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## Risk Assurance

# Follow-up Review of WWL Procurement Processes and Project Management for the Waitangi Park Development

June 2006

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**Risk Assurance**

*- helping you to manage risks*

**Absolutely**

**POSITIVELY**

ME HEKE KI PŌNEKE  
WELLINGTON CITY COUNCIL

**Wellington**

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## **1 INTRODUCTION**

In May 2004, Wellington Waterfront Limited (WWL) ran a closed tender process for the Waitangi Park Development Project. Three contractors tendered for the project and in July 2004, Construction Services Limited (CSC) was awarded the construction and redevelopment contract at a cost of \$13.2 million.

During 2005, a number of concerns arose around the procurement processes and project management of Waitangi Park. Audit New Zealand (Audit NZ) was engaged to carry out an independent review. Audit NZ issued a final report to WWL in December 2005, summarising its findings and making 12 recommendations. A copy of this report was also tabled at the Council's December ARMS meeting.

At the March 2006 meeting, ARMS requested that Risk Assurance carry out a follow-up review of the implementation of the Audit NZ recommendations. The review was deferred to April 2006 at the request of the WWL Chief Executive to not only allow WWL time to implement Audit New Zealand's recommendations in relation to the Waitangi park project but also to extend those recommendations across the whole organisation.

## **2 OBJECTIVES AND SCOPE**

Our review focused on the recommendations highlighted in the Audit NZ December 2005 Final Report. The objectives of the review were to:

- assess WWL's progress in addressing the findings of the Audit NZ report on Procurement Processes and Project Management for the Waitangi Park Development;
- determine the robustness of revised cost forecasts in relation to Waitangi Park.

Although the focus of the review was on the recommendations of the Audit NZ audit, we also highlighted any existing or new areas of risk which we became aware of during the follow-up review.

## **3 APPROACH**

To achieve the objectives set out above, we:

- met with WWL staff including the Chief Executive, Project Managers, and the Corporate Manager;
- reviewed relevant processes and controls to determine the extent that the Audit NZ recommendations had been addressed;
- reviewed procurement and project management documentation; and
- discussed specific findings and risks identified in more detail, including options to manage any risks identified.

## 4 EXECUTIVE SUMMARY

WWL is a Council Controlled Organisation that was set with the responsibility for the redevelopment of the Wellington City waterfront area. The waterfront area is of intrinsic importance to residents, ratepayers and visitors to the City, and for this reason public and media interest in the area and associated projects, is always high.

Wellington Waterfront has many current and proposed projects, all with different complexities. They range from the development of public space (eg Waitangi Park) to the redevelopment of existing buildings (eg NZX Centre) to the development of new sites (eg Meridian Building). WWL's approach to procurement, of necessity, is different in each case.

The focus of this audit was to follow-up on the Audit NZ audit of WWL Procurement Processes and Project Management for the Waitangi Park Development to provide assurance to Wellington City Council that WWL has addressed the recommendations of the report.

We believe that WWL has made, or is still making, good progress to address the control weaknesses identified by Audit NZ. Given the relatively short period of time which has elapsed between the Audit NZ review and our follow-up, WWL has not yet been able to fully implement all of the 12 recommendations. However, we have sighted sufficient evidence to suggest WWL is actively addressing the outstanding recommendations and/or parts thereof, and that this process will be complete in the near future.

Key findings of the follow-up review are:

WWL has established a Project Management Manual which puts greater structure and control around internal project management practices. This manual is still in draft and requires further development to ensure all project management functions are appropriately identified, described and controlled.

Final project costs can only be determined once all construction activities are complete, the Engineer to the contract has carried out the final inspection of the site, and the Quantity Surveyors have assessed all final work claims and closed off accounts.

As a result of the issues leading to and reported on by Audit NZ, improvements to the reporting and communication processes between the Council and WWL have occurred.

There had been some initial communication around mediation between WWL and CSC but agreement on who would be involved could not be reached. Subsequently, the mediation process has been superseded by the summary judgement proceedings issued with the High Court by the Receivers representing the contractor (CSC). Given that the bond and the final claims submitted by the former contractor are being assessed by the Quantity Surveyors as part of the project closure process it is critical that WWL confirm final costs and claim amounts as they are at the heart of the legal

process. Steps that have been taken to date and those to occur in the near future are highlighted in section 5.2 of this report.

