
  - I. ***Assets and security; and***
4. ***Agrees that Report (R28106) and the decision be made publicly available once the completed Statement of Expectations is published on the Nelson City Council website, approximately 30 days after it is received by the Company.***

#### **4. Exclusion of the Public**

4.1 This report has been placed in the confidential 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)(i) To enable the local authority to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)

#### **5. Background**

5.1 Council approved the formation of the Marina CCO on 24 March 2022.

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- 5.2 The Marina CCO has an independent Board that is accountable to Council for the CCO's performance. Directors will be responsible for overseeing the management of the business.
- 5.3 Under the Local Government Act 2002, as a CCO, the Nelson Marina is required to complete a draft Statement of Intent (SOI) on an annual basis no later than 1 March each year.
- 5.4 Schedule 8 of the Local Government Act outlines the purpose of a SOI, what is to be included, and how it is to be approved.
- 5.5 The preparation of a SOE is not required under the Local Government Act 2002 (LGA). However, it is best practice for Council to signal to CCOs any expectations for the next financial year (2024/25). These expectations can then be considered by the CCOs to guide their strategic direction and to assist in the development of the SOI for the next financial year.
- 5.6 Council officers maintain good relationships with their colleagues at the Nelson Marina and will be ready to assist them in the interpretation of LGA requirements and the preparation of their SOI.

## **6. Discussion**

### **General expectations to be included in SOI's**

- 6.1 SOIs should include a complete set of summary prospective financial statements for at least three years (preferably five years) ahead, i.e. statement of comprehensive income, statement of financial position and cash flow statement.
- 6.2 SOIs should disclose measures like earnings before interest and tax (EBIT); earnings before interest, tax, depreciation, and amortisation (EBITDA); and balance sheet ratios, where applicable.
- 6.3 SOIs must fully comply with Schedule 8 of the LGA.
- 6.4 Under the Public Records Act 2005, a local authority includes CCOs. As such, the requirements of this Act and its related mandatory Information and Records Management Standard - July 2016 applies to 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 Where the Council makes a financial contribution to the operational costs of the organisation, the CCO should show how it intends to increase non-council revenue streams.
- 6.7 Capital expenditure and asset management intentions should be included.

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- 6.8 CCOs should use the same information for both managing the business and reporting through to the Council, meaning the information used for setting targets and reporting against them for the SOI should overlap and be a subset of the information used for internal reporting.
- 6.9 SOIs and other CCO reports should be in a plain style, concise, relevant, accessible and focussed 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).
- 6.10 To be effective, the SOI must disclose the performance story for the CCO, providing a clear and succinct understanding of the CCO purpose, the goods and services it delivers and what success looks like. Providing a clear message to the Board 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, SMART measures are preferable in showing performance
  - Linking the strategy outputs performance together
- 6.12 **Risk Management:** Council would like to understand through the SOI how the Board is reviewing and managing risks, including natural hazards, climate change and pandemics.
- 6.13 **Climate Change and Sustainability:** Council would like to understand what measures and targets are in place to address environmental and climate change concerns, including measures to:
- Support the transition to net zero carbon emissions by 2050
  - Prepare for the impacts of climate change, including key organisational climate change risks
  - Minimise waste and support the shift to a circular economy
- 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.
- 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.

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- 6.14.2 However, as a key funder it is still appropriate to set out expectations of Health and Safety management in CCOs.
- 6.14.3 The Council expects the Trust 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 Health and Safety systems and performance.
- 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 this review to be carried out at least once every eighteen months.
- 6.15.2 A skills mix analysis is to be part of the regular Board reviews and recommendations for director re-appointments.
- 6.15.3 The Chair of the Board should reference this evaluation and also provide a skills matrix for the Board when making recommendations on the re-appointment or recruitment of new Board members.
- 6.16 In addition, trustee recruitment must take account of the 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 CCO.
- 6.17 Council requires that CCOs, 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 provision in the LGA.

### **Specific expectations to be included in the SOI**

- 6.18 It is proposed that the following specific expectations be set out in the SOE to the Trust:
- 6.18.1 **Accounting:** Prepare new accounts specific to the operational needs and governance oversight of the Nelson Marina including budget and cashflow analysis for the next five years.
- 6.18.2 **Benchmarking:** Analyse and benchmark the Nelson Marina's pricing compared to other comparable New Zealand marinas and the future financial requirements for the Nelson Marina.
- 6.18.3 **Financially sustainable and prudent Masterplan implementation:** Plan and implement the Nelson Marina Masterplan as approved and directed by Council, including extending the implementation of the Plan over a 30 year period.

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- 6.18.4 **Planning and Reporting:** Utilising performance reporting through the inclusion of quantifiable measures and SMART targets.
- 6.18.5 **Good Employer Obligations:** Detail in the SOI how the Nelson Marina meets its good employer obligations under the LGA 2002, particularly in relation to fair pay and equal employment opportunities.
- 6.18.6 **Resilience:** Include in the SOI a risk management plan which details risks/hazards, mitigation strategies, response and recovery plans including in relation to cyber-attacks, pandemics and natural hazards.
- 6.18.7 **Governance:** Include in the SOI reference to how the board will identify and develop greater diversity and representation of diverse communities in future succession planning.
- 6.18.8 **Risk:** Include in the SOI a specific section on risk. This needs to address risks arising from the current operating environment, including inflation, increasing insurance costs, revenue impacts, and other risks that may be identified by the Board.
- 6.18.9 **Assets and Security:** Include in the SOI, commentary on the Nelson Marina assets and options for security for Council on their investment.

## 7. Options

- 7.1 Two options are presented. The Council can accept the matters to be included in the SOE; or it can amend the matters to be included in the SOE.

<b>Option 1: Accept the matters to be included in the SOE (recommended option)</b>	
Advantages	<ul style="list-style-type: none"><li>• Gives clear and early direction to the Board to assist with the preparation of the 2024/25 SOI</li></ul>
Risks and Disadvantages	<ul style="list-style-type: none"><li>• None</li></ul>
<b>Option 2: Amend the matters to be included in the SOE</b>	
Advantages	<ul style="list-style-type: none"><li>• Provides clear and early direction to the Board to assist with the preparation of the 2024/25 SOI</li></ul>
Risks and Disadvantages	<ul style="list-style-type: none"><li>• None</li></ul>



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### **8. Next Steps**

- 8.1 Once feedback has been received, the Mayor will sign the SOE letter to the Nelson Marina Board.

### **Attachments**

Nil

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<b>Important considerations for decision making</b>
<b>Fit with Purpose of Local Government</b>  Although not required by the LGA, preparation of a SOE prior to the SOI process is best practice.
<b>Consistency with Community Outcomes and Council Policy</b>  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 SOE. These remain optional and are about relationships, engagement and collaboration.
<b>Risk</b>  Providing a SOE mitigates the low risk that the CCO develops a SOI which is not aligned with Council's expectations.
<b>Financial impact</b>  None
<b>Degree of significance and level of engagement</b>  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 Nelson Marina board but is not required with the wider community. The completed SOE will be made publicly available on the Council's website in due course. This provision should enhance transparency in the process.
<b>Climate Impact</b>  Climate change responsiveness has been identified by Council as a specific matter of interest in the SOE.
<b>Inclusion of Māori in the decision making process</b>  No engagement with Māori has been undertaken in preparing this report.
<b>Legal context</b>  The preparation of a SOE is not required under the Local Government Act 2002 (LGA). However, it is best practice for Council to signal to CCOs any expectations for the next financial year.
<b>Delegations</b>  <ul style="list-style-type: none"><li>This is a matter for Council.</li></ul>

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