

## **SUPPLEMENTARY PAPERS TO ITEM 22.1.9 COUNCILMARK PROGRAMME**

**Doc ID: 566142**

### **1. Purpose**

Additional information from Hugh McIntyre and Don Sparks which was provided to Councillors regarding item 22.1.9, CouncilMARK Programme.

### **2. Attachments**

**Appendix 1 - Report to Councillors re: 3rd November 2021** [↓](#)

**Appendix 2 - Comments on CODC Options 26 Jan 2022** [↓](#)

## **Submission to Elected Representatives regarding CouncilMark Review Programme.**

Further to our last communication relating to clarifying the issues that have led us to requesting that Council undertake the CouncilMark review programme we comment as follows.

At the last meeting we were asked what we were trying to achieve with pushing for participation in the CouncilMark review programme. At the time we did not answer the question adequately and undertook to come back to you with clarification.

We want to:

- Identify that there are some practices undertaken by Senior staff that are not acceptable to the community they serve.
- Encourage a change of culture in the organisation that promotes a "Can Do" attitude rather than the existing attitude which appears to be "why you can't".
- Working with people to find a solution rather than putting up a barrier to halt the project.
- Enable the community to work alongside Council Staff so there is a better understanding of final decisions by both parties.
- To encourage the development of a system where complaints can be properly considered. Many councils employ a senior staff member who has the ability to be able complete the appropriate research and provide a balanced view between staff and rate payer.
- To engender a change in the existing feeling of a negative attitude held by much of the business community towards Council and its staff.

We think that given the number of councils in New Zealand which are or have been involved in the CouncilMark review programme (50%), we shouldn't have to be justifying why Council has a need for this review. In our opinion Council should justify why it shouldn't participate in the process. The current opposition from the senior staff could be read as defensiveness and resistance to being open to the community they serve. The main defence being raised is that of lack of time and the additional pressure it will put on existing staff and councillors, which in our view is not a sufficient reason.

If councillors support the "Preferred Option" proposed by the staff of "Agreeing not to participate at this time", what message is being given to the ratepayers? Is this an example of the "tail wagging the dog? Who is responsible for making strategic decisions such as this? It is encouraging to note that in this case, councillors have questioned the reasons for the recommendation and are doing some research of their own-

### **Transparency**

We suggested there was a lack of transparency in the way in which the Council undertakes some of its activities. By refusing to engage in this external audit Council and Senior Staff leave themselves open to challenges about what they may be attempting to hide. By undertaking the review Ratepayers can have more confidence in their practices and their willingness to be transparent and held to account for their actions and decisions.

### **Accountability**

Apart from the election box every three years, this council provides no formal way for ratepayers to hold elected members to account. This situation is exacerbated by the fact that there is no complaints policy by which residents and ratepayers can hold them to account. We understand that a suggestion was made to develop one in September 2021, but nothing has surfaced yet in the way of this process being started. Not only would this provide a process for exercising ratepayers' rights, but it would also allow Council staff to be seen as having independent evidence to show their actions have been reasonable and, if appropriate, it is the ratepayer that is being unreasonable. At present reactions to complaints vary from some being attended to and others being ignored unless they are followed up on by the person making a complaint. Hoping that the complaint will go away, as seems to be the current approach, is not a recommended practice.

There are many organisations that are reviewed by their peers. Many of the professions have practice/business reviews carried out on a regular basis and/or have an independent committee to take care of complaints about their members. Without an active complaints policy Council and their staff are not easily accountable. The public have limited options to refer troublesome issues for conciliation. Other organisations, such as Accountants, Lawyers and Trade Organisations, all have a complaints authority which can easily be approached. It seems the options available relating to councils are limited to:

- making a complaint to the local Government Commission or;
- making a complaint to the Chief Ombudsman or;
- doing both.

These options may be appropriate to deal with a significant single issue, but in all cases this is not a simple process and one beyond the abilities of many with the cost of going through the process by individuals or small groups being prohibitive.

As well, having your complaint against a senior staff member dealt with by that same staff member hardly inspires confidence in how seriously the issue is being taken.

We have received many issues supporting our stance to consider. A significant number of these, particularly to do with property transactions, were not written in a manner that we considered was appropriate to use. Unfortunately during the holiday period we have not had time to follow up on them so we are unable to pass them on at this time.

It may appear a number of the points we have raised below are minor, and while that may be the case, in our opinion they accurately reflect the attitudes and culture perceived to be prevalent in the CODC and it was this which prompted us to try and take some action to improve the situation.

- Two weeks to get a response from the support person who makes appointments for the CEO (after chasing up a response by 'phone) and allocation of a time 6 weeks after that.
  - Requests for appointments with senior staff being ignored
  - \$30,000 being spent at the Aquatic Centre relocating heating equipment after the Heat Exchange Project was completed. The report to the council explaining the error did not allocate the responsibility for this oversight to anyone.
  - There has been an issue in Letts Gully regarding noise levels relating to bird scaring and frost fans. Other councils in the Hawkes Bay, Marlborough Wairarapa and Canterbury appear to have progressed with some forms of control, however this issue has persisted for 7 without resolution.
  - Council consultation documents for canvassing public opinion inevitably include "Preferred Options" among a number of other options. An example of this was evident in the latest resident input to the District Plan. Section 93 of the Local Government Act 2002 includes a requirement to provide "Principal Options" for addressing issues identified in long term plans, but there is no requirement for the Council to state its preferred option.
  - There appears to be a tendency for ratepayers' challenges to something the council is promoting to be dismissed rather than being considered in the decision-making process. Because a proposition is not supported by a majority does not mean it is invalid. Examples of where this dismissive approach by the Council has been apparent are in the proposed hockey turf, the Alexandra Water Scheme planning and the regular build-up of silt in the Clutha that is not being managed well. These are issues where information has been provided by people who are well versed on the topic and seem to have been largely ignored by council and their advisors.
  - The response "I have heard your issues and I don't see any point in meeting, we will just have to agree to disagree" is hardly part of a democratic process.
- **Time Involvement in the CouncilMark review process.**
  - Following the November Council meeting, we made an enquiry with Local Government NZ in relation to the staffing hours involved in participation in the CouncilMark programme. The response from Scott Necklen, the Deputy Chief executive, was:

- “Councils have advised and indicated circa 200 to 300 hours. That said we have been advised by several that it can be up to 1000 hours although this would be at the outer end. I would advise that councils plan for the equivalent of 1 FTE working on the PAF for circa 6 to 8 weeks. Then there is time to fact check reports, take part in the assessment, respond to queries etc however the bulk of time is in the preparation of the Performance Assessment Framework.
- We would suggest that the outer limit is likely to relate to councils who do not have the bulk of the information and/or reports as part of their normal operations. Given the list provided in the guidelines we would consider a council that needed that much time to collect the information is probably not preparing the information as its normal business process which would be even more reason to undertake the review.

### Reasons for our Submission

One of the comments made by the Mayor on radio, is that the issue has been raised by a disgruntled Land Developer. Yes, Don is a Land Developer, but our mission was not initiated by his failure to get what was asked for in his planning application. It was the way he was treated by Council staff that stimulated my interest in adding my support to this project. I asked Don to document the issues that he encountered in the process of obtaining planning consent separately to ensure you were aware of the real reason behind our push to have Council participate in the CouncilMark review process. Don's submission is set out in the attachment below for your perusal.

### Notes from Don Sparks

I was disappointed that my application for access over a small undeveloped area of reserve land was declined. I was significantly more disappointed at the way Council staff dealt with my application.

To explain.

- It was not uncommon for me to request an appointment with Senior Managers and not receive a reply, let alone an appointment?
- When I communicated to Council about an application for access over undeveloped reserve land Council Staff advised that the Reserves Act does not allow for such an application to be granted. It took me approx. 10 mins to prove that this is not correct. How many times has this occurred with other genuine proposals? Best practice would suggest that if you don't know, don't guess! Find the facts.
- Council staff advised that the application would need to be considered by the Minister of Conservation. This is not correct. CODC has delegated authority to approve such an application.
- I delivered to the Council office written notice that I wanted to attend the VCB meeting at the time my application was discussed. No advice re meeting was received from Council staff – I found the meeting date online and the date of the VCB meeting I rang the VCB chairperson to advise that I wanted to attend the meeting. The Chairperson seemed confused saying that she had received an email from staff stating that, 'I did not want to attend the meeting.' – Councillors how can this be considered acceptable?
- The application was approved by the VCB subject to advertising. Three replies were received from nearby landowners requesting better drainage in Poplar Drive but not objecting to the application. Council used this process to then decline the application!

- I made a genuine complaint to the CEO regarding the above concerns. The CEO then passed this complaint on to one of the Managers involved in the original application for their reply. How can this be considered impartial and best practice??
- Councillors: I ask that you put yourselves in the position of a dissatisfied resident/applicant who believes that their application has been handled unreasonably?
- You may say that this is sour grapes – that is an easy label but does not address the problem under discussion.
- What option does a genuine applicant have to be heard and fairly considered?
- Most professions have a complaints authority who deal with these situations but not Councils. I understand that CODC doesn't have a complaints procedure or a peer review facility outside of Council. This situation seems to lead staff to believe that staff can do what suits them.
- A Review such as that provided through the "CouncilMark" programme is commonplace in most professions. These take place whether staff are busy or not.

Don Sparks

17/1/2022

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## **CODC CouncilMark Proposal**

### **Comments on reports tabled for meeting 26 January 2022**

Having had the opportunity to read both reports placed on Councils January's agenda. We are of course pleased that it appears that a recommendation to participate in the program is imminent in some form or other.

We do have a few comments on some of the issues that seem to have formed the basis of the "preferred option"

#### **Mayors Survey**

We think, rather than accept the view of the report authors view that feedback on the value of the program was varied, councillors should note the results from the 4 Rural/Provincial Councils that clearly suggest that the benefit was significant to say the least. There were too many Yes answers to come to any other conclusion.

#### **Timing**

As discussed at the November meeting it really is going to make little difference when you embark on the program, there is always going to be pressure on staff to complete their existing workload on top of any additional requirements of a review programme. This is supported by all 4 Rural/Provincial Councils while their individual comments are interesting. The importance of management buy in cannot be underestimated as is the need for the resources to be made available to ensure implementation is practical. Councillors have a role in making sure this is done

There is a recommendation from the LGNZ to defer the timing because it is an election year. This an ideal excuse for everyone to sit on their hands for a further two years and defer an issue that is going to come ready or not. The basis of their recommendation is.

- It would bind the new council to implement actions from a review that they may not all have participated in.
  - Surely this happens every election. Policies are made and left to council staff to be carried out. Budgets are set which the new council must accept and work to.
  - How many councillors change each year? Most of the review is about scrutinizing what senior management is doing or should be doing.
  - Councillors are only as good as the staff that serve them and the sooner their performance is reviewed, and any weaknesses identified the better for all concerned. The review also has the capacity to reassure council and the ratepayers of their strengths also
  
- The possibility that results of the review could become issues in the local body elections.
  - The assumption here is that if a decision is made to proceed under Option 2, the work would be completed, the report approved and made public by the end of August given the Local Body elections are scheduled to be held on the 8th of October being the date of the elections.
  - This, in our opinion, is a highly unlikely scenario given the time frame. If by chance they were available council could, like others, hold the report until after the election. You would be assuming in that case there were significant failings in the council operations.
  - We believe that councillors will gain more kudo's by engaging and committing to the review now rather than delaying it for a further 2 years. It is more likely to be an issue at election time when councillors are asked their opinions on the process and why the two-year delay.

We noted in the detail of option #2 there was no separation in Advantages and Disadvantages. I think it safe to assume the last two items were considered Disadvantages

- The fact there is no budget provision for the projected cost is hardly relevant as a new budget will be being prepared for 2022-2023 year starting July. Probably not far off a starting time we would estimate. No provision in the longer-term budgets means little in the context of the larger picture. I suspect items unbudgeted for previously are adjusted each year as required. If management have something they think is important I doubt that they would be prevented from including it.

- We doubt that any negative perception will arise from stopping scheduled work as it is hard to imagine a major project will be affected and they will only be aware if Council uses the extra work as an excuse!

It seems to be accepted that there is value in the process and that Council should proceed to engage. There is an understandable reluctance from the Management to add to their already full schedules. However as was pointed out by more than one councillor on the 3<sup>rd</sup> of November, and by the mayor's survey, there is never a "right" time to do these things. The important issue is that councillors, our CEO and Senior Management embrace the concept and commit to working together to provide the resources to enable the review to be completed to the best of Councils ability.

### **Conclusion**

It is our opinion that the commitment needs to be made by council to get involved in the CouncilMark Programme. The current perception, by the people we represent, of the council senior staff attitudes has existed for several years and needs addressed sooner rather than later. Delaying the commitment, a further two years is more likely to see the situation deteriorate rather than improve.

Council executives have continued to try and defer the adoption of the programme. They do not appear to have accepted that there is value in such independent audits. This is very much a governance issue which is the councillor's responsibility. We, along with everyone else, acknowledge the extra pressures that will be placed on staff members, but with a willingness to work together in resolving and resourcing them the difficulties are not unsurmountable.

The more resistance that is offered, the more one must seriously ask why. The way in which some of the concerns have been written up are self-centred and, in some cases, petulant. Reference to the possibility of needing to reprioritise or stop some projects, may require additional community consultation, no budget assigned, not consistent with the 2021-2031 long term plan. These comments are exactly what we have previously referred to in relation to dealings with the public. All the reasons why something shouldn't be done with no consideration as to what could be done to make it happen.

We wish you well in your deliberations. We have not requested any speaking rights as we have nothing further to add. We will hopefully however be attending in the public gallery assuming this is permissible under recent Covid rules

Hugh McIntyre

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