



# Far North District Council



## AGENDA

### Extraordinary Council Meeting

**Thursday, 4 July 2019**

**Time:** 12.00 pm  
**Location:** Council Chamber  
Memorial Avenue  
Kaikohe

**Membership:**

Mayor John Carter - Chairperson  
Cr Tania McInnes  
Cr Ann Court  
Cr Felicity Foy  
Cr Dave Hookway  
Cr Colin (Toss) Kitchen  
Cr Sally Macauley  
Cr Mate Radich  
Cr John Vujcich  
Cr Kelly Stratford



**COUNCIL MEMBERS REGISTER OF INTERESTS**

<b>Name</b>	<b>Responsibility (i.e. Chairperson etc)</b>	<b>Declaration of Interests</b>	<b>Nature of Potential Interest</b>	<b>Member's Proposed Management Plan</b>
Hon John Carter QSO	Board Member of the Local Government Protection Programme	Board Member of the Local Government Protection Programme		
	Carter Family Trust			
Felicity Foy	Director - Northland Planning & Development	I am the director of a planning and development consultancy that is based in the Far North and have two employees.  Property owner of Commerce Street, Kaitaia		I will abstain from any debate and voting on proposed plan change items for the Far North District Plan.
				I will declare a conflict of interest with any planning matters that relate to resource consent processing, and the management of the resource consents planning team.
				I will not enter into any contracts with Council for over \$25,000 per year. I have previously contracted to Council to process resource consents as consultant planner.
	Flick Trustee Ltd	I am the director of this company that is the company trustee of Flick Family Trust that owns properties on Weber Place, Seaview Road and Allen Bell Drive.		
	Elbury Holdings Limited	This company is directed by my parents Fiona and Kevin King.	This company owns several dairy and beef farms, and also dwellings on these farms. The Farms and dwellings are located in the Far North at Kaimaumau, Bird Road/Sandhills	

Name	Responsibility (i.e. Chairperson etc)	Declaration of Interests	Nature of Potential Interest	Member's Proposed Management Plan
			Rd, Wireless Road/Puckey Road/Bell Road, the Awanui Straight, Allen Bell Drive.	
	Foy Farms partnership	Owner and partner in Foy Farms - a farm in three titles on Church Road, Kaingaroa		
	Foy Farms Rentals	Owner and rental manager of Foy Farms Rentals for 6 dwellings on Church Road, Kaingaroa and 2 dwelling on Allen Bell Drive, Kaitaia, and 1 property on North Road, Kaitaia		
	King Family Trust	This trust owns several titles/properties at Cable Bay, Seaview Rd/State Highway 10 and Ahipara - Panorama Lane.	These trusts own properties in the Far North.	
	M and F Foy properties	1 property at Panorama Lane, Ahipara, and 1 property Church Road, Kaingaroa		
	Previous employment at FNDC 2007-16	I consider the staff members at FNDC to be my friends		
Partner Felicity Foy	Employed by Justaplumber Taipa			
	Friends with some FNDC employees			
Dave Hookway	Resident shareholder in Kerikeri Irrigation			Declare if issues arise.
	Shareholder in Farmlands.			Declare if issues arise.
	Employee – Northland District Health Board – Public Health Unit – Health Improvement Advisor		Am employee have no personal gain.	Declare employment should issues concerning the Northland DHB arises.
	On property in Waipapa West Rd.		Possible issues relating to the street or zoning.	Declare when appropriate.

Name	Responsibility (i.e. Chairperson etc)	Declaration of Interests	Nature of Potential Interest	Member's Proposed Management Plan
Colin Kitchen	No form received			
Tania McInnes	Director – GBT Ventures Ltd	Company not currently operational		Will notify Council if company becomes operational.
	Member of Northland Conservation Board		Conservation matters not aligned with Council policy.	Will notify Council should a perceived conflict arise.
	Trustee – Northland Youth Education Trust		No perceived conflicts	Will notify Council should a perceived conflict arise.
	Founder – Bay of Islands Women's Nexus	No perceived conflicts. An informal organisation		
	Own a section on Seaview Road, Paihia 0200			
	Having worked within the organisation in the early 2000's, I know a number of staff, none of which I am close with.			
Mate Radich	No form received			
Ann Court	Waipapa Business Association	Member		
	Warren Pattinson Limited	Shareholder	Building company. FNDC is a regulator and enforcer	No FNDC Controls
	Kerikeri Irrigation	Supplies my water		No EM intervention in disputes
	Top Energy	Supplies my power		No other interest greater than the public's
	District Licensing	N/A	N/A	N/A
	Top Energy Consumer Trust	Trustee	crossover in regulatory functions, consenting economic development and contracts such as street lighting.	Declare interest and abstain from voting.
	Ann Court Trust	Private	Private	N/A
	Waipapa Rotary	Honorary member	Potential community funding submitter	Declare interest and abstain from

Name	Responsibility (i.e. Chairperson etc)	Declaration of Interests	Nature of Potential Interest	Member's Proposed Management Plan
				voting.
	Properties on Onekura Road, Waipapa	Owner Shareholder	Any proposed FNDC Capital works or policy change which may have a direct impact (positive/adverse)	Declare interest and abstain from voting.
	Property on Daroux Dr, Waipapa	Financial interest		
	Flowers (I get flowers occasionally)	Ratepayer 'Thankyou'	Bias/ Pre-determination?	Declare to Governance
	Coffee and food	Ratepayers sometimes 'shout' food and beverage	Bias or pre-determination	Case by case
	Consider all staff my friends	N/A	Suggestion of not being impartial or pre-determined!	Be professional, due diligence, weigh the evidence. Be thorough, thoughtful, considered impartial and balanced. Be fair.
		My husband is a builder and may do work for Council staff		
Warren Pattinson (Husband)	Warren Pattinson Limited	Director	Building Company. FNDC is a regulator	Remain at arm's length
	Air NZ	Shareholder	None	None
	Warren Pattinson Limited	Builder	FNDC is the consent authority, regulator and enforcer.	Apply arm's length rules
	Kurbside Rod and Custom Club (unlikely)	President NZ Hot Rod Association	Potential to be linked to a funding applicant and my wife is on the decision making committee.	unlikely to materialise but would absent myself from any process as would Ann.
	Property on Onekura Road, Waipapa	Owner	any proposed FNDC capital work in the vicinity or rural plan change. Maybe a link to policy development.	Would not submit. Rest on a case by case basis.
	Worked with or for Mike Colebrook and Kelvin Goode	Paid employment	N/A	N/A
Sally Macauley	Chairman	Northland District Health Board	Matters pertaining to health issues re Fluoride and	Declare a perceived conflict.

Name	Responsibility (i.e. Chairperson etc)	Declaration of Interests	Nature of Potential Interest	Member's Proposed Management Plan
			freshwater as an example.	
	Chairman	Oranga Tamaraki - Ministry of Vulnerable Children- Northland Community Response Forum	Matters pertaining to this ministry	Declare a perceived conflict.
	Judicial Justice of the Peace	Visitations to Ngawha Prison	Matters pertaining to Judicial Issues re Ngawha Prison	Declare a perceived Interest
	The Turner Centre	FNDC Representative	Observer, acknowledging FNDC financial contribution.	Note FNDC partnership
	Trustee	Kaikohe Education Trust	Providing students laptops - possible request for written support to funders	Declare a conflict
	Executive member	Kaikohe Business Association	Matters pertaining to request for written support to funders.	
	Chairman	Bay of Islands Arts Festival Trust	Issues pertaining to the application of support funds	Declare a conflict of interests
	Trustee	Bay of Islands Radio Marine	Issues pertaining to the application of support funds	Declare a conflict of interests
	Secretary/Trustee	Kerikeri International Piano Competition	Issues pertaining to the application of support funds	Declare a conflict of interests
	Trustee/Director	Kaikohe Community and Youth Trust	Possible application of support funding	Declare a conflict of interests
	Commercial	Palmer Macauley Offices- Kerikeri and Kaikohe	Infrastructural matters with FNDC	Declare a conflict
	Private property of which there would not be any conflict.			
	Paihia, Kerikeri, Kaikohe			
Peter Macauley (Husband)	Senior Partner	Palmer Macauley		
	Peter Macauley	Barristers and Solicitors- Kerikeri, Kaikohe and Mangonui	Legal matters with FNDC	
	Director/Trustee			
	St John NZ Priory Chapter	St John Priory Chapter	Legal matters with FNDC	Declare a conflict

<b>Name</b>	<b>Responsibility (i.e. Chairperson etc)</b>	<b>Declaration of Interests</b>	<b>Nature of Potential Interest</b>	<b>Member's Proposed Management Plan</b>	
	Senior Partner	Peter Macauley-Palmer Barristers and Solicitors Kerikeri Mangonui	Macauley-Macauley and Kaikohe, AND	Legal matters with FNDC	Declare a conflict
	St John NZ	Priory Trust Board		Writing of policies and legal matters as an example	Note Interests
	Lions Club of Kaikohe	Director		Legal matters etc	Note Interests
	Kaikohe Rugby Club	Patron		Legal Matters	
	Viking Rugby Club, Whangarei	Life Member		Legal Matters	
	Private Property				
	Kerikeri, Paihia - no contents.				
John Vujcich	Board Member	Ngati Hine Health Trust		Matters pertaining to property or decisions that may impact of their health services	Declare interest and abstain
	Board Member	Pioneer Village		Matters relating to funding and assets	Declare interest and abstain
	Director	Waitukupata Forest Ltd		Potential for council activity to directly affect its assets	Declare interest and abstain
	Director	Rural Service Solutions Ltd		Matters where council regulatory function impact of company services	Declare interest and abstain
	Director	Kaikohe (Rau Marama) Community Trust		Potential funder	Declare interest and abstain
	Partner	MJ & EMJ Vujcich		Matters where council regulatory function impacts on partnership owned assets	Declare interest and abstain
	Member	Kaikohe Rotary Club		Potential funder, or impact on Rotary projects	Declare interest and abstain
	Member	New Zealand Institute of Directors		Potential provider of training to Council	Declare a Conflict of Interest
	Member	Institute of IT Professionals		Unlikely, but possible provider of services to Council	Declare a Conflict of Interest
Member	Kaikohe Business Association		Possible funding provider	Declare a Conflict of Interest	
Mike	Chair	Kaikohe Mechanical		Council Funding	Decide at the

Name	Responsibility (i.e. Chairperson etc)	Declaration of Interests	Nature of Potential Interest	Member's Proposed Management Plan
Edmonds		and Historic Trust		time
	Committee member	Kaikohe Rugby Football and Sports Club	Council Funding	Withdraw and abstain
Adele Gardner	N/A - FNDC Honorary			
	The Far North 20/20 , ICT Trust	Trustee		
	Te Ahu Charitable Trust	Trustee		
	ST Johns Kaitaia Branch	Trustee/ Committee Member		
	I know many FNDC staff members as I was an FNDC staff member from 1994-2008.			
Partner of Adele Gardner	N/A as Retired			
Terry Greening	Greening Family Trust	Beneficiary		Highly unlikely to interface with FNDC
	Bay of Islands Walking Weekend Trust		Potential of seeking funds	Step aside from any requests or decisions regarding requests
	Russell 2000 Trust (Chairman)			Trust is about to wind up.
	Russell Centennial Trust (Chairman)	Manages Russell Museum	Seeks funds from council	Step aside from any requests or decisions regarding requests
	Residence at Kaha Place, Russell	Nil	Nil	N/A
Terry Greening (Wife)	Greening Family Trust	Beneficiary	N/A	N/A
	Residence at Kaha Place, Russell			
Cr Kelly Stratford	Office manager at Kinghans.			
	Denture assistant at Kawakawa denture Services self-employed as book keeper Kelly@ksbookkeeing.net	None	None	

Name	Responsibility (i.e. Chairperson etc)	Declaration of Interests	Nature of Potential Interest	Member's Proposed Management Plan
	KS Bookkeeping and Administration	Business owner, bookkeeping and development of environment management plans for clients.	None perceived	I'd step aside from decisions that arise, that may have conflicts.
	Kingham's Accounting	Office Administration	None perceived	I'd step aside from decisions that arise, that may have conflicts.
	Waikare Marae Trustees	Trustee	May be perceived conflicts	Case by case basis
	Kawakawa Business & Community Association	Committee member/newsletter editor and printer	None perceived	If there was a perceived conflict, I will step aside from decision making
	Bay of Islands College	Parent elected trustee	None perceived	If there was a perceived conflict, I will step aside from decision making
	Karetu School Bay Cosmos Soccer	Parent elected trustee. Committee member and coach	None perceived	If there was a perceived conflict, I will step aside from decision making
	Property in Waikare and Moerewa			If there was a perceived conflict, I will step aside from decision making
	Coffee and food	Ratepayers sometimes 'shout' food and beverage	Bias or pre-determination	Case by case
Kelly Stratford (Husband)	Property in Moerewa		N/A	N/A

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**Far North District Council  
Extraordinary Council Meeting  
will be held in the Council Chamber, Memorial Avenue, Kaikohe on:  
Thursday 4 July 2019 at 12.00 pm**

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**Order Of Business**

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**1 PRAYER****2 APOLOGIES AND DECLARATIONS OF INTEREST**

Members need to stand aside from decision-making when a conflict arises between their role as a Member of the Council and any private or other external interest they might have. This note is provided as a reminder to Members to review the matters on the agenda and assess and identify where they may have a pecuniary or other conflict of interest, or where there may be a perception of a conflict of interest.

If a Member feels they do have a conflict of interest, they should publicly declare that at the start of the meeting or of the relevant item of business and refrain from participating in the discussion or voting on that item. If a Member thinks they may have a conflict of interest, they can seek advice from the Chief Executive Officer or the Team Leader Governance Support (preferably before the meeting).

It is noted that while members can seek advice the final decision as to whether a conflict exists rests with the member.

**3 DEPUTATION**

No requests for deputations were received at the time of the Agenda going to print.

**4 MAYORAL ANNOUNCEMENTS**

## 5 STRATEGIC PLANNING AND POLICY GROUP

### 5.1 CORRECTION TO THE DRAFT EARTHWORKS BYLAW

**File Number:** A2546599

**Author:** Roger Ackers, Manager - Strategy Development

**Authoriser:** Sheryl Gavin, General Manager - Strategic Planning and Policy (Acting)

#### PURPOSE OF THE REPORT

To seek approval to correct an editing error in the statement of proposal for the Earthworks bylaw.

#### EXECUTIVE SUMMARY

- An editing error was identified in the Statement of Proposal for the Earthworks Bylaw after it was adopted on 27 June 2019. This report recommends that Council adopt a corrected Statement of Proposal.

#### RECOMMENDATION

**That Council:**

**Adopt the corrected Statement of Proposal for the draft Control of Earthworks Bylaw 2019.**

#### 1) BACKGROUND

A draft earthworks bylaw was adopted for consultation on 27 June 2019. An editing error was later discovered that, should it be left uncorrected, will affect the reader's interpretation of the rule that contains the error.

#### 2) DISCUSSION AND OPTIONS

Section 7 Earthworks Application Required' contains the following clause

*7.1 Where a Resource Consent for earthworks and/or filling is not required under the Far North District Plan, then no person shall carry out or cause to be carried out, any excavation, cellar construction or filling until the Council's approval has been obtained and a permit has been issued for work:*

*(b) that is beyond 3 metres of any boundary or water body, in any zone, except Minerals zone and Rural Production zone, and that exceeds:*

*(i) 300mm to 500mm in depth, over an area of 50m<sup>2</sup> ;*

The intention was to propose a condition where Council approval is required if the earthworks will exceed 500mm in depth (not between 300mm and 500mm). The recommendation is to remove the words "300mm to". The condition should read:

*(i) 500mm in depth, over an area of 50m<sup>2</sup> ;*

A corrected Statement of Proposal and draft Bylaw are attached.

The alternative to adopting the correction is that consultation proceeds with the confusing condition. If it is not amended as a result of consultation and the Bylaw is adopted with this depth range the requirements for earthworks approval will not be clear and may cause confusion and inconsistent application and enforcement.

#### Reason for the recommendation

The error must be corrected and the Statement of Proposal and draft Bylaw adopted again before consultation can proceed.

### **3) FINANCIAL IMPLICATIONS AND BUDGETARY PROVISION**

There are no financial implications or need for budgetary provision.

#### **ATTACHMENTS**

1. **Statement of Proposal - Proposed Control of Earthworks Bylaw 2019 - A2546615** [↓](#) 
2. **Draft Control of Earthworks Bylaw 2019 - A2546614** [↓](#) 

**Compliance schedule:**

Full consideration has been given to the provisions of the Local Government Act 2002 S77 in relation to decision making, in particular:

1. A Local authority must, in the course of the decision-making process,
  - a) Seek to identify all reasonably practicable options for the achievement of the objective of a decision; and
  - b) Assess the options in terms of their advantages and disadvantages; and
  - c) If any of the options identified under paragraph (a) involves a significant decision in relation to land or a body of water, take into account the relationship of Māori and their culture and traditions with their ancestral land, water sites, waahi tapu, valued flora and fauna and other taonga.
2. This section is subject to Section 79 - Compliance with procedures in relation to decisions.

<b>Compliance requirement</b>	<b>Staff assessment</b>
State the level of significance (high or low) of the issue or proposal as determined by the <a href="#">Council's Significance and Engagement Policy</a>	The proposed change does not meet any thresholds in the Council's significance and engagement policy.
State the relevant Council policies (external or internal), legislation, and/or community outcomes (as stated in the LTP) that relate to this decision.	The recommendation contained in this report is aimed at complying with the requirements of Part 8 – Regulatory, enforcement, coercive powers of local authorities of the Local Government Act.
State whether this issue or proposal has a District wide relevance and, if not, the ways in which the appropriate Community Board's views have been sought.	Decision making on the reviewing and making of Bylaws is not delegated to the Community Boards. Community Board views are received via the consultative process that is followed for each bylaw.
State the possible implications for Māori and how Māori have been provided with an opportunity to contribute to decision making if this decision is significant and relates to land and/or any body of water.	The recommendation contained in this report has no direct impact on Māori. However execution of the recommended option to address the revoked bylaws will require engagement with iwi, hapū on each individual bylaw.
Identify persons likely to be affected by or have an interest in the matter, and how you have given consideration to their views or preferences.	The recommendation in this report has no direct impact on any particular interested party or individual. However the execution of the recommended option to address the revoked Bylaws will require engagement with interested persons and parties.
State the financial implications and where budgetary provisions have been made to support this decision.	The financial implications of this proposal have been made under section 3 of this report. There is no requirement for additional capital of operational budget to be requested beyond what is already budgeted for in the 2019-20 Annual Plan.
Chief Financial Officer review.	The Chief Financial Officer has not reviewed this report.



## Introduction

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A 'Statement of Proposal' (SOP) document is a legal requirement when Council is proposing to make, amend or revoke a bylaw. The SOP is the document that is made available to you as part of the consultation process to provide background information on the proposal to assist you in providing your thoughts to Council on the topic.

This SOP includes a summary of information and the proposed policy and bylaw.

## Reason for the proposal

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Sections 145 and 146 of Local Government Act 2002 give Council the power to make a bylaw for its District for the purpose of regulating, managing and controlling activities that may pose a danger to the public, properties and the environment.

The reason for this proposal is to clarify when an earthworks permit is necessary in relation to specific building work. Whilst the Far North District Plan does have some controls for earthworks, they do not cover the full extent of the type of earthworks that are carried out throughout the district, but tend to cover the more major earthworks.

The current Control of Earthworks Bylaw 2009 will be automatically revoked in 2020. Until further District Plan changes are possible, it is considered necessary for a Control of Earthworks Bylaw to remain in place.

## Summary

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### Problem Definition

Council requires a legal framework within which it can manage and control earthworks to safeguard the public, their properties and the environment.

The main intentions of the proposed bylaw are:

- To protect the public from harm that may be caused as a result of unsafe earthworks activities.
- Ensure neighbouring property are not affected by uncontrolled earthworks activities.
- To safeguard the districts environment from uncontrolled earthworks activities.
- To meet the current social, cultural, environmental and economic well being of the community.

### Options

In order to assess whether a bylaw is most appropriate method of addressing the perceived problem, the following options have been considered.

1. **Do nothing:** Council would need to rely on the current provisions of the District Plan to regulate earthworks. However, this only covers more major earthworks activities and some zones do not have any earthworks controls within the District Plan. This option would mean that, in the absence of new District Plan provisions, earthworks would be unregulated in certain circumstances and zones. This would have an impact on the safety of the public, their properties and the environment from certain uncontrolled earthworks.
2. **Rely on non-regulatory options:** This option relies on goodwill, existing legislation and public education to encourage people to undertake earthworks in a responsible and appropriate manner. Council would have very limited powers of enforcement, which may compromise its ability to address risks to the public, their properties and the environment.
3. **District plan change:** The level of control in the current District Plan does not capture earthworks at a level that is necessary and within all zones. While work is being undertaken on a revised District Plan, which is intended to incorporate revised earthworks controls, this will not be operative before the current bylaw is revoked.
4. **Replace the existing bylaw:** Replacing the existing bylaw would provide the Council with the regulatory mechanism to provide for the safety of the public, their properties and the environment from uncontrolled earthworks.

