



**Far North
District Council**



AGENDA

Kaikohe-Hokianga Community Board Meeting

Wednesday, 6 November 2019

Time: 10:30 am
Location: Council Chamber
Memorial Avenue
Kaikohe

Membership:

Member Laurie Byers
Member Emma Davis
Member Mike Edmonds
Member Alan Hessel
Member Louis Toorenborg
Member Kelly Van Gaalen

The Local Government Act 2002 states the role of a Community Board is to:-

- a) Represent, and act as an advocate for, the interests of its community;
- b) Consider and report on all matters referred to it by the territorial authority, or any matter of interest or concern to the community board;
- c) Maintain an overview of services provided by the territorial authority within the community;
- d) Prepare an annual submission to the territorial authority for expenditure within the community;
- e) Communicate with community organisations and special interest groups within the community;
- f) Undertake any other responsibilities that are delegated to it by the territorial authority

Council Delegations to Community Boards - January 2013

The "civic amenities" referred to in these delegations include the following Council activities:

- Amenity lighting
- Cemeteries
- Drainage (does not include reticulated storm water systems)
- Footpaths/cycle ways and walkways.
- Public toilets
- Reserves
- Halls
- Swimming pools
- Town litter
- Town beautification and maintenance
- Street furniture including public information signage.
- Street/public Art.
- Trees on Council land
- Off road public car parks.
- Lindvart Park – a Kaikohe-Hokianga Community Board civic amenity.

Exclusions: *From time to time Council may consider some activities and assets as having district wide significance and these will remain the responsibility of Council. These currently include: The roading network, Hundertwasser toilets, District Library Network, Baysport, the Kerikeri, Kaikohe & Kaitaia Airports, Hokianga Vehicle Ferry, i-Site network, Far North Community Centre, Kerikeri Domain, Kawakawa Heated Swimming Pool, Kaikohe Cemetery, Kerikeri Sports Complex, The Centre at Kerikeri, the Bay of Islands/Hokianga Cycle Trail.*

Set local priorities for minor capital works in accordance with existing strategies,

1. Recommend local service levels and asset development priorities for civic amenities as part of the Annual Plan and Long Term Plan processes.
2. Reallocate capital budgets within the Annual Plan of up to 5% for any specific civic amenity, provided that the overall activity budgetary targets are met.
3. Make grants from the allocated Community Funds in accordance with policy 3209, and the SPARC/Sport Northland Rural Travel fund in accordance with the criteria set by the respective body, and, for the Bay of Islands-Whangaroa Community Board, the power to allocate the Hundertwasser Donations Account.
4. Provide comment to council staff on resource consent applications having significance within the Community, including the provision of land for reserves or other public purposes.
5. To hold, or participate in hearings, as the Council considers appropriate, in relation to submissions pertinent to their community made to plans and strategies including the Long Term Plan and Annual Plan, and if appropriate recommend decisions to the Council.
6. To hold hearings of submissions received as a result of Special Consultative Procedures carried out in respect of any matter other than an Annual or Long Term Plan, and make recommendations to the Council.

7. Where recommended by staff to appoint management committees for local reserves, cemeteries, halls, and community centers.
8. To allocate names for previously unnamed local roads, reserves and other community facilities, and recommend to Council name changes of previously named roads, reserves, and community facilities subject to consultation with the community.
9. To consider the provisions of new and reviewed reserve management plans for recommendation to the Council in accordance with the Reserves Act 1977, and hear or participate in the hearing of submissions thereto, as considered appropriate by the Council.
10. To provide recommendations to the Council in respect of applications for the use and/or lease of reserves not contemplated by an existing reserve management plan.
11. Prohibit the use of skateboards in specified locations within their communities, in accordance with Council's Skating Bylaw 1998.
12. Recommend new bylaws or amendments to existing bylaws.
13. Prepare and review management plans for local cemeteries within budget parameters and in a manner consistent with Council Policy.
14. Exercise the following powers in respect of the Council bylaws within their community:
 - a. Control of Use of Public Spaces – Dispensations on signs
 - b. Mobile Shops and Hawkers – Recommend places where mobile shops and/or hawkers should not be permitted.
 - c. Parking and Traffic Control – Recommend parking restrictions, and areas where complying camping vehicles may park, and consider and grant dispensations in accordance with clause 2007.2
 - d. Public Places Liquor Control – Recommend times and places where the possession or drinking of alcohol should be prohibited.
 - e. Speed Limits – Recommend places and speed limits which should be imposed.
15. To appoint Community Board members to speak on behalf of their community in respect of submissions or petitions.
16. Specific to the Bay of Islands-Whangaroa Community Board – consider any recommendations of the Paihia Heritage Working Group and make appropriate recommendations to Council on the development of a draft Plan Change and a Section 32 analysis on heritage provisions for Paihia.
17. To set schedule of meeting dates, times and venues, subject to the meetings not conflicting with meetings of the Council and satisfying the provisions of the Local Government Official Information and Meetings Act 1987.
18. To review all proposed public art projects on a project-by project basis to ensure they comply with policy #5105 Art in Public Places, including approval of the aesthetic appearance, maintenance programme, insurance and appropriate location, and to agree to their installation.
19. In respect of applications from food establishments for permission to establish tables and chairs on a public place, i.e. Alfresco dining in accordance with Policy 3116, to consider and decide on any application which does not meet all criteria of the policy, and any application which staff recommend to be declined.
20. Subject to a report from the appropriate managers and the appropriate budgetary provision, to make decisions in respect of civic amenities including the levels of service, and the provision or removal of an amenity not provided for elsewhere in these delegations.

