

From: [BDC Lgoima](#)
To: [REDACTED]
Subject: Official Information Request for Project Management Office Reports Ref: 106/24
Date: Thursday, 29 August 2024 10:57:55 am
Attachments: [KPMG Report PMO Review - redacted.pdf](#)
[image005.png](#)

Dear [REDACTED]

We refer to your official information request dated 13 August 2024 for information related to the Project Management Office.

Part of the information you have requested is attached and marked below in red. However, we have decided to refuse your request for information which relates to parts of the KMPG report and the Teams Projects Advisory report (in its entirety) as detailed below:

You request was as follows:

I would like to request a copy of the following reports in relation to the council's Project Management Office:

1. *The KPMG report*

Part of the information you have requested is attached. However, we are required to refuse your request for information under sections 7 (2)(a) and 7 (2)(b)(ii) of the Local Government Official Information and Meetings Act.

- 7 (2) (a) – “to protect the privacy of natural persons”, and
- 7 (2) (b) (ii) – “would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information”

2. *The two Morrison Low reports*

Please see below link

[Buller District Council Programme Management Office review enters next stage | Buller District Council \(bullerdc.govt.nz\)](#)

3. *The Team Projects Advisory report*

As before, this request is refused on the grounds that the PMO Review is confidential, disclosure of it would be likely to prejudice the supply of similar information from the same source, and it is in the public interest that such information should continue to be supplied (LGOIMA, section 7(2)(c)).

In addition, the PMO Review discusses employment and staffing matters and as such parts of the report are also withheld on the additional ground of protection of privacy of natural persons (LGOIMA, section 7(2)(a)).

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

If you wish to discuss this decision with us, please feel free to contact the Buller District Council

by return email to lgoima@bdc.govt.nz.

Please note that it is our policy to proactively release our responses to official information requests where possible. Our response to your request may be published at <https://bullerdc.govt.nz/district-council/your-council/request-for-official-information/responses-to-lgoima-requests/> with your personal information removed.

Kind regards

Simon Pickford | Chief Executive Officer
Mobile 021949922 | Email Simon.Pickford@bdc.govt.nz

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Project Management Office (PMO) Review

Buller District Council – Final Report

April 2024

kpmg.com/nz

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1 Executive Summary

1.1 Background

Buller District Council (**BDC** or **Council**) receives public funds from government agencies including Waka Kotahi – New Zealand Transport Agency (**NZTA**), the Infrastructure Acceleration Fund, the National Emergency Management Agency (**NEMA**), Kainga Ora – Homes and Communities and the Housing Infrastructure Fund. These funds are earmarked for capital works projects, such as the Return to Service Roadway programme, Three Waters, Flood Recovery, and some business-as-usual capital projects, as set out in Council's Annual and Long-term Plans. Capital projects are, in the main, overseen by the Project Management Office (**PMO**), which is a function Council set up in 2020 to assist with the management and delivery of Council projects.

The Buller District was significantly impacted by flood events in July 2021 and February 2022. Council was successful in securing funding of approximately \$63m from various central government agencies to assist with recovery. This funding and the level of recovery works required, resulted in a large increase in capital works in comparison to business as usual, increasing from around \$6m to \$12m-\$14m annually, between 2020 and 2023.

Over the past 12-18 months Council has been the subject of numerous press articles alleging financial mismanagement within the PMO. These articles have cast doubt on the adequacy of, and adherence to, controls that should have been in place to ensure the competent and compliant handling of central government funded programmes.

More recently, Council received three complaints via Protected Disclosures, one prior to our engagement and two during the course of the review. In summary the complaints alleged that:

- Management costs of the PMO were being claimed from external funders (central government) when this was outside the agreement that Council had with those funders.
- There was a general lack of senior leadership operational oversight within the PMO, with unsupervised contractors being left to manage Council's interests; and
- Invoicing and cost allocation was inappropriately manipulated.

In summary, the nature of our review was to assess whether procurement processes have been adhered to (both BDC's procurement policy and those that applied due to the external funding arrangements) and whether there were conflicts of interest within the PMO.

1.2 Summary of our Approach

We took a phased approach to this engagement:

- Phase 1 involved initial enquiries with the aim of setting and agreeing of a detailed scope for Phases 2-4. Refer to the Terms of Reference in Appendix D.
- Phase 2 involved the investigation of potential conflicts of interest and procurement processes over the period 1 July 2021 to 31 August 2023 (as agreed with Council).
- Phase 3 involved the investigation of any issues that were uncovered through the Phase 2 work.
- Phase 4 will involve the identification of any process improvement opportunities with Council as well as advice on how to implement these. Phase 4 is outside the scope of this report.

For Phases 2 and 3, the approach we took is set out as follows:

- We reviewed the protected disclosures made to Council and spoke with the complainants to better understand the disclosures. We note that the content of the protected disclosures is likely to be the source of the media articles.
- We carried out a desk-based review of targeted information in order to establish whether any Council policies or accepted practices appear to have been breached. A list of key documentation obtained is set out at Appendix C.
- We obtained BDC email files for five individuals that were involved with the PMO and searched these files for information that related to the objectives of the engagement.
- We interviewed several relevant parties (Council employees, Consultants and those in governance positions).
- We spoke to the two main external funding agencies (NEMA and NZTA) to understand their position on the funding arrangements with BDC.

1.3 Summary of Findings

As set out in this report, we have identified several issues within the PMO that occurred over the period 2021 - 2023. The underlying root cause of the issues appears to be inadequate management across multiple levels and a lack of critical controls.

Specifically, we have identified the following key issues. There are other issues or sub-issues set out in the detailed sections of this report and these summary items should be read in conjunction with the rest of our report:

- Whilst Council engaged a consultant to carry out an earlier review in response to the media reports, in our view the scope of this prior review was not appropriately targeted to adequately address the allegations that had been made in relation to the PMO.
- We have found evidence that supports the allegation that BDC has submitted claims for costs associated to the management of the PMO, which in our view, fall outside the parameters set by the external funders.
- Allegations of misconduct were reported to [REDACTED] but only limited actions were taken. It is also noted that until recently BDC did not have a Protected Disclosure Policy.
- [REDACTED] failed to adequately manage critical areas such as budgets, consultants, procurement and conflicts of interest.
- [REDACTED] Since 2022, there have been four CEOs, two of whom have been in acting roles. Additionally, there have been two CFOs, with the current role being filled by a contractor. The General Manager Infrastructure Services has also undergone two changes in personnel since 2021, with the incumbent on secondment in 2022/23. Additionally, the extraordinary storm events in 2021/22 resulted in a significant increase in capital expenditure. The budget for capital expenditure was initially around \$6m in 2020/21 however actual costs between 2020 and 2023 were between \$12m and \$14m annually. The increased spend and risk, as a result of these circumstances, does not appear to have been adequately assessed by the Audit and Risk Committee and/or Councillors, leading to a lack of oversight that would have helped mitigated the risk. This could have been achieved through an increased level of scrutiny over the PMO via additional controls or internal audit procedures.

We invited [REDACTED] to speak with us however they chose to not take part in this review.

Despite the issues noted above, it should be acknowledged that the PMO appears to have delivered the projects it was tasked with completing.

1.4 Overall Conclusion

In our view, the most significant issue raised in relation to the PMO is the allegation that BDC was claiming costs from external funders that it was not entitled to. We have found evidence that supports the allegation that BDC has submitted claims for costs associated to the management of the PMO, which in our view, fall outside the parameters set by the external funders. The value of the costs disputed by NEMA is yet to be finalised but is expected to be [REDACTED]. As NZTA has not yet reviewed the funding submissions made by BDC, the value of ineligible claims has not yet been determined. Closely aligned to that issue is the lack of senior leadership oversight over the PMO, which allowed the inappropriate claims to occur and did not correspond with the level of risk it posed to Council. Our review has established that Council staff acted outside of Council policy, but we have not found any evidence of behaviour that in our view is serious enough to warrant a complaint to Police or the Serious Fraud Office. Our detailed conclusions are set in the body of the report.

2 Background and Scope of Work

2.1 Media Reports and BDC Response

Media reports alleging financial mismanagement and unplanned spending with the PMO started gaining momentum in May 2023. The key allegations of these reports were similar to those that have been included in the scope of this review.

In response to the media reports [REDACTED] engaged an engineering consultancy firm, Morrison Low (ML), to carry out a review of the PMO (2023 PMO Review). This review commenced in June 2023 and was essentially a follow up to a review that ML had performed over the PMO in 2021. The 2021 review had been commissioned by the Department of Internal Affairs, prior to Council being granted funding, to provide assurance of Council's financial situation and capability, including a financial health check and infrastructure health check.

The purpose of the 2023 PMO Review was to:

- ensure that BDC was meeting its own requirements as well as those of its funding partners, both for capital works projects as well as Business as Usual works;
- give confidence to the funders, governance, leadership team and staff that the PMO office was robust and providing a suitable level of programme and contract management; and
- ensure that the PMO's organisational capability and capacity was keeping pace with changing requirements and increasing demands.

In July / August 2023 BDC expanded the scope of the review due to the increased scrutiny and media attention on the PMO. The additional scope was formalised via a project variation request from ML on 6 October 2023.

The additional scope included:

- Undertake an Infrastructure Health Check update;
- "Additional input" due to level of scrutiny likely on the PMO review findings and to help facilitate a wider audience; and
- Following up on "outstanding financial information".

A report was produced by ML on 12 October 2023 (the **ML Report**).

The review was not a formal audit of delivery by the PMO but we understand was intended to be used to measure the effectiveness of establishing such a unit and provide a degree of assurance to internal and external stakeholders.

In relation to the issue of whether BDC was meeting the requirements of external funders, the ML Report concluded that appropriate processes had been established for the procurement of works and that all parties agreed that the established processes met the necessary funding requirements. This finding is contrary to communications between NEMA and Council regarding the eligibility of PMO costs for Tranche 2 funding. Throughout the 2023 PMO Review, Council was engaged in negotiations with NEMA to obtain approval for certain PMO costs. NEMA had initially declined funding for these costs on the basis that there was no evidence it had been pre-approved as part of the Tranche 2 funding agreement. Therefore, it appears that appropriate processes had not established to ensure that costs incurred by Council met the funding requirements. We note that NEMA confirmed that the claimed PMO costs were ineligible for funding on 8 September 2023, prior to the issue of the ML Report.

Whether or not ML's findings were influenced by a deficiency in detailed scope, a deficiency or issue with the way the review was undertaken, or for some reason alternative explanations were provided to it by certain funders, we cannot be certain. ML was not spoken to as part of our work.

2.2 Protected Disclosures

Council received the first Protected Disclosure in July 2023. We have not seen any evidence to suggest this was provided to or formed part of ML's review scope.

An additional two disclosures were made in November 2023 and January 2024, respectively. In summary, the complaints alleged that:

- Management costs of the PMO were being claimed from external funders (central government), when this was outside the agreement that Council had with those funders;
- There was a general lack of oversight and management of the PMO, with unsupervised contractors being left to manage Council's interests; and
- Invoicing and cost allocation was inappropriately manipulated to achieve certain outcomes.

2.3 KPMG Scope

Our detailed scope of work is set out at Appendix D. In summary, the purpose of our review was to:

1. Determine if conflicts of interest had arisen between entities employed and/or contracted by Council;
2. Determine if procurement processes required by external funders and/or Council appeared to have been adhered to;
3. Determine if employees and/or contractors had acted within their delegated responsibilities;
4. Determine if there have been evidence of any incidences of irregular use of public funds;
5. Determine that appropriate supporting documentation is in place and relevant approvals obtained for invoice payments and / or accounting journals; and that the work performed in relation to said payments or journals appeared to be consistent with approved budgets / budget allocations;
6. Determine why the unplanned spending of \$3 million, relating to Westpoint Trunk Main project arose, and further, why these expenses were not identified / budgeted for previously. Specifically, we are to determine whether the appropriate processes and procedures were followed in regard to the procurement of services related to the \$3 million unplanned spending; and
7. Identify process improvement opportunities in relation to the findings of this review which, partly in the interests of time, is intended to be covered in a separate report.

3 Findings

3.1 Procurement Related Matters

Costs have been incurred without approved budget or external funding

- Lack of understanding of eligibility of costs being covered by external funders

In January 2022 the CEO approved the continuation of the PMO under the condition that any costs of the PMO would be covered by external funding. The PMO costs per annum are between \$800,000 and \$900,000. This includes PMO staff costs, an allowance for support costs that are not specifically project related and an estimated overhead contribution. Three per cent was determined to be an appropriate allocation of PMO costs to active projects. An additional 9-10% was also added to the budgets for Project Management. However, some external funders declined to provide funding for these costs, perceiving them as a potential duplication of efforts or a business-as-usual cost. Consequently, any costs which are not covered by the external funders will need to be met by Council. It is unclear whether there is budget for these costs, in particular, PMO office overheads. It is difficult to quantify the potential cost to Council, primarily because NZTA have not yet completed a detailed review of BDC's funding submissions. The disputed NEMA costs are estimated to be [REDACTED]

Refer to Section 3.2 for further evaluation of external funding arrangements.

[illegible]

Costs allocated to cost centres that do not align with the nature of the costs

- Incorrect coding of capital expenditure

In December 2022, [REDACTED] purchased office furniture [REDACTED] and then issued an invoice to BDC for the costs [REDACTED] which amounted to \$14,040. [REDACTED]

The [REDACTED] invoice was divided into several expense categories, such as General Expenses, Materials & Equipment and Furniture & Fittings. However, in our view the total invoice should have been categorised as capital expenditure and allocated to BDC's Furniture and Fittings general ledger account.

We understand that the Furniture and Fittings budget had been exceeded, so the excess costs were allocated to categories with remaining budget.

[REDACTED] recognised this miscoding and attempted to rectify the issue by contacting those responsible for the initial coding. However, due to a lack of response [REDACTED] proceeded to correct the coding with approval from [REDACTED]

As we understand it, no formal investigation was conducted [REDACTED]

[REDACTED]

• [REDACTED]

[REDACTED]
[REDACTED]
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• [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

Insufficient oversight of consultants in the PMO

- Inherent risk of conflicts of interest when consultants are heavily used

We acknowledge the need to utilise external consultants to address resource limitations. However, strong controls and segregation of duties are required when consultants are used in lieu of BDC employees, such as detailed invoice approval processes and oversight from BDC staff. This is to ensure that Council's interests are prioritised, as consultants have an inherent conflict of interest. As the PMO is predominantly comprised of consultants, a high level of oversight should have been applied.

[REDACTED]

Council staff are responsible for implementing policies and decisions made by councillors and to ensure compliance and transparency in Council operations. Meanwhile, the responsibility of the councillors is to oversee and address current and emerging risks, as well as supporting measures to improve management performance and internal controls. There is no clear evidence that [REDACTED] or the Councillors fulfilled their respective responsibilities in appropriately managing the risk associated with a high number of consultants in the PMO.

[REDACTED]

- [REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]

[REDACTED]

[Redacted]

[Redacted]

- [Redacted]

- [Redacted]

- [Redacted]

[REDACTED]

- [REDACTED]

[REDACTED]

Change in objective of the PMO Office

The PMO was established in early 2021, with two Council employees placed in the office. In October 2021 [REDACTED] [REDACTED] were contracted to carry out an initial health check and gap analysis review. The report that resulted from the [REDACTED] review highlighted the importance of the PMO remaining as a “supportive” office, but with an evolution to a “Controlling” and then “Directive” model in future years. However, during 2022, the PMO shifted from a supportive function to a directive function where it is actively involved in every project and every aspect of each project, rather than taking a supportive role on aspects of each project [REDACTED]. Additionally, the ML PMO Review report, dated October 2023, highlighted that there was an intention to update the PMO Statement of Intent as it had evolved into a directive function, but this revision has not been made. The authorisation process to transition to a directive function lacks clarity, and the inadequate management is highlighted by the lack of documentation.

We understand the PMO is in the process of transitioning back to a supportive function.

Lack of action after media reports and protected disclosures

The media reports in the Westport News started in early 2023 and the first protected disclosure was made in July 2023. [REDACTED]

[REDACTED] Whilst the ML report (October 2023) was commissioned, it lacked the adequate scope to be able to investigate the concerns raised through the Protected Disclosure (noting one had been received at the time of the ML review).

[REDACTED]

The lack of proper management of a protected disclosure creates a risk for Council and until recently BDC did not have a Protected Disclosure Policy. This reflects a lack of governance at the Audit and Risk Committee (ARC) level, as the ARC has the responsibility of monitoring and recommending new policies, while ensuring that all Council policies and practices effectively prevent unethical or questionable activities.

[REDACTED]

Other

We have identified two instances where information acquired as a BDC consultant, such as rates of other consultants, was inappropriately shared with [REDACTED]

[REDACTED]

3.2 External Funding arrangements

3.2.1 National Emergency Management Agency (NEMA)

Background

The Tranche 2 infrastructure programme funding, which followed the July 2021 and February 2022 flood events, was approved by Government in September 2022. Typically, we understand BDC would have been required to fund 40% of the programme costs under the 60/40 NEMA funding guidelines. However, due to the exceptional circumstances surrounding the funding, Cabinet agreed to pay Council's contribution subject to any insurance settlements which Council may receive relating to the works. The approved funding amounted to \$10.636 million and was allocated to three workstreams, including repairs to essential infrastructure, repairs to the Port and betterment projects for Three Waters infrastructure. Each of these projects has a project manager in charge of the day-to-day operations, while a programme manager was tasked with overseeing the overall programme of works. Both roles were funded by NEMA.

The formal approval of the funding included requirements such as:

- All procurement decisions for activities support by this funding must be in line with Council's Procurement Policy and in accordance with good public sector procurement practices.
- The funding operated on a reimbursement model, therefore BDC must incur and pay the cost before it can claim from NEMA.
 - The process for the reimbursement of claims involved:
 - The Financial Services Officer – Flood Recovery collates all information for the claim based on the NEMA General Ledger codes.
 - NEMA Programme Manager reviews the claim details to ensure accuracy (per the duties and responsibilities agreed with NEMA)
 - The claim is sent to the NEMA Financial Assurance team to review and confirm eligibility. Queries are sent back to BDC before the claim amount is finalised.
 - The claim is submitted to NEMA with a cover letter from the BDC CEO confirming/certifying:
 - Total costs are eligible for the Tranche 2 funding.
 - Invoices provided are only for eligible costs as a result of the July 2021 and February 2022 weather events.
 - The amounts have been subject of a claim eligibility review and assessment undertaken with Crown and Council officials.
- BDC must track all claims and payments shall be made by NEMA on receipt of a valid tax invoice and written confirmation that auditable accounts support the claim.
- Given the scale of the infrastructure programme of works, and as noted above, NEMA agreed to fund a programme manager to implement and manage the recovery programme. [REDACTED] advised that this was an extraordinary request and not standard practice. Therefore, there was a detailed pre-approval of the role expectations prior to the programme starting. This included:
 - Cost [REDACTED] per hour, up to [REDACTED] hours per week.
 - Duties and responsibilities:
 - Reporting financial and nonfinancial programme progress to NEMA and council at an agreed frequency.
 - Developing a programme of works.
 - Developing with BDC a programme risk register and reporting against this to NEMA and BDC.

- Preparing and providing to BDC and NEMA programme physical works progress and financial forecasts.
- Ensuring BDCs insurance settlement is applied to the programme to offset councils 40% share of programme costs and that this is clearly reflected/identified in BDCs claims.
- Procuring services in accordance with BDCs procurement strategy and policies.
- Preparing and submitting claims and supporting documentation to NEMA for reimbursement in accordance with NEMAs requirements and providing assurance and confirmation work is eligible for government funding.
- Manage any interdependencies between the essential infrastructure programme funded by NEMA and any other workstreams.

In 2022, the Projects in Partnership Steering Committee was established to oversee the funding agreements with NEMA, Department of Internal Affairs and the Infrastructure Acceleration Fund, as well as to monitor project financials. The committee consists of representatives from BDC, NEMA and Kāinga Ora.

Issues

In late 2022/early 2023, NEMA raised concerns about the costs submitted by BDC during the claim process, particularly related to the PMO [REDACTED]. The concerns included:

- NEMA questioned the project management costs, suggesting that the PMO management costs were duplicate costs as the programme manager was already funded. NEMA's understanding was that [REDACTED] had been engaged by BDC to act as the programme manager. [REDACTED] hourly rate, charged to Council was [REDACTED] which corresponds with the hourly rate approved by NEMA. [REDACTED]

[REDACTED]

- [REDACTED]

Findings

Our view is that NEMA's expectation regarding the Programme Manager role was clearly established prior to the programme of works starting. Therefore, any additional project management costs incurred by BDC, which should have been covered by the Programme Manager or allocated project manager, would not be eligible for funding or would require additional approval from NEMA. Incurring costs that were ineligible for reimbursement under the Tranche 2 programme appears to reflect a lack oversight and management within the Infrastructure Services department. Consequently, BDC has incurred costs that will likely need to be funded internally. The value of these disputed costs is yet to be finalised but is expected to be [REDACTED]. We understand these costs are being worked through by the Projects in Partnership Committee.

3.2.2 Waka Kotahi New Zealand Transport Agency (NZTA)

Background

The NZTA contribution for emergency works was funded via an increased Funding Assistance Rate (FAR). FARs are the funding contribution that NZTA make to councils for eligible projects and activities from the National Land Transport Fund. In March 2023, NZTA approved an enhanced FAR of 95% for BDC, amounting to approximately \$13 million for Return to Service (RTS) works split between local roads and special purpose roads [REDACTED]

Issues

- Travel and disbursement costs have been claimed by BDC from NZTA funding

In a letter dated 6 July 2022 from [REDACTED] it stated that all contractors' travel and accommodation allowances had been removed from the funding claim due to a misalignment of understanding of the parameters of NZTA funding. However, [REDACTED] emailed contractors working with the PMO to inform them that for internal project coding, disbursements should be included in their overall time and labour costs for the month. This involved the contractors dividing the total disbursement value, by the agreed contract rate to calculate the equivalent hours, which were then added to the actual number of hours worked in a given month. This practice essentially inflates the hours worked within that period to include disbursements. This process allowed for the claiming of travel and disbursement costs from NZTA, seemingly as a mechanism to work around NZTA's stated funding parameters.

Quantifying this issue would require analysis of all invoices that BDC submitted to NZTA over the period 6 July 2022 – 31 August 2023. If Council wishes to carry out this exercise, ahead of any review that NZTA might complete, then we could assist with that work.

- Inadequate detail on timesheets to be able to determine whether the activity claimed for is appropriate and reasonable

As noted earlier in this report, the lack of detailed timesheets makes it difficult to verify the appropriateness of time allocation to projects. When submitting the monthly claims to NZTA, the submitter must complete a declaration stating that the expenditure on labour, materials, plant hire and other services included in the claim has been incurred for the claimed activity and is reasonable for the type of activity performed. It is unclear how this statement can be validated without adequate supporting information.

- PMO and Project Management costs

Confirming the accuracy of cost allocation for PMO consultancy costs [REDACTED] across externally funded projects is challenging due to limited detail on invoices and timesheets. [REDACTED] NZTA told us that its funding model operates on a high trust basis, placing the responsibility on Council to establish adequate financial controls to ensure the accuracy of claims. As a result, NZTA does not perform a detailed review of the claims prior to payment, this is undertaken as part of the Procedural Audits that occur every 5 years (or at the discretion of NZTA). The last procedural audit took place in 2022, covering the period 1 July 2019 to 30 June 2022. Therefore, there is a risk for Council that funding received from NZTA may be required to be repaid if it is deemed to be ineligible for funding.

| | |
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| [REDACTED] | |
| [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] |

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| [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] |
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| [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] |

3.3 Specific Project Analysis

Westport Trunk Main

An allegation was made in a Protected Disclosure regarding a budget overrun of \$3 million in the Westport Trunk Main project.

The initial stage of the Westport Trunk Main project, known as Stage 1A, was funded through the Department of Internal Affairs (DIA) Tranche 1 funding. The agreement for this funding was signed in September / October 2020 as part of the initial stages of the Three Waters Reform. The funding tranche also included budget for the Westport Trunk Main Terrace Section and Punakaiki Trunk Main. BDC engaged Hadlee & Brunton Ltd to proceed with the Design and Construct contract for the replacement of the trunk main pipeline.

Stage 1B, which was an extension of the first stage, was funded by Council and budgeted at \$1.65m in the 2022-2023 Annual Plan. DIA funding was not applied for to complete this stage. For this extension of the project, a Procurement Plan exemption was requested to allow for the contractor to be directly appointed, as the value of the project exceeded the \$100k threshold. This exemption was approved by [REDACTED] on 20 July 2022, as required by the Procurement Policy. The exemption was then taken to Council for its approval. The approval process used to extend the contract appears to comply with Council policy. We understand that Stage 1B is nearing completion.

Stage 2 of the project was not included in the 2023/24 Draft Annual Plan. It appears that this decision was likely based on an optimistic assumption that DIA would provide funding for this stage as it was included in a Business

Case submitted to DIA in late 2022. However, we have not seen evidence that DIA committed to funding this stage of the project and therefore it was unlikely that the project would have been funded in this way. As this was a high priority project, staff submitted a late budget update to include an additional \$3m for Stage 2 in the 2023-2024 Annual Plan. Council had previously determined that formal consultation was not necessary as the Draft Annual Plan aligned with the 2021-31 Long Term Plan. However, an additional \$3m would be considered significant and therefore typically require a consultation process. Consequently, the request was declined by Council. We understand that discussions are ongoing regarding the funding of Stage 2. The claim of a \$3 million budget overrun appears to be based on the late staff submission for additional budget in the 2023/2024 Annual Plan. However, this does not align with our understanding of the reasons behind the budget request.

4 Recommendations

We make the following recommendations.

- We have been advised that the PMO is transitioning back to a supportive model. We support this change. It is our view that unless the PMO can be effectively managed by a BDC employee, it should not function under a directive model where it has unfettered control over all aspects of each project.
- Since 2021, BDC has had significant turnover in its senior leadership. We understand that a new CEO has just been appointed and [REDACTED] will soon be leaving. Given the lack of continuity of leadership, we suggest that the Audit and Risk Committee (ARC) adopt a more proactive approach to overseeing Council's risk. This would involve the ARC being proactive in understanding Councils' risk exposure and ensuring that plans are put in place to mitigate those risks.
- As set out in the report, there appear to have been instances where protected disclosures have not been treated in a way that complies with the Protected Disclosures Act. We suggest that Council ensure all its managers are aware of Council's Protected Disclosures Policy and that they understand the requirements of the Act.
- We understand that NEMA is working with Rau Paenga Limited to assist with the review of funding claims. In order to obtain a clear understanding of funding requirements, we recommend that Council actively cooperates in this process. Council needs to understand its exposure, so that a provision can be made to cover any shortfall.
- [REDACTED]
- Instances have arisen over the last 2-3 years in which [REDACTED] appear to have acted outside Council policy. We cannot see evidence that where Council was aware of these issues it took any breaches seriously or that there were any repercussions [REDACTED] Given the circumstances here, there may be limited value in revisiting previous incidents, but we strongly suggest Council considers its process for dealing with staff who breach policy, to ensure that any future incidents that may arise are dealt with appropriately. For matters raised in this report where Council was previously unaware, Council should address any issues directly with the staff or contactors concerned.

As part of our Phase 4 work, we will be discussing with Council areas for improvements in governance and controls in order to eliminate or at least mitigate many of the issues raised in this report.

Appendix A Summary Timeline

- **January 2021** – PMO established with the purpose of *The Project Management Office (PMO) was established as a way of managing Capital Infrastructure projects following BDC's success obtaining contestable central government post-COVID funding*. The PMO was initially staffed with two BDC employees and [REDACTED] provided ongoing project management services.
- **July 2021** – First significant weather event.
- **August 2021** – Morrison Low and RBruce Robertson Ltd were engaged by the Department of Internal Affairs to provide quality assurance of BDC's financial situation and capability and an understanding as to their operating constraints as a result of the floods.
- **August 2021** – Buller Flood Recovery Team and Steering Group established.
- **October 2021** – [REDACTED]
[REDACTED]
[REDACTED]
- **December 2021** – [REDACTED]
[REDACTED]
- **December 2021** – [REDACTED]
[REDACTED]
- **February 2022** – Second significant weather event.
- **July 2022** – [REDACTED]
- **August 2022** – [REDACTED]
- **August 2022** – [REDACTED]
[REDACTED]
- **September 2022** – [REDACTED]
- **November 2022** – [REDACTED]
[REDACTED] Investigation completed by [REDACTED]
[REDACTED] found the allegations were unsubstantiated.
- **November 2022** – [REDACTED]
[REDACTED]
- **December 2022** – [REDACTED]
[REDACTED]
- **December 2022** – [REDACTED]
[REDACTED]
[REDACTED]
- **March 2023** – CEO recruitment unsuccessful.
- **May 2023** – Media reports regarding the PMO started increasing.
- **May 2023** – [REDACTED]
[REDACTED]
[REDACTED]

- **May 2023** – [REDACTED]
- **June 2023** – Morrison Low engaged [REDACTED] to provide an independent review of the PMO to provide assurance to both Council and the external funding partners on the efficient and effective delivery of the flood recovery works.
- **July 2023** – Protected Disclosure made.
- **August 2023** – [REDACTED]
- **October 2023** – [REDACTED]
- **November 2023** – Protected Disclosure made.
- **January 2024** – Protected Disclosure made.

Appendix B Interviews Completed

| Interviewee | Position Description |
|-------------|----------------------|
| [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] |
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| [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] |

[REDACTED]

[REDACTED]

Appendix C Key documentation obtained as part of the review

Key Documents

Procurement Policy – updated April 2019

Conflict of Interest Policy

Financial Delegations Policy

Delegations Policy

11.1 Attachment 1 – Financial Delegations Policy Review Oct 2023.doc

Fraud Policy

██████████ Project Management Office Review – 24 November 2021

Morrison Low RBRuce Robertson Ltd Health Check Report – 6 October 2021

Morrison Low Health Check follow up proposal – 30 May 2023

Morrison Low PMO Review (draft) – 20 September 2023

Morrison Low PMO Review (final) – 12 October 2023

Morrison Low Infrastructure Health Check Update (final) – 19 October 2023

Morrison Low PMO review and health check – project variation request - 6 October 2023

BDC DRAFT report with appendices 220722.pdf

NEMA Tranche 2 Funding Request 30 March 2022

NEMA's Final Position on Project Management Office Costs – 8 September 2023

Formal Approval of 'Tranche 2' Funding – NEMA – 29 September 2022

NZTA Procurement manual for activities funded through the National Land Transport Programme – effective 1 October 2019

Buller District Council Emergency Works – February 2022 Revision 1 – Letter ██████████
██████████ - 6 July 2022

220705 NZTA Funding submission Rev 1.xlsx

221109 Complete defect list submitted for funding approval - Rev 6.xlsx = NZTA funding request

BDC PMO File Structure and related documents including BDC PM process flowchart v6 PH 220727.xlsx

Creditors Transactions – Creditors Transactions – 23 February 2024.xlsx

██

KPMG FINANCE Info provided.xlsx – General Ledger data for PMO costs between 2021 - 2022

KPMG FA Review Queries.xlsx – Processes for journals, budget overrun and management and, project monitoring

050422 T2 FINAL Funding Request Figures.xlsx – Final NEMA funding agreement

Public Excluded Attachments Westport Water Supply – Trunk Main Replacement Procurement Plan FINAL.pdf

[REDACTED]

Copy of Consultant time record [REDACTED]

Business Case prepared for DIA titled “Investment in Critical Water Supplies for Buller” September 2022

Three Protected Disclosures

Emails accounts between 31 October 2021 – 31 October 2023:

[REDACTED]

Appendix D Terms of Reference

The below was the initial TOR, however it was updated with agreement from Council as our review progressed. For example, we added additional interviewees and included NEMA funding analysis. Any additional work including additional interviewees is noted in this report.

As detailed in our Engagement Letter, we took a phased approach to this engagement. This document is the deliverable for Phase 1, which involved setting and agreeing a detailed scope for Phases 2-4 once more was known.

The remaining phases were:

- Phase 2 involved the investigation of potential conflicts of interest and procurement processes, over the period 1 July 2021 to 31 August 2023.
- Phase 3 involved the investigation of any issues that are uncovered through the Phase 2 work.
- Phase 4 will involve the identification of any process improvement opportunities with Council.

Phase 2 Tasks

Procurement Compliance Evaluation

Carry out a desk-based review of targeted information in order to establish whether any Council policies or accepted practices appear to have been breached. This work involved:

1. Review of Council's Procurement Policy, Conflict of Interest Policy, Delegated Authorities Policy and any other relevant policies or procedures.
2. [REDACTED]
3. Review the Westpoint Trunk Main project to ensure appropriate documentation is in place, that Council policies have been adhered to, and that payments are aligned to the agreed contract.

Funding Requirement Analysis

4. For the Waka Kotahi funded RTS roading projects, obtain and review:
 - a) Funding documentation to determine what the funding requirements are to ensure these have been adhered to.
 - b) Review of allocation of PMO costs and project management in funding submissions provided to Waka Kotahi to confirm they are aligned to the funding documentation.

Forensic Data Capture

5. Obtain emails from the BDC server for the following parties:
 - a) [REDACTED]
 - b) [REDACTED]
 - c) [REDACTED]
 - d) [REDACTED]

- e) [REDACTED]
- 6. Perform a review of emails between the date range of 31 October 2021 – 31 October 2023 and search terms for relevant information and context in relation to the objectives of the engagement.

Interviews

- 7. Undertake interviews with, and if required obtain statements from, the following relevant parties currently identified. *We note that others were added as our work progressed. Refer to Appendix B for complete list of interviewees.*

- a) [REDACTED]
- b) [REDACTED]
- c) [REDACTED]
- d) [REDACTED]
- e) [REDACTED]

Appendix E Inherent Limitations and Third-Party Reliance

Inherent Limitations

This report has been prepared in accordance with our Engagement Letter dated 1 November 2023. The services provided under our engagement letter ("Services") have not been undertaken in accordance with any auditing, review or assurance standards. The term "Audit/Review" used in this report does not relate to an Audit/Review as defined under professional assurance standards.

The information presented in this report is based on that made available to us in the course of our work/publicly available information/information provided by Buller District Council. We have indicated within this report the sources of the information provided. Unless otherwise stated in this report, we have relied upon the truth, accuracy and completeness of any information provided or made available to us in connection with the Services without independently verifying it.

No warranty of completeness, accuracy or reliability is given in relation to the statements and representations made by, and the information and documentation provided by, Buller District Council's stakeholders consulted as part of the process.

KPMG is under no obligation in any circumstances to update this report, in either oral or written form, for events occurring after the report has been issued in final form.

Any redistribution of this report requires the prior written approval of KPMG and in any event is to be complete and unaltered version of the report and accompanied only by such other materials as KPMG may agree.

Third Party Reliance

This report is solely for the purpose set out in the Scope of Work section of this report and for Buller District Council's information and is not to be used for any other purpose or copied, distributed or quoted whether in whole or in part to any other party without KPMG's prior written consent.

Other than our responsibility to Buller District Council, neither KPMG nor any member or employee of KPMG assumes any responsibility, or liability of any kind, to any third party in connection with the provision of this report. Accordingly, any third party choosing to rely on this report does so at their own risk.