In balancing the assessments of these options, Option 4 will deliver the required outcomes and is the recommended option.

#### **Key Features of the Proposed Bylaw**

The proposed Bylaw covers the following principal areas related to controls over earthworks carried out throughout the District.

- Control of excavation and/or filling work, through a requirement for a permit for specified excavation and/or filling works.
- Setting out the information to be provided in an application for an earthworks permit and ability for the Council to issue a permit subject to conditions.
- Exclusion of Council liability for any damage caused during the carrying out of excavation or filling work from any defect in any public utility under the control of the Council (such as water supply, sewerage system).
- Provisions dealing with damage to a road or public property.
- Requirements to complete work under an earthworks permit as soon as reasonably practical.
- Provisions relating to bylaw breaches.

#### **Proposed Changes to the Bylaw**

The proposed Control of Earthworks Bylaw 2019 is essentially the same as the previous Control of Earthworks Bylaw 2009, with minor formatting changes to improve readability. However, a small number of changes are proposed to improve the operational application of the Bylaw.

- The definition of “commercial zone” has been deleted as it is not used in the Bylaw.

- Earthworks and fill related to retaining walls and swimming pools have generally been excluded as these works are more minor in nature and in most cases do not warrant an application for a permit.
- The guiding document for erosion and sediment control has been amended to the GDO5 (Auckland Council's Erosion and Sediment Control Guide for Land Disturbing Activities) as this has replaced the TP90 (Auckland Regional Council Technical Publication).
- Clause 7.1(b)(i) previously stated that an earthworks permit was required if the work "exceeds 500mm in depth, over a significant portion of an area which is less than 100m<sup>2</sup>". To remove confusion over the meaning of "significant portion", the wording has been refined to work that "exceeds 500mm in depth, over an area of 50m<sup>2</sup>".
- Clause 7(d) has been amended to more clearly reference Part 3 of the District Plan, to aid understanding and interpretation.
- The application form has been removed from the Bylaw schedule, as this is an administrative matter.
- Footpaths and vehicle crossings have been added to the provisions relating to damage to roads or public property for the purposes of clarification.
- Clause 10.4, which relates to visual amenity of completed works, has been re-worded for the purposes of clarity.

A new clause 12 is also proposed as follows:

*The Council may, in its absolute discretion, exempt an owner or occupier from a requirement to obtain a permit under clause 7.1, provided that an application for an exemption is made in writing and accompanied by the payment of any required application and processing fees in accordance with Council's Fees and Charges Schedule. No exemption will be valid unless it is given to the applicant by the Council in writing*

This covers the situation where the proposed work may technically fall within the requirement for a permit but be minor in effect. In such cases, Council will have a discretion to exempt the owner or occupier from the need to apply for a permit (with the associated requirement to provide drawings and reports as set out in clause 7.2). This will reduce compliance costs.

### **Regulatory Impact Statement**

The proposed Control of Earthworks Bylaw 2019 will enable the Far North District Council to control and regulate earthworks and/or filling in the most effective manner to ensure the safety of the public, their properties and the district's environment.

### **How to give us your feedback**

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The community can give feedback on the proposed Control of Earthworks Bylaw 2019 in July and August 2019. You can make a submission in support of the proposal as it is, or recommend changes be made to the policy or bylaw before final adoption. To make a submission you can:

- submit online at [www.fndc.govt.nz/earthworks2019](http://www.fndc.govt.nz/earthworks2019)
- email your comments to [submissions@fndc.govt.nz](mailto:submissions@fndc.govt.nz)

drop-off a written submission at any Council service centre or library

post your submission to: Freepost Authority 6124  
Submissions – Land Drainage  
Far North District Council  
Private Bag 752  
Kaikohe 0440

**CONTROL OF  
EARTHWORKS  
BYLAW**

2019

## 1. Title

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This Bylaw is the Control of Earthworks Bylaw 2019.

## 2. Commencement

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This Bylaw comes into force on the [INSERT]

## 3. Former Bylaw Repealed

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- 3.1 At the date this Bylaw comes into force, the Control of Earthworks Bylaw 2009 is repealed.
- 3.2 All approvals, permits and other acts of authority that originated under the Control of Earthworks Bylaw 2009 and all applications shall, for the purposes of this Bylaw, continue as if they had originated under this Bylaw.
- 3.3 The revocation of the Control of Earthwork Bylaw 2009 shall not prevent any legal proceedings, criminal or civil, being taken to enforce that bylaw, and such proceedings may continue to be dealt with and completed.

## 4. Application

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This Bylaw applies to the Far North District.

## 5. Purpose

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- 5.1 The purpose of this Bylaw is to control excavation, filling or cellar work on private property where a Resource Consent under the District Plan is not required, and also to control erosion and sedimentation created by such work.
- 5.2 This Bylaw is made by the Far North District Council pursuant to section 145 of the Local Government Act 2002 and every other enabling power and authority.

## 6. Interpretation

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- 6.1 In this Bylaw, unless the context otherwise requires -

**Abatement Notice** means any Abatement Notice issued under the Resource Management Act 1991.

**Cellar** means underground room or vault.

**Council** means the Far North District Council, including its authorised agents.

**Engineer** means a Chartered Professional Engineer (CPEng) with a current level of competency, as determined by, and who is registered with, the Institution of Professional Engineers of New Zealand Incorporated (IPENZ).

**Erosion** means the wearing away of land caused by action of water, wind, waves or similar actions.

**Excavation** means the digging out of materials from the ground, but does not include:

- (a) normal garden activities;
- (b) digging of post holes or trenches for drainage;
- (c) dam maintenance, driveway maintenance and drain maintenance;
- (d) normal rural practices;
- (e) septic tanks and associated drainage fields;
- (f) excavation for building foundations and stripping of topsoil to form a building footprint;
- (g) any works to public roads;
- (h) any quarry, public tip or similar use of land where fill is mined or stored pursuant to some other authorisation consent;
- (i) cuts behind retaining walls;
- (j) excavation of swimming pools if:
  - a. excavated material is removed from the property to a permitted dump site; or
  - b. excavated material remaining onsite meets the requirements of clause 7;
- (k) vehicle crossings.

**Existing ground level** means the ground level that exists on a property:

- (a) at the time this Bylaw came into force; or
- (b) following the completion of earthworks carried out in accordance with this Bylaw.

**Far North District** means the area within the boundaries under the territorial authority of the Far North District and includes all coastal areas to the line of mean low water springs.

**Far North District Plan** means the plan or plans (whether operative or proposed) for the time being in force in the district under the provisions of the Resource Management Act 1991.

**Fill or Filling** means to deposit soil, rock or other material not restricted by the requirements of the Far North District Plan in such a manner as to alter the natural and/or existing contour of the land, but does not include:

- (a) normal garden activities;
- (b) digging of post holes or trenches for drainage;
- (c) dam maintenance;
- (d) normal rural practices;
- (e) septic tanks and associated drainage fields;
- (f) filling of building foundation with granular fill under concrete slab foundation or filling with drainage metal behind retaining wall;
- (g) any works to public roads;
- (h) any quarry, public tip or similar use of land where fill is mined or stored pursuant to some other authorisation consent;
- (i) fill material behind retaining walls;
- (j) backfilling of swimming pools and associated drainage.

**GDO5** means Auckland Council's, "Erosion and Sediment Control Guide for Land Disturbing Activities in the Auckland Region".

**Notice** means either a stop work notice, notice to fix, Abatement Notice, infringement notice or a notice requiring the work to be completed, or corrected, issued to the owner or occupier, for the reasons given in that notice.

**Occupier** means any person, other than the owner, who has a right to occupy the property, by virtue of a tenancy granted by lease, licence or other authority.

**Owner** means any person, as defined in the Building Act 2004.

**Person** includes a corporation sole, a body corporate, and an unincorporated body.

**Resource consent** means a resource consent issued under the Resource Management Act 1991.

**Water body** means any body of water as defined in the Far North District Plan and section 2 of the Resource Management Act 1991.

**Zone** means any zone defined in the Far North District Plan

6.3 Any explanatory notes are for information purposes only and do not form part of this Bylaw.

6.4 The Interpretation Act 1999 applies to this Bylaw.

## 7. Earthworks Application Required

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7.1 Where a Resource Consent for earthworks and/or filling is not required under the Far North District Plan, then no person shall carry out or cause to be carried out, any excavation, cellar construction or filling until the Council's approval has been obtained and a permit has been issued for work:

- (a) that is within 3 metres of any boundary or water body in all zones, except Minerals zone;
- (b) that is beyond 3 metres of any boundary or water body, in any zone, except Minerals zone and Rural Production zone, and that exceeds:
  - (i) 500mm in depth, over an area of 50m<sup>2</sup>; or
  - (ii) 100m<sup>2</sup>; or
  - (iii) 50m<sup>3</sup>;
- (c) that is in a Rural Production zone, and beyond 3 metres of any boundary or water body, and that exceeds 1.5 metres in depth;
- (d) in any area of natural or physical resource specified in Part 3 of the Far North District Plan

*Explanatory note: Examples of an area of natural or physical resource include landscape features and sites of cultural significance to Maori.*

- (e) that affects the flow of stormwater in such a way that it adversely impacts on adjoining properties.

7.2 Every application for a permit to undertake work pursuant to clause 7.1 shall:

- (a) contain a drawing of the location, scope and description, to scale, on a site plan, to the Council's approval;
- (b) be supported by any engineering reports that may be required by the Council to assess the application;
- (c) be accompanied by evidence, to Council's satisfaction, of erosion and sediment controls

- to be introduced for all work covered under the application, and to comply with GDO5;
- (d) be made in the prescribed form as specified by Council
  - (e) be accompanied by the payment of any required application and processing fees in accordance with the Council's fees and charges schedule.

- 7.4 The Council shall issue a permit for earthworks upon satisfaction that all relevant information has been provided and the proposed works meets the criteria of this Bylaw.
- 7.5 Where approval is given to any application for an earthworks permit, such approval may be given under any conditions considered necessary by the Council to control risks to public safety, subsidence or sediment controls, or any other matter considered appropriate under the circumstances.

## 8. Exclusion of Liability

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- 8.1 No owner or occupier, nor their successors in title, of any property for which approval for excavation, fill or cellar work has been given, shall be entitled to claim against the Council for any damage caused during the carrying out of such work, or post-construction or latent defects, whether direct or indirect, from any defect in any water supply, sewerage system, or other public utility service under the control of the Council

## 9. Damage to Road or Public Property

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- 9.1 Where, in the course of the execution of works approved by a permit under this Bylaw, any damage is caused to public roads, carriageway, kerb, berm or verge, footpaths, vehicle crossings, underground services or property, the owner or occupier shall be liable for the full cost of any repairs required to re-instate the said road or property to its original condition.
- 9.2 Where, in the opinion of the Council there is a possibility of damage to public roads, carriageway, kerb, berm or verge, footpaths, vehicle crossings, underground services or property arising from works approved by a permit under this bylaw, a road damage deposit of such amount as may be determined by the Council shall be payable by the owner or occupier.
- 9.3 Where a road damage deposit has been paid in respect of works approved by a permit under this Bylaw, and in the opinion of the Council damage has been caused in the execution of those works, a Notice shall be sent to the owner or occupier, either during or after the execution of those works, requiring the re-instatement of the road or property, to its original condition. If within seven (7) days of the date of the Notice no action has been taken to affect the repairs stated in the Notice, the Council may arrange for the necessary repairs, and to retain the cost of those repairs from the road damage deposit.
- 9.4 Where a road damage deposit has been paid in respect of works approved by a permit under this Bylaw, and in the opinion of the Council, no damage has occurred to public roads or property in the execution of those works, the road damage deposit shall be refunded in full to the owner or occupier

## 10. Completion of work

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- 10.1 Every person, to whom an earthworks permit has been issued under this Bylaw, shall

ensure that all work approved under the permit is completed as soon as practically possible, to Council's satisfaction.

- 10.2 Every person, to whom an earthworks permit is issued under this Bylaw, shall ensure that any deposits of debris, mud, silt, sediment or residue of materials used shall be kept clear of road carriageways and road sides, at all times
- 10.3 Where such work, approved under the earthworks permit is, in the opinion of the Council, incomplete, the property owner or occupier shall be issued with a Notice requiring the work to be completed in a specified time detailed in that Notice, and such work shall also apply to any materials deposited, as described in clause 10.2.
- 10.4 Where in the opinion of the Council, the finished work is unsightly or unsatisfactory, a Notice may also include a requirement for the owner or occupier to complete such works that may be necessary to retain any visual amenities, by re-establishing vegetation cover, or by using some other appropriate method.
- 10.5 Where, in the opinion of the Council, the work to which a Notice to complete is still outstanding, the Council may organise the completion of that work and charge the owner or occupier with the full costs of that work, which may include all contractors costs, and the Council's administration, travel and inspection fees, at rates defined in the Council's Fees and Charges Schedules.
- 10.6 Where, in the opinion of Council, any incomplete work, or illegal work carried out without a earthworks permit, is considered to be a danger to persons, or property, the Council may immediately make safe that work, and charge the property owner or occupier with the full costs, which may include all contractors costs, and the Council's administration, travel and inspections costs, at the rates defined in the Council's Fees and Charges Schedules

## 11. Bylaw Breaches

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- 11.1 Every owner or occupier on whose property a breach of any of the provisions of this Bylaw is committed is liable, on summary conviction, to pay a fine not exceeding \$20,000.
- 11.2 Any person convicted of an offence, under clause 11.1 of this Bylaw, shall not be relieved of the obligation to comply with the requirements of this Bylaw, but shall do so either before or immediately after conviction and where applicable shall carry out such remedial works, which may include the construction of a retention area, removal of filling, reinstatement or such other works as may be deemed necessary by the Council.

## 12. Exemptions

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- 12.1 The Council may, in its absolute discretion, exempt an owner or occupier from a requirement to obtain a permit under clause 7.1, provided that an application for an exemption is made in writing and accompanied by the payment of any required application and processing fees in accordance with Council's Fees and Charges Schedule. No exemption will be valid unless it is given to the applicant by the Council in writing.

## Additional information to Control of Earthworks Bylaw 2019

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This document is for information purpose only and does not form part of this Bylaw. It contains matters made pursuant to this Bylaw and information to help users to understand, use and maintain this Bylaw. The document may be updated at any time.

### Section 1: History of the bylaw

Action	Description	Date of decision	Commencement

### Section 2: Related documents

Document	Description	Location	Date
<i>Reports to Council/Committee/Panels</i>			
Adoption of Statement of Proposal	Statement of Proposal including draft Bylaw adoption for public consultation		
Submissions	Public submissions on the Statement of Proposal		
Deliberations	Deliberations on submission issues raised		
?			

Document	Description	Location	Date
<i>Legislation</i>			
Local Government Act 2002	Provides the functions, duties, powers and penalties to make and enforce this Bylaw. Particularly sections 147A and 147B relating to the making of alcohol control bylaws.	<a href="http://www.legislation.govt.nz">www.legislation.govt.nz</a>	NA
Bylaws Act 1910	Provides for certain matters related to the validity of bylaws.	<a href="http://www.legislation.govt.nz">www.legislation.govt.nz</a>	NA
Interpretations Act 1999	Provides for certain matters related to the interpretation of bylaws.	<a href="http://www.legislation.govt.nz">www.legislation.govt.nz</a>	NA

**Section 3: Delegations**

Clause	Function,Duty,Power to be delegated	Delegated Authority	Delegation date	Delegation active date

**Section 4: Enforcement powers**

Legislative provision	Description

**Section 5: Offences and penalties**

Provision	Description of offence	Maximum fine upon conviction	Infringement fee

**Section 6: Register of resolutions for controls**

## 6 CORPORATE SERVICES GROUP

### 6.1 REMITS FOR CONSIDERATION AT 2019 LGNZ AGM

**File Number:** A2547704

**Author:** Aisha Huriwai, Team Leader Governance Support

**Authoriser:** William J Taylor MBE, General Manager - Corporate Services

#### PURPOSE OF THE REPORT

To provide Council with an opportunity to reconsider its position on the remits for discussion at the 2019 Local Government New Zealand Annual General Meeting.

#### EXECUTIVE SUMMARY

This report asks Council to:

- revoke its decision of 27 June 2019 that the Council representative (Mayor) abstain from voting on the remits at the LGNZ AGM.
- consider the staff feedback on each of the remits and confirm which remits Council does, or does not endorse.

#### RECOMMENDATION

**That Council:**

**Revokes its decision of 27 June 2019 “That Council representatives abstain from voting on the remits at the 2019 Local Government New Zealand Annual General Meeting.”**

**That Council:**

- a) endorses remits \_\_\_\_\_
- b) does not endorse remits \_\_\_\_\_

#### 1) BACKGROUND

A report was submitted to the 27 June 2019 Council meeting to provide an opportunity for Council to consider its position on each of the remits on the 2019 LGNZ AGM agenda.

At the meeting members raised concerns about not having opportunity, in the remit process, to seek the views of their constituents. The meeting resolved “That Council representatives abstain from voting on the remits at the 2019 Local Government New Zealand Annual General Meeting.”

A full copy of the remits was printed in the 27 June 2019 Supplementary Council agenda and is also available at <https://www.lgnz.co.nz/assets/b669b814a0/2019-AGM-Remits.pdf>.

#### 2) DISCUSSION AND OPTIONS

A number of the proposed remits are consistent with discussions that Council have had with its community, and propose a national approach to issues that this Council experiences. This report asks Council to reconsider its position, in consideration with subject matter staff comment.

Staff with subject matter expertise have provided comment on whether each remit aligns with existing FNDC policy or processes, and is briefly summarised as an attachment to this report.

The remits are:

1. Climate Change - local government representation
2. Ban on the sale of fireworks to the general public

3. Traffic Offences - red light running
4. Prohibit parking on grass berms
5. Short-term guest accommodation
6. Nitrate in drinking water
7. Local Government Official Information and Meeting Act (1987)
8. Weed control
9. Building defects claim
10. Social housing
11. Procurement
12. Single-use polystyrene
13. Local Government Act 2002
14. Campground regulations
15. Living Wage
16. Sale and Supply of Alcohol Act
17. Greenhouse gases
18. Climate Change - funding policy framework
19. Road safety
20. Mobility scooter safety
21. Museums and galleries
22. Resource Management Act
23. Mayor decision to appoint Deputy Mayor
24. Beauty industry

#### **Reason for the recommendation**

To allow Council to determine their positions on each remit for His Worship the Mayor to put forward at the LGNZ AGM.

#### **3) FINANCIAL IMPLICATIONS AND BUDGETARY PROVISION**

There are no financial implications in endorsing (or not), remits at the LGNZ AGM.

There is a cost in the Mayor attending the meeting in Wellington, however these costs are already covered by his arrangements to attend the LGNZ Conference in July this year.

#### **ATTACHMENTS**

1. **Subject Matter Staff Commentary on Proposed Remits for LGNZ AGM - A2547714** [↓](#) 

**Compliance schedule:**

Full consideration has been given to the provisions of the Local Government Act 2002 S77 in relation to decision making, in particular:

1. A Local authority must, in the course of the decision-making process,
  - a) Seek to identify all reasonably practicable options for the achievement of the objective of a decision; and
  - b) Assess the options in terms of their advantages and disadvantages; and
  - c) If any of the options identified under paragraph (a) involves a significant decision in relation to land or a body of water, take into account the relationship of Māori and their culture and traditions with their ancestral land, water sites, waahi tapu, valued flora and fauna and other taonga.
2. This section is subject to Section 79 - Compliance with procedures in relation to decisions.

<b>Compliance requirement</b>	<b>Staff assessment</b>
State the level of significance (high or low) of the issue or proposal as determined by the <a href="#">Council's Significance and Engagement Policy</a>	This is a matter of low significance.
State the relevant Council policies (external or internal), legislation, and/or community outcomes (as stated in the LTP) that relate to this decision.	Staff have commended on how each proposed remit aligns with existing council policies and processes.
State whether this issue or proposal has a District wide relevance and, if not, the ways in which the appropriate Community Board's views have been sought.	These are matters considered to have national impact that we have opportunity to comment on from a district perspective. The views of the Community Boards have not been sought due to time constraints.
State the possible implications for Māori and how Māori have been provided with an opportunity to contribute to decision making if this decision is significant and relates to land and/or any body of water.	Some of the remits will have a higher impact or require a higher level of engagement with māori than others in which staff have considered when providing comment.
Identify persons likely to be affected by or have an interest in the matter, and how you have given consideration to their views or preferences.	This report seeks the Council's views on matters considered to have potential impact across the nation.
State the financial implications and where budgetary provisions have been made to support this decision.	There are no financial implications or need for budgetary provision in formulating a view on these remits.
Chief Financial Officer review.	The Chief Financial Officer has reviewed this report.