Terms of Reference

In fulfilling its role and giving effect to its delegations, Community Boards are expected to:

1. Comment on adverse performance to the Chief Executive in respect of service delivery.
2. Assist their communities in the development of structure plans, emergency management community response plans, and community development plans.
3. Assist their communities to set priorities for Pride of Place programmes.

4. Have special regard for the views of Maori.
5. Have special regard for the views of special interest groups, e.g. disabled, youth, aged, etc.
6. Actively participate in community consultation and advocacy and keep Council informed on local issues.
7. Seek and report to Council community feedback on current issues by:
 - a) Holding a Community forum prior to Board meetings
 - b) Varying the venues of Board meetings to enable access by members of the community
8. Monitor and make recommendations to Council to improve effectiveness of policy.
9. Appoint a member to receive Annual Plan\Long Term Council Community Plan submissions pertinent to the Board area, attend hearings within the Board area, and attend Council deliberations prior to the Plan adoption.

Protocols

In supporting Community Boards to fulfil their role, the Council will:

1. Provide appropriate management support for the Boards.
2. Organise and host regular workshops with the Community Boards to assess the 'State of the Wards & District' to establish spending priorities.
3. Prior to decision-making, seek and include 'Community Board views' in Council reports in relation to:
 - a) the disposal and purchase of land
 - b) proposals to acquire or dispose of reserves
 - c) representation reviews
 - d) development of new maritime facilities
 - e) community development plans and structure plans
 - f) removal and protection of trees
 - g) local economic development initiatives
 - h) changes to the Resource Management Plan
4. Organise and host quarterly meetings between Boards, the CEO and senior management staff.
5. Prepare an induction/familiarisation process targeting new members in particular early in the term.
6. Support Board members to arrange meetings with local agencies and service clubs to place more emphasis on partnerships and raising profile of the Boards as community leaders.
7. Permit Board chairperson (or nominated member) speaking rights at Council meetings.
8. Help Boards to implement local community projects.
9. Arrange for Infrastructure and Asset Management Staff to meet with the Community Boards in September each year to agree the capital works for the forthcoming year for input into the Annual or Long Term Plan.
10. Provide information.

Far North District Council
Kaikohe-Hokianga Community Board Meeting
will be held in the Council Chamber, Memorial Avenue, Kaikohe on:
Wednesday 6 November 2019 at 10:30 am

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1 APOLOGIES AND CONFLICTS OF INTEREST

Members need to stand aside from decision-making when a conflict arises between their role as a Member of the Community Board 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.

2 PUBLIC FORUM

THERE IS NO PUBLIC FORUM FOR THIS INAUGURAL MEETING

3 DEPUTATIONS

THERE ARE NO DEPUTATIONS FOR THIS INAUGURAL MEETING

4 SPEAKERS

11:45 am Kaikohe Business Association representative in regard to funding application 6.1

5 CORPORATE SERVICES GROUP

5.1 MAKING AND ATTESTING OF DECLARATIONS

File Number: A2715434

Author: Marlema Baker, Meetings Administrator

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

PURPOSE OF THE REPORT

To set out the process for making and attesting of declarations.

BACKGROUND

Clause 14(1) & (2) Schedule 7 of the Local Government Act 2002 (The Act) states that no person shall be capable of acting as a member of any local authority until he or she has made an oral and written declaration as set out in Clause 14 (3) Schedule 7 of The Act, as set out below. Section 54 (2) of the Act states that these parts of Schedule 7 apply to Community Boards.