***Management Comment:***

*Wellington Waterfront Limited (WWL) is in agreement with the findings of this report.*

*We note that Audit New Zealand will be reviewing and relying on the findings in this report in its annual audit of WWL.*

*WWL welcomes Risk Assurance completing a follow up review to satisfy itself as to the implementation of procedures outlined in the Project Management Manual.*

## 5 AUDIT FINDINGS

The findings of our review are summarised in the following sections of the report. Sections 5.1.1 to 5.1.12 reflect the follow up of the Audit NZ recommendations and section 5.2 contains comment on the status of the mediation process. Where appropriate, we have added further remedial actions (recommendations) related to the specific Audit NZ recommendations.

### 5.1 Progress against Audit NZ recommendations

The findings of Risk Assurance's follow-up review of WWL addressing of the Audit NZ recommendations are summarised below.

#### 5.1.1 Procurement planning

- i. For large, significant or high risk projects a procurement plan be prepared and agreed prior to the commencement of the tendering process.*

Since the Audit NZ audit, WWL has established a procedural Project Management Manual. This manual formalises the processes project managers follow when planning, managing and delivering projects and covers the development of Design Project Procurement Plans and Construction Project Procurement Plans.

WWL employed a specialist project management company, Management Concepts, to assist it in the development the Manual. The person employed from Management Concepts had also previously worked for WWL and therefore understood the role and nature of WWL's activities and was able to tailor the Manual specifically to WWL's circumstances.

WWL also met with the Council's Infrastructure team to look at project management practices within the Council.

We note that the procurement sections of the manual make reference to

- establishing tender options,
- considering evaluation criteria (although basic),
- determining the likely form or type of contract,
- defining quality requirements,
- identifying and assessing risks,
- assessing timing, and
- determining complexity.

Risk Assurance considers that the establishment of this manual is a good start. The manual could benefit however, from further development, refinement and time for it to be implemented in full. Once WWL completes a post implementation review to ensure the Manual is achieving the desired objectives, a further follow up review by Risk Assurance should then take place.

<b>Recommendation</b>	<b>Owner</b>	<b>Date</b>
Once the manual is completed and WWL has carried out a post implementation review, a further follow up review by Risk Assurance should then take place.	Chief Executive WWL	December 2006

### **5.1.2 Tender evaluation**

- ii. For major procurements a robust process should be used for evaluation of tenders. Should include range of criteria and appropriate weightings. Should be documented prior to EOI or tender and disclosed in tender documents.*

As noted in the previous section, WWL has established a procedural Project Management Manual. Included in the manual is the requirement to consider tender evaluation criteria and methodologies when establishing a project plan.

While the Project Management Manual refers to the evaluation of tenders as part of procurement section, content is at a fairly summary level – as a means of allowing for greater flexibility in approach. The *Guidance* section requires the establishment of evaluation criteria prior to the calling of tenders. The expanding of the content of this section of the project management manual will ensure full and accurate coverage of procurement evaluation requirements. We would expect to see reference to the type of evaluation model (covering weightings, criteria and scoring methodologies) and “testing” of the model for sensitivity and expected outcomes. Testing of evaluation models prior to formal use ensures that the model is robust, and that resulting decisions will clearly identify the most appropriate solution (in terms of range and distribution of results). This mitigates the potential for any ambiguity in the results.

We note that WWL often uses external consultants to advise and run tender evaluations. The Project Management Manual states that procurement requirements apply to both internal and external project managers. To ensure that internal and external practices are consistent WWL must have adequate assurance that procurement expectations (in terms of documentation, evaluation criteria, model selection etc) are adhered to by all external parties managing procurement activities prior to and during the procurement process.

<b>Recommendation</b>	<b>Owner</b>	<b>Date</b>
Expand the content of the Project Management Manual to ensure sufficient guidance and consideration is given to the model used to evaluate tenders.	Chief Executive WWL	July 2006
Ensure that the “sensitivity testing” of any procurement evaluation models prior to use is referred to in the Project Management Manual.	Chief Executive WWL	July 2006

Recommendation	Owner	Date
Actively monitor externally managed procurement activities to ensure practices are in line with Project management Manual expectations.	Chief Executive WWL	For all future procurement projects managed by external parties.

### 5.1.3 Procurement records

*iii. Comprehensive records of significant procurement process should be produced and retained*

From our review of project files, we found that generally, the level of documentation on those files was adequate. However, there were a couple of areas where documentation in files was not complete.

We note that when consultants are used to manage the procurement process, procurement-related documents supporting the process may be retained by the consultant. For completeness of information purposes, this information is owned by WWL and WWL need to ensure that the consultants pass over the relevant records at the completion of the process.

We also note that files do not consistently contain all the documentation to support the procurement decision made, particularly relating to evaluation documents to defend selection.

WWL must ensure that records of all tender evaluation activities (even if conducted by consultants) are held on file should future procurement activities be reviewed or contested.

Recommendation	Owner	Date
Ensure that WWL retains all procurement documentation as part of project files.	Chief Executive WWL	July 2006

### 5.1.4 Quality considerations for procurement activities

*iv. Quality should always be a consideration in a procurement process.*

From a review of a selection of WWL projects, we found that the organisation actively considers quality requirements, and where appropriate and necessary, applies controls to assure quality wherever possible. We note that while not all project documents may explicitly refer to quality management documents, and that formally documented Project Quality Plans are rare, this does not imply a systemic organisational disregard for, or compromise of quality.

We sighted evidence of project specification documents, which ensure construction materials and practices meet stringent quality requirements. Specifications define amongst other things the:

- standards to which structural materials must comply
- standards that trades and construction practices must comply with
- qualifications and certificates that must be held by specific contractors.

From discussions with WWL Project Managers and a review of files and associated project documentation we believe that WWL considers, monitors and controls quality requirements and expectations as part of the project management process. This could be enhanced, however, through formalising quality arrangements in Project Plans.

Recommendation	Owner	Date
Ensure that appropriate quality considerations are formalised in all planning documents.	Chief Executive WWL	For all future projects

### 5.1.5 Additional project planning

- v. *Consideration be given to undertaking additional planning for the (Waitangi Park) project in the form of Project/Quality Plans and a contract procedures manual.*

#### **Quality Planning**

WWL did consider establishing additional Quality and Contract Management manuals for the Waitangi Park Project. However, the perceived value of creating this documentation was low given the relatively late stage of the project. As a result no further quality or contract manuals were established for the Waitangi Park project.

Risk Assurance accepts that no formal quality plan exists for this project, nor was one created subsequent to the Audit NZ review. Given the relatively late stage of the project WWL made a decision that they would obtain little value from implementing a formal quality planning document in this case. WWL emphasised that the amended project structure involves a number of individuals from various organisations responsible for assessing and assuring quality. Collectively, they ensured that sufficient controls are in place to assess, monitor and assure quality. Key parties involved include:

- Fletchers Construction Company Ltd (construction contractor)
- Wraight Athfield Landscape Architecture Ltd (WALA – engineer to the contract)
- Spencer Holmes (civil and structural engineers)
- Maltbys (quantity surveyors)
- WWL.

We note that the newly established Project Management Manual refers to establishing documents for the management of quality and inspection practices, although we could not assess the adequacy of this in practice given the newness of the manual.

**Contract Administration and Management – Variations**

A weakness in the contract management approach adopted by WWL for this project relates to the management of contract instructions and scope variations. Up to this point in time approximately 350 contract instructions, including 19 scope variations (of various types but excluding contract clarifications) have occurred. We noted records of site meetings, work instructions and contract variations and these records document the details of the variation and the category (whether it is going to result in additional cost and/or alter the specification).

Variance requests and recommendations are reviewed by the engineer to the contract, and a record is issued to WWL (where applicable requesting authorisation).

The issue that exists relates to variations likely to incur costs or alter the specification, otherwise referred to as type "B" and "C" variations. Our review identified that:

- a set of criteria covering the parameters of variations (like maximum cost) was never formally adopted;
- for all type "C" variations authorisation from WWL must be given prior to commencing with works.
- for type "B" variations our discussions with the Project manager concluded that prior approval did not always occur.

Every "B" instruction to the contractors is in writing from the Engineer and provided to WWL as they are issued. According to WWL the Project Manager will have either discussed/approved it with the Engineer before it is issued or will review it as soon as practicable after it is issued. If there are any concerns or queries WWL will respond immediately. Every month the Quantity Surveyor, Maltbys, issue a financial report which lists all of the instructions together with an estimate of their cost. These instructions are tracked as part of project cost monitoring.