## Attachment 2: Subject matter staff commentary on proposed remits for LGNZ AGM

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### 1 Climate Change - Local Government Representation

That LGNZ calls on the Governance to include local government representation at all levels of policy development, technical risk and resilience assessment, and data acquisition on climate change response policies – with an emphasis on climate adaptability: policy; legal; planning; and financial compensation regimes.

Staff recommend supporting this remit for the following reasons:

- a. We are signatories to the climate change declaration and therefore should have input into discussions to mitigate and adapt to Climate Change
- b. We have reviewed the Climate Change Response (Zero Carbon) Amendment Bill and will respond via two channels:
  - i. A combined submission with the Tai Tokerau Climate Change Adaptation Working Group as it relates to adaptation;
  - ii. A separate, individual submission by Far North District Council on the wider Bill and the potential effects through implementation on Far North District communities
- c. Overall, we should advocate for a 'greater balanced approach' between Central and Local Government to be arrived at: In the Central Government's proposed National Risk Assessment, prioritization of risk by significance and the development of the Adaption Plan (through the Climate Change Response (Zero Carbon) Amendment Bill), Central Government must not be too specific regarding the determination of nation-wide risk, or alternatively seek regional and local input into the risk assessment to allow local applicability. Similarly, regional and local government staff needs to have the ability to respond/engage with Central Government – especially where it relates to funding
  - i. Both FNDC submissions address matters similar to those raised by Auckland City Council:
    - 1.

Current action taken: FNDC is already including climate change considerations in their strategy and policy development, including Far North 2100, the Transportation Strategy, and an Infrastructure Strategy. The District Plan review is addressing Natural Hazards, including that of sea level rise, while the resource consents group is taking into account the severity and frequency of rainfall events in their considerations of applications, particularly with respect to stormwater management. Therefore information is available at a local level that needs to be considered in any risk identification matters through Central Government in their National Risk Assessment, their prioritization of risk and the resulting National Adaptation Plans.

### 2 Ban on the sale of Fireworks to the general public

That Local Government New Zealand works with central government to introduce legislation to ban the sale of fireworks to the general public and end their private use.

Staff recommend supporting this remit in principle on the basis of:

- a) general nuisance to the public, public safety and damage to public property
- b) not having the capacity to enforce bylaws during the peak times

- c) the increased call outs for emergency services at times of the year where the risk of fire is greatest in the Far North (Christmas/New Year Period) due to use of publicly sold fireworks that have been stock piled.
- d) needing stronger controls and regulation around the importing and sale of fireworks and
- e) the use of fireworks in public places in the way of prosecution as a deterrent as opposed to a complete ban

### **3 Traffic offences – red light running**

That LGNZ requests the Government to bring into line camera and officer detected red light running offences with other traffic offences that incur demerit points.

This is not an issue that FNDC experience so could not comment.

### **4 Prohibit Parking on grass berms**

To seek an amendment to clause 6.2 of the Land Transport (Road User) Rule 2004 to prohibit parking on urban berms.

Staff recommend supporting this remit. This issue does occur in the Far North but is not regarded particularly as a problem. Council's Parking and Traffic Control bylaw makes it an offence, on conviction, to "Stop or park, or permit the stopping or parking of any vehicle on any footpath or berm" under section 2008.2. The reality is this is very difficult to enforce as it requires a prosecution.

### **5 Short Term Guest Accommodation**

That LGNZ advocates for enabling legislation that would allow councils to require all guest accommodation providers to register with the council and that provides an efficient approach to imposing punitive action on operators who don't comply.

Staff recommend supporting this remit. The draft district plan policy framework and general rule directions proposed to regulate air b n b in the same fashion as you would an accommodation facility. It would depend on its location and scale. The draft stated that a consent would be required for this type of activity in a residential zone, with it being permitted subject to a maximum of 10 persons in the Rural zones. We specified air bed and breakfasts in the draft to generate a discussion on the matter as we are aware it's not currently being regulated even though we could require resource consents via the operative district plan in some instances.

There was one person that provided feedback on the draft, who raised concerns over these operators not paying commercial rates, not complying with building and health and safety regulations and concerns over the pressure they place on infrastructure in places such as Opononi. Equally there was one person promoting small scale operations in the residential zone.

The issues raised in the LGNZ remit are the same concerns raised by our communities and within Council, such as impact on rental housing availability in areas such as Paihia and even Kerikeri. That they are operating a business but are not paying commercial rates, they may not be adhering to relevant safety regulations and potential impacts on infrastructure such as water. Equally we are aware that this is a form of accommodation now wanted by the public, vs staying in traditional motels or holiday parks. Therefore Council may need to consider a broader review of this issue vs just considering it as part of the district plan review, for example

consideration of rates, and whether it would be best managed through a registration system.

## 6 Nitrate in drinking water

That LGNZ recommend to the Governance the funding of additional research into the effects of nitrates in drinking water on human health, and or/partner with international public health organisation to promote such research, in order to determine whether the current drinking water standard for nitrate is still appropriate for the protection of human health.

Staff recommend supporting the proposed remit as a long term programme to ensure the protection of the ground water sources for use as potable water supplies.

Nitrates in drinking water relates primarily to ground water supplies. The risks are linkages to methaemoglobinaemia (blue Baby syndrome) and at much lower concentrations, colorectal cancer. Currently three FNDC water supplies are supplied by bores with future changes to ground water likely with three other communities. The change to ground water takes will be driven by the need to protect surface waters. While currently not a problem, Council will, in the future become more dependent on ground water sources, and nitrates will become an issue and concern. In real time, the monitoring of ground water bores north of Kaitaia have already shown a very slight increase in nitrates, and as land use intensifies, the risk of nitrates contamination will increase.

## 7 Local Government Official Information and Meetings Act (1987)

That LGNZ initiates a review of LGOIMA request management nationally with a view to establishing clear and disruptive reporting for and by local authorities that will create a sector-wide picture of:

- Trends in the volume and nature of LGOIMA requests over time
- Trends in uses
- The impacts of technology in terms of accessing information sought and the amount of information now held by local authorities in managing the LGOIMA function

That LGNZ use the data obtained to:

- Identify opportunities to streamline or simplify LGOIMA processes
- Share best practice between local authorities
- Assess the value of a common national local government framework of practice for LGOIMA requests
- Identify opportunities to advocate for legislation changes on behalf of the sector (where these are indicated)

Staff recommend supporting this remit. This remit outlines the limitations and challenges on Council's who continue to process LGOIMA requests and FNDC face similar challenges.

## 8 Weed Control

That LGNZ encourages member councils to consider using environmentally friendly weed control methods.

Staff recommend supporting the remit in principle however consideration needs to be given to ensure that weed control options are cost effective to ratepayers.

## 9 Building Defects Claims

LGNZ calls on central government to take action as recommended by the Law Commission in its 2014 report on “Liability of Multiple Defendants” to introduce a cap on the liability of councils in New Zealand in relation to building defects claims whilst joint and several liability applies.

Staff recommend supporting this remit. It is desirable to introduce a cap on the liability of councils in relation to building defects claims whilst joint and several liability applies, because in the absence of any cap, councils which may be found only liable for perhaps 20% of a claim, are nevertheless generally financially exposed to the full amount of the claim due to other parties such as developers and builders being absent or insolvent.

## 10 Social Housing

That LGNZ, in conjunction with Central Government, urgently focus on the development and implementation of a broader range of funding and financing tools in respect of community/social housing provision.

Staff recommend supporting this in principle. FNDC currently provides a small portfolio of Housing for the Elderly and would support investigation into alternative methods to reduce impact on ratepayers.

## 11 Procurement

That LGNZ investigate the ability of the sector to collaborate in procuring open-source designs and plans for bulk infrastructure that are largely similar, with an initial approach to look at water and wastewater treatment facilities.

From a Procurement Policy view, the remit aligns with the ‘All of Government’ approach currently being used across a number of procurement categories at FNDC.

The three waters function / projects generally require a high dollar value procurement exercise, and there are definite benefits to a “cost out” standardised approach for the design phase. However, this should not be an exclusive arrangement, i.e there should be an exception clause added whereby we can use process designs outside of the ‘normal’ treatment plant designs if required.

An example of that would be the technology and design being used for the Paihia Wastewater Treatment Plant upgrade, which is an unconventional approach to a specific issue. Not all situations are the same and local authorities should have some flexibility in this agreement.

Staff recommend supporting this remit in principle with the introduction of an exception clause whereby Councils can use process designs outside of the normal treatment designs if required.

## 12 Single Use Polystyrene

That LGNZ advocates to the Government to phase out single use polystyrene.

Staff recommend supporting the remit. Polystyrene is not currently recyclable and therefore adds to landfill waste in which Council has a continual goal to reduce.

### 13 Local Government Act 2002

That LGNZ pursue an amendment to the Local Government Act 2002 to:

- a) renumber sub-sections 181 (5) and (6) to sub-sections (6) and (7)
- b) Introduce a new sub-section (5) to read: For all purposes the term “any work” in sub-section 4 means any works constructed before xx Month xx; and includes any works that were wholly or partly in existence, or work on the construction of which commenced, before xx Month 20xx.

Staff recommend supporting this remit. This is a challenge we have experienced in the Far North and there is plenty of potential for it to occur more with Pressure Sewer.

### 14 Campground Regulations

That LGNZ request the Government to amend the Camping - Ground Regulations to allow councils to approve remote camp facilities on private property, subject to any such conditions as deemed required by a council, including the condition that any approved campground is x distance away from an existing campground, unless the existing campground operator agrees to waive this condition in writing.

Staff recommend supporting the remit to amend the Camping - Ground Regulations to allow councils to approve remote camp facilities on private property, subject to any such conditions as deemed required by a council, including the condition that any approved campground is x distance away from an existing campground, unless the existing campground operator agrees to waive this condition in writing.

### 15 Living Wage

Wellington City Council asks that LGNZ members consider engaging with the Living Wage Aotearoa New Zealand Movement when developing policies on payment of the Living Wage.

FNDC are not an accredited living wage employer and if Council were to join the Living Wage Aotearoa New Zealand Movement there would be a financial cost to the organisation that would need to be considered.

### 16 Sale and Supply of Alcohol Act

LGNZ, on behalf of its member councils ask for a review of the effectiveness of the Sale and Supply of Alcohol Act 2012 in reducing alcohol harm (eg price, advertising, purchase age and availability) and fully involve local government in that review.

Staff recommend supporting the remit - sharing the Wellington City Council's view - That LGNZ would, on behalf of its member councils, form a working group to work with central agencies to review the effectiveness of the Sale and Supply of Alcohol Act 2012.

The effects relating to alcohol harm impact negatively on other key community safety concerns including health issues, violence, assault and anti-social behaviours, death and injury and suicide. Addressing the harm of alcohol is such an important issue for our community to address.

## 17 Greenhouse Gases

Wellington City Council asks that LGNZ members collectively adopt the position that government should revise the Resource Management Act 1991 to adequately consider the impact of greenhouse gases when making decision under that law to ensure that the Resource Management Act 1991 is consistent with the Zero Carbon Bill.

Currently air discharges are a Regional Council responsibility. If the amendments to the RMA were focused on greenhouse gas emissions then there may be no change for District Councils. However, if the focus was on climate change adaptation then District Councils would have a role in terms of the location of infrastructure and development within land subject to climate change inundation/storm damage etc. Climate change has been identified as a high risk in FNDC's strategic risk assessments.

Staff recommend supporting the remit in principle on the basis that the full scope of the remit is not yet fully understood. It is noted that any significant changes to the RMA would allow for formalised feedback from Councils.

## 18 Climate Change – Funding policy framework

That LGNZ recommends to government that they establish an independent expert group to develop a new funding policy framework for adapting to climate change impacts as recommended by the Climate Change Adaptation Technical Working Group (CCATWG). This new expert group would be supported by a secretariat and stakeholder advisory group.

Staff recommend supporting this remit, specifically where engagement with central government is suggested. Staff recommend as part of the framework consideration be given to:

- how (if any) funding will be distributed
- whether there would be an opportunity for applications for funding
- whether funds would be allocated in association with the overall cost of affected infrastructure and investment, the scale of the community severity of effects and therefore the extent of efficiencies achieved
- develop a set of criteria and/or metrics which allows an understanding of how funds may be distributed or allocated
- how we best create a path to resiliency, i.e. how to adjust our approach to managing resources and balance this with financial impact considerations
- who will carry liabilities
- how will local government adjust their own funding structures where regionally diverse incentives may trigger migration

## 19 Road Safety

1. That LGNZ acknowledges that the New Zealand Transport Agency's (NZTA's), Code of Practice for Temporary Traffic Management (CoPTTM) is a comprehensive and robust document, and that NZTA ensures the CoPTTM system is regularly reviewed, refined and updated. However, in light of the recent road worker fatalities LGNZ requests NZTA, in partnership with Road Controlling Authorities (RCAs):

2.
  - a. Review afresh its Code of Practice for Temporary Traffic Management (CoPTTM) to satisfy themselves that;



**22 Resource Management Act**

That the selection of all independent commissioners for Resource Management Act hearings be centralised to improve independence and enhance the quality of decisions.

If a centralised system was established care should be taken to ensure that provincial areas still have sufficient commissioners without undue cost or delay. FNDC currently has a pool of 12 or so commissioners that we call upon when required all of whom are not on retainers. Staff are not aware of these commissioners being inappropriately influenced or of instances of poor decision making (based on low number of appeals).

Staff recommend supporting the remit in principle however consideration needs to be given to ensure that provincial needs are understood and catered for.

**23 Mayor Decision to Appoint Deputy Mayor**

That the LGNZ requests the Government to amend S.41A of the LGA2002 to give Mayors the same powers to appoint a deputy mayor as held by the Mayor of Auckland.

Staff recommend supporting the remit to align with the original intent of the Local Government 2002 Amendment Act.

**24 Beauty Industry**

That LGNZ calls on the Government to develop and implement national guidelines, policy or regulations to achieve national consistency for the largely unregulated 'health and beauty clinic' industry.

6. Staff recommend supporting the remit suggesting that LGNZ engage directly with relevant ministers and ministries to ensure local government has an appropriate role in the development of nationally consistent legislation or guidelines to address the challenges the industry brings.

**7 MEETING CLOSE**