DISCUSSION AND NEXT STEPS

The Mayor will witness the declaration of the Kaikohe-Hokianga Community Board Members.

The declaration that each member is required to take is set out in Clause 14(3) Schedule 7 of the Act and reads:

DECLARATION BY MEMBER

I, _____, declare that I will faithfully and impartially, and according to the best of my skill and judgement, execute and perform, in the best interests of the Far North District the powers, authorities, and duties vested in, or imposed upon, me as Member of the Kaikohe-Hokianga Community Board by virtue of the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, or any other Act.

DATED at Kaikohe this 6th day of November 2019

Signature _____

In the presence of: _____

FINANCIAL IMPLICATIONS AND BUDGETARY PROVISION

There are no financial implications or the need for budgetary provision as a result of this report.

ATTACHMENTS

Nil

5.2 ELECTION OF CHAIRPERSON

File Number: A2715450

Author: Marlema Baker, Meetings Administrator

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

PURPOSE OF THE REPORT

The purpose of the report is to explain the procedure for the election of the Chairperson of the Board and to elect a Chairperson.

RECOMMENDATION

That the Kaikohe-Hokianga Community Board:

- a) use System B as the preferred voting system to elect a Chairperson.**
- b) elect _____ as Chairperson for the triennium October 2019 to October 2022, in accordance with Standing Orders.**

1) BACKGROUND

The first meeting of the Board will be presided over by the Mayor until the Chairperson is elected, as per Standing Orders 4.6.

2) DISCUSSION AND OPTIONS

Schedule 7, 21(5)(b) of the Local Government Act 2002 provides for the election of a Chairperson. Section 54 (2) states that Schedule 7, (excluding clauses 15 and 33 to 36), applies to Community Boards.

A Chairperson of a Community Board shall be elected from among its members at its first meeting following the election of the Community Board. When electing a Chairperson the community board must resolve to use one of the following two voting systems as set out in Standing Orders 5.2.

Option 1

System A -

The candidate will be elected or appointed if he or she receives the votes of a majority of the members of the local authority or committee who are present and voting. This system has the following characteristics:

- a) there is a first round of voting for all candidates;*
- b) if no candidate is successful in the first round, there is a second round of voting from which the candidate with the fewest votes in the first round is excluded; and*
- c) if no candidate is successful in the second round, there is a third round, and if necessary subsequent rounds, of voting from which, each time, the candidate with the fewest votes in the previous round is excluded.*

In any round of voting, if two or more candidates tie for the lowest number of votes, the person to be excluded from the next round is resolved by lot.

Option 2

System B -

- a) requires that a person is elected or appointed if he or she receives more votes than any other candidate; and*
- b) has the following characteristics:*
 - (i) there is only one round of voting; and*

(ii) *if 2 or more candidates tie for the most votes, the tie is resolved by lot.*

Option 2 is the recommended option. This is the system used by Council and Committees as per their Standing Orders.

Reason for the recommendation

To elect a Chairperson in accordance with Standing Orders.

3) FINANCIAL IMPLICATIONS AND BUDGETARY PROVISION

There are no financial implications or need for budgetary provisions as a result of this report.

ATTACHMENTS

Nil

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.

Compliance requirement	Staff assessment
State the level of significance (high or low) of the issue or proposal as determined by the Council's Significance and Engagement Policy	Not applicable
State the relevant Council policies (external or internal), legislation, and/or community outcomes (as stated in the LTP) that relate to this decision.	Not applicable
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.	This is a Community Board report
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.	Not applicable
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 (for example – youth, the aged and those with disabilities).	Not applicable
State the financial implications and where budgetary provisions have been made to support this decision.	There are no financial implications or budgetary provision required as a result of this report.
Chief Financial Officer review.	The Chief Financial Officer has not reviewed this report.

5.3 ELECTION OF DEPUTY CHAIRPERSON

File Number: A2715868

Author: Marlema Baker, Meetings Administrator

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

PURPOSE OF THE REPORT

The purpose of the report is to explain the procedure for the election of the Deputy Chairperson of the Board and to elect a Deputy Chairperson.

RECOMMENDATION

That the Kaikohe-Hokianga Community Board:

- a) use System B as the preferred voting system to elect a Deputy Chairperson.
- b) elect _____ as Deputy Chairperson for the triennium October 2019 to October 2022, in accordance with Standing Orders.