For major projects such as this one we would have expected a formally defined set of criteria (agreed and signed off by all the parties) for the handling of variations (including a set of clear variation categories). This would help with the management of variations by defining parameters and expectations in a formal manner, reducing uncertainty and the need to make judgements. In addition, detailed reporting and authorisation requirements could have been formally defined.

Recommendation	Owner	Date
Ensure that contract administration and management responsibilities and expectations are formally defined (for example a supporting contract management manual) for all future waterfront projects.	Chief Executive WWL	For all future projects
Ensure that all project variation requests are authorised (and documented evidence exists to support this).	Chief Executive WWL	For all future projects

### **5.1.6 Reporting requirements**

*vi. WWL discuss and agree with WCC the reporting requirements.*

Reporting requirements between WWL and Wellington City Council are defined, agreed and understood by both parties. We sighted evidence of minutes summarising meetings between WWL and Wellington City Council.

Reporting requirements are defined through the:

- Overview Agreement for provision of waterfront management and services in respect of the Wellington waterfront (*Part 2, sections 29 to 31*).
- Local Government Act 2002 (*Monitoring and reporting, sections 65 to 72*).

Other reporting arrangements, (between WWL and the Council) include a monthly meeting with the Mayor, Chief Executive and Chief Operating Officer, and the WWL Chair, Deputy Chair and Chief Executive; and a fortnightly meeting between the Chief Operating Officer, CCO Portfolio Manager and the WWL Chief Executive and Chief Financial Officer.

From discussions with Council officers and WWL, communication between the two organisations is now more frequent and transparent. Risk Assurance notes that both parties are working together more effectively.

### **5.1.7 Formal contract reporting**

*vii. Formal reporting by the contractor should be a requirement of all significant contracts and steps should be taken to ensure compliance.*

We note that reporting requirements are determined and agreed with the contractor as part of formalising the contract for the engagement of services.

We found that while reporting between Wellington Waterfront Ltd and contractor engaged for a particular project does occur, it was not necessarily fully in line with the agreed contract. According to WWL, although they have in place a requirement that contractors must formally and regularly report to WWL, not all do.

Risk Assurance notes the concerns expressed by WWL in relation to the sometimes difficulty of enforcement of contract reporting requirements once formal agreements have been entered into. We note and support the actions being taken by WWL to withhold performance bonds to attempt to enforce contractors to adhere to reporting requirements, and in the case of repeated/ongoing failure of contractors to report, to not use those contractors on future projects.

### 5.1.8 Organisational capability and capacity

- viii. *WWL should monitor its capacity to manage large contracts and ensure it has the full range of competencies required for a project of this size*

From discussions with the WWL Chief Executive, we note that there is a strong focus on ensuring that suitably experienced and qualified Project Managers manage projects. The Chief Executive has explained that a recent review of projects (summary document sighted) has led to the reallocation of some projects to different project managers that have a greater level expertise in this area.

WWL has assessed its internal capability and capacity. The Project Manual refers to this in terms of allocating competent and capable Project Managers based on project size, cost, complexity and risk.

The Project Management Manual as part of the “Appointment of Project Manager (PM 2.3)” section sets out the expected Project Manager competency requirements for the four classes of projects. Simple projects (class 1) require no formal project management experience, whereas high cost, complex or high risk projects (class 4) require project managers to have proven experience in the successful delivery of projects at this level.

Risk Assurance notes that the establishment of the Project Management Manual is the most appropriate way to define capability and capacity requirements. We do however recommend that WWL review the capability criteria associated with each class of project to ensure that requirements are accurate and complete.

Recommendation	Owner	Date
Ensure that the <i>Appointment of Project Manager</i> section of the Project Manual accurately defines capability requirements.	Chief Executive WWL	July 2006

### 5.1.9 Project Change Management

- ix. *Whenever any significant change is proposed to procurement arrangements or business plan, a detailed business case describing advantages and disadvantages should be prepared for the Board.*

WWL has defined a process to record, assess and authorise changes to projects. The Project Management Manual defines the requirement to document a change to a project under section 5.2 *Project Change Management*. This process requires the initiator to complete a Project Change Notice (PM 5.2-F1) which details the proposed changes including the specific areas of impact.

We recommend the expansion of guidance to ensure that “significant” changes (including procurement changes) are communicated through to the Board for review and approval. The application of a defined set of criteria against which a project change request can be assessed would ensure that significant project changes require appropriate review and approval by the Board.

Although criteria defining significant changes could be improved, we note that there is evidence of changes to existing projects (Len Lye – Water Whirler had an additional \$140,000 for construction) being reported to the appropriate authority. This was formally reported to the Board for approval in September 2005.

Recommendation	Owner	Date
Apply an appropriate project change review and authorisation methodology to ensure that significant project changes (including procurement changes) are reported to the WWL Board for approval.	Chief Executive WWL	July 2006

#### **5.1.10 Conflicts of interest management**

- x. *WWL should ensure it avoids all actual and potential conflicts of interest with its commercial arrangements and manage any perceptions of conflicts.*

WWL effectively manages Board conflicts of interest. However, internal staff, contractors and consultants are not required to go through any formal conflict declaration process.

Our review did not identify any evidence of actual or perceived conflicts of interest. However, in order to provide total assurance to stakeholders a full assessment of all projects and the relationship between WWL staff, contractors and consultants would be required. Given that a retrospective review of interests would take a substantial amount of time, we would recommend that any decision to do this would be weighed up against the risks and potential benefits.

The management of conflicts of interest is an essential internal control which endeavours to ensure the transparent disclosure, recording, evaluation and management of any risks associated with actual or perceived conflicts of interest.

#### **Internal staff**

The WWL Quality Management System (section 5.13 – Conflicts of Interest) states that “all staff are required to disclose any potential conflicts of interest, financial or otherwise”. The process goes on to state that “where applicable all staff are to complete the conflicts of interest form...and pass it to the Corporate Manager”.

We note that the process makes no reference to the completion of conflicts of interest declarations by staff before becoming involved in individual projects and that WWL does not formally assess and records conflicts of interest as part of the project planning process.

### **Contractor and consultants**

The extensive usage of and reliance on contractors and consultants by WWL further emphasises the importance of robust conflicts of interest management controls. The current process does not require contractors and consultants (working on behalf of WWL) to declare conflicts of interest.

It is essential that WWL can defend any potential contractor or consultant interests which could result in accusations of bias or inappropriate decision making. A well defined conflicts of interest declaration process will adequately mitigate this risk.

<b>Recommendation</b>	<b>Owner</b>	<b>Date</b>
Formally adopt the conflicts of interest declaration process referred to in the WWL QMS, expanding the procedure to ensure staff complete conflicts of interest declaration before becoming engaged in a project.	Chief Executive WWL	July 2006
Ensure that conflicts of interest declaration processes ensure that declarations are completed by contractors and consultants engaged by WWL.	Chief Executive WWL	July 2006

#### **5.1.11 Waitangi Park Limited tax obligations and other matters**

*xi. WWL should seek advice confirming its view that WPL has no obligation in respect of taxation or other matters.*

WWL has taken appropriate legal and tax advice to ensure that any outstanding obligations (tax or otherwise) have been assessed and where possible addressed.

#### **Tax obligations**

WWL engaged the services of Toovey Eaton MacDonald Ltd to ensure tax requirements have been closed off. Toovey Eaton MacDonald on behalf of WWL submitted the 2005 year end tax return. Toovey Eaton MacDonald has informed WWL that it was their opinion that as Waitangi Park Limited is deregistered from GST and that there was a nil tax return (letter from Toovey Eaton MacDonald to Inland Revenue sighted) there should be no tax obligation.

A letter from IRD back to WWL confirming the cancellation of GST registration (as per section 52 of the GST Act 1985) does state that “WWL (WPL) is “still liable to meet any obligations that were incurred while registered”. Risk Assurance notes that in the opinion of Audit NZ, WPL had not traded, and therefore the likelihood of any liability claims is remote.

### **Other matters – WPL closure**

WWL engaged Chapman Tripp to advise on the options available to disestablish WPL. Chapman Tripp recommended the amalgamation of WPL into WWL using the “short form amalgamation” process. Risk Assurance has sighted evidence that this process was carried out in line with legal advice. Risk Assurance also sighted documentation between the Council Controlled Organisations Director and the WWL Corporate Manager stating that the Council had no concerns with regards to the proposed course of action to amalgamate the two companies.

Waitangi Park Limited has also been struck off the Companies Register confirming that the short form amalgamation process has taken place.

One outstanding issue remains and this relates to the legal requirement to inform Inland Revenue of the amalgamation of WPL into WWL no later than 63 days after the application for amalgamation was sent to the Companies Office. The Corporate Manager has assured us that once the nil tax return is confirmed by Inland Revenue WWL will advise them of the amalgamation.

<b>Recommendation</b>	<b>Owner</b>	<b>Date</b>
Ensure that Inland Revenue is informed of the amalgamation within the required 63 days of the amalgamation application being sent to the Companies Office.	Corporate Manager WWL	Prior to the 63 day cut-off date.

### **5.1.12 Waitangi Park project cost calculations and reporting**

*xii. WWL should ensure that WCC is kept fully informed about the financial and programme related aspects of the project.*

Since the Audit New Zealand review, WWL has kept Wellington City Council fully informed as to the costs and progress of the project. We sighted evidence of meetings between WWL and Wellington City Council specifically related to ensuring that the Council was made aware of the costs and progress of the project. Fortnightly meetings between the Council’s Chief Operating Officer and the Chief Executive of WWL ensure that Wellington City Council is kept informed of developments of this and other projects.

*xiii. Determine the robustness of revised cost forecasts in relation to Waitangi Park.*

We note that the final costs of the project are still being determined, however the tracking of costs by WWL indicates that project is likely to have a final cost overrun that is less than that of the \$4.9 million originally indicated to Council in November 2005.

In order to obtain assurance over the robustness of the budget overrun figure of \$4.9 million being advised to the Council, the WWL Corporate Manager conducted a cost reconciliation exercise for the project in October 2005.

This involved reconciling individual transactions by contractor as per the general ledger, back to invoices. Approximately 94% of costs in the general ledger were reconciled and the remaining 6% not reconciled related to transactions with smaller contractors and consultants.

Further, the risk of material miscoding of costs (to other projects) is mitigated by the fact that WWL reports on a per item basis all cheques/payments exceeding \$20,000 to the WWL Board.

The latest cost calculations (February 2006) available from WWL at the time of audit indicated that the anticipated cost of the project will be around \$22.1 million. WWL is confident that the forecast budget overrun is now likely to be around \$4.5 million and has been communicating this figure to Council.

WWL emphasised that it was not possible to determine the exact overrun figure given that all construction works of the project have not yet been completed.

As part of any construction project, a final inspection carried out by the Engineer to the contract at the completion of all construction works will determine whether any additional works are required (to rectify defects and/or faulty works). Until the Engineer conducts this final inspection, the Quantity Surveyor will not be able to establish the final costs of the project.

Only once final costs are determined can the accuracy and credibility of the claims made by CSC be determined. It should also be noted that the outcome of the summary judgement proceedings may also impact on the final project cost.

Recommendation	Owner	Date
WWL should inform the Council at the soonest possible time of final project costs (post completion of final inspection and account closure/claim assessment).	Chief Executive WWL	Post final inspection

## 5.2 Progress of mediation process

There had been some initial communication around mediation between WWL and CSC but agreement on who would be involved could not be reached. Subsequently, the mediation process has been superseded by the summary judgement proceedings issued with the High Court on 29 May 2006 by the Receivers representing the contractor (CSC).

The engineer to the contract is assessing the credibility of all the project claims and the quantity surveyor, Maltbys, is assessing the final costs. This is likely to result in a claim by Wellington Waterfront Ltd against CSC.

The bullet points below summarise the key events which have taken place to date and to occur in the near future:

<b>Date</b>	<b>Comment</b>
11 July 2005	Letter from WWL to Contractors Bonding Ltd (CBL) calling the performance bond of \$1.321 million.
21 December 2005	Letter from WWL to CBL confirming the calling of the bond.
5 January 2006	Letter from lawyers Minter Ellison Rudd Watts (Minter Ellison), representing Construction Services Company (CSC), to WWL inquiring whether WWL was interested in engaging in mediation.
1 February 2006	Letter from Chapman Tripp, lawyers representing WWL, to Minter Ellison clarifying the details of the proposed mediation and inclusion of the “surety” (CBL) in the process.
15 February 2006	Fax from Minter Ellison to WWL confirming that they have asked the “surety” (CBL) if they wish to participate in the mediation, and they will be in contact again once a response is received.
23 March 2006	Letter from Minter Ellison requesting that the mediation is limited to two parties, CSC and WWL. It is noted that CSC is treating the mediation as being outside the contract at this stage.
30 March 2006	Fax from Chapman Tripp to Minter Ellison asking whether the surety was contacted about being involved in the mediation process
3 April 2006	Fax from Minter Ellison stating the solicitor for the surety was contacted and that discussion was privileged. Minter Ellison reaffirm that its client, CSC, believes it would be simpler to have only two parties involved in the mediation.
26 April 2006	Minter Ellison asks Chapman Tripp whether WWL prepared to mediate with CSC alone; 27 April: Chapman Tripp tells Minter Ellison WWL was not.
26 May 2006	Summary judgment proceedings issued in High Court by CSC claiming payment of \$1.14m (plus interest and costs).
16 June 2006	Maltbys will be reviewing the costs of the CSC contract claim. Other consultants’ input will be obtained where appropriate.
27 June 2006	WWL’s response to notice for summary judgement due at High Court.
3 July 2006	Summary judgment application to have first (administrative) call in High Court, to make arrangements for a hearing date.

WWL is waiting to confirm project costs (of which the CSC claims are a component) before final costs for the project can be determined after, which WWL can focus on the legal process. In the meantime, Risk Assurance recommends that WWL continue to keep the Wellington City Council informed on the progress of the process, including timeframes, claims details etc.

Recommendation	Owner	Date
WWL to communicate to the Wellington City Council on the progress and results of the actions highlighted in the table in section 5.2 of this report.	Chief Executive WWL	Post final inspection and Maltby's claim assessment

## 6 ACTION PLAN

Ref	Recommendation	Management Comment	Responsibility	Date
5.1.1	Once the manual is completed and WWL has carried out a post implementation review, a further follow up review by Risk Assurance should then take place.	Agreed	Chief Executive WWL	December 2006
5.1.2	Expand the content of the Project Management Manual to ensure sufficient guidance and consideration is given to the model used to evaluate tenders.	Agreed	Chief Executive WWL	July 2006
5.1.2	Ensure that the “sensitivity testing” of any procurement evaluation models prior to use is referred to in the Project Management Manual.	Agreed	Chief Executive WWL	July 2006
5.1.2	Actively monitor externally managed procurement activities to ensure practices are in line with Project Management Manual expectations.	Agreed	Chief Executive WWL	For all future procurement projects managed by external parties.
5.1.3	Ensure that WWL retains all procurement documentation as part of project files.	Agreed	Chief Executive WWL	July 2006
5.1.4	Ensure that appropriate quality considerations are formalised in all planning documents.	Agree	Chief Executive WWL	For all future projects

Ref	Recommendation	Management Comment	Responsibility	Date
5.1.5	Ensure that contract administration and management responsibilities and expectations are formally defined (for example a supporting contract management manual) for all future waterfront projects.	Agreed noting also the approach taken may vary for each project.	Chief Executive WWL	For all future projects
5.1.5	Ensure that all project variation requests are authorised (and documented evidence exists to support this).	Agreed	Chief Executive WWL	For all future projects
5.1.8	Ensure that the <i>Appointment of Project Manager</i> section of the Project Manual accurately defines capability requirements.	Agreed	Chief Executive WWL	July 2006
5.1.9	Apply an appropriate project change review and authorisation methodology to ensure that significant project changes (including procurement changes) are reported to the WWL Board for approval.	Agreed	Chief Executive WWL	July 2006
5.1.10	Formally adopt the conflicts of interest declaration process referred to in the WWL QMS, expanding the procedure to ensure staff complete conflicts of interest declaration before becoming engaged in a project.	Agreed	Chief Executive WWL	July 2006
5.1.10	Ensure that conflicts of interest declaration processes ensure that declarations are completed by contractors and consultants engaged by WWL.	Agreed	Chief Executive WWL	July 2006

<b>Ref</b>	<b>Recommendation</b>	<b>Management Comment</b>	<b>Responsibility</b>	<b>Date</b>
5.11.1	Ensure that Inland Revenue is informed of the amalgamation within the required 63 days of the amalgamation application being sent to the Companies Office.	Formal notification will be going to the IRD on finalisation of the 2006 tax return. The 2005 tax return has already been agreed.	Corporate Manager WWL	Prior to the 63 day cut-off date.
5.12.1	WWL should inform the Council at the soonest possible time of final project costs (post completion of final inspection and account closure/claim assessment).	Agreed	Chief Executive WWL	Post final inspection
5.2	WWL to communicate to the Wellington City Council on the progress and results of the actions highlighted in the table in section 5.2 of this report.	Agreed	Chief Executive WWL	Post final inspection and Maltby's claim assessment