1) BACKGROUND

The Chairperson of the Board will call for nominations for Deputy Chairperson, who will then be elected using the preferred voting system.

2) DISCUSSION AND OPTIONS

Schedule 7, 21(5),(e) of the Local Government Act 2002 provides for the election of a Deputy Chairperson.

Section 54 (2) states that Schedule 7 (excluding clauses 15 and 33 to 36) applies to Community Boards.

A Deputy Chairperson of a Community Board shall be elected from among its members at its first meeting following the election of the Community Board. When electing a Deputy Chairperson the Community Board must resolve to use one of the following two voting systems as set out in Standing Orders 5.2.

Option 1

System A -

The candidate will be elected or appointed if he or she receives the votes of a majority of the members of the local authority or committee who are present and voting. This system has the following characteristics:

- a) there is a first round of voting for all candidates;*
- b) if no candidate is successful in the first round, there is a second round of voting from which the candidate with the fewest votes in the first round is excluded; and*
- c) if no candidate is successful in the second round, there is a third round, and if necessary subsequent rounds, of voting from which, each time, the candidate with the fewest votes in the previous round is excluded.*

In any round of voting, if two or more candidates tie for the lowest number of votes, the person to be excluded from the next round is resolved by lot.

Option 2

System B -

- a) requires that a person is elected or appointed if he or she receives more votes than any other candidate; and*

b) has the following characteristics:

- (i) there is only one round of voting; and*
- (ii) if 2 or more candidates tie for the most votes, the tie is resolved by lot.*

Option 2 is the recommended option. This is the system used by Council and Committees as per their Standing Orders.

Reason for the recommendation

To elect a Deputy Chairperson in accordance with Standing Orders.

3) FINANCIAL IMPLICATIONS AND BUDGETARY PROVISION

There are no financial implications or need for budgetary provisions as a result of this report.

ATTACHMENTS

Nil

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.

Compliance requirement	Staff assessment
State the level of significance (high or low) of the issue or proposal as determined by the Council's Significance and Engagement Policy	Not applicable
State the relevant Council policies (external or internal), legislation, and/or community outcomes (as stated in the LTP) that relate to this decision.	Not applicable
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.	This is a Community Board report.
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.	Not applicable
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 (for example – youth, the aged and those with disabilities).	Not applicable
State the financial implications and where budgetary provisions have been made to support this decision.	There are no financial implications or budgetary provision required as a result of this report.
Chief Financial Officer review.	The Chief Financial Officer has not reviewed this report.

5.4 NOTING OF KAIKOHE-HOKIANGA COMMUNITY BOARD STANDING ORDERS

File Number: A2715905

Author: Marlema Baker, Meetings Administrator

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

PURPOSE OF THE REPORT

The purpose of the report is to present Elected Members with the Community Board's current Standing Orders.

RECOMMENDATION

That the Kaikohe-Hokianga Community Board note the Kaikohe-Hokianga Community Board Standing Orders.

1) BACKGROUND

Standing Orders are a set of rules of debate that apply to all meetings of Council and its committees and subcommittees, including Community Boards. Furthermore Standing Orders ensure the legal requirements of the Local Government Act 2002 and the Local Government Official Information and Meetings Act 1987 are met. They also provide clarity as to what is expected of the members within a meeting and generally cover procedures to enable meetings to be held in a fair and transparent manner.

2) DISCUSSION AND OPTIONS

In the 2013-2016 triennium the Kaikohe-Hokianga Community Board's Standing Orders were based on the New Zealand Standards (NZS) which had developed model Standing Orders for meetings of local authorities. The current Standing Orders were last adopted by the Kaikohe-Hokianga Community Board on 15 November 2013, and retained by the Board for the 2016-2019 triennium.

Local Government New Zealand provided a revised version of Standing Orders in 2016.

Community Boards are required by the Local Government Act 2002 (Schedule 7, Clause 27) to have standing orders. The Community Board Standing Orders will be reviewed and updated where relevant, and presented to the Board for adoption at a future meeting. If new standing orders are not adopted, the current ones will stand.

Reason for the recommendation

To note the current Standing Orders for the Kaikohe-Hokianga Community Board.

3) FINANCIAL IMPLICATIONS AND BUDGETARY PROVISION

There are no financial implications or need for budgetary provision as a result of this report.

ATTACHMENTS

1. Kaikohe-Hokianga Community Board Standing Orders 2013 - 2019 - A2715892 [↓](#) 

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.

Compliance requirement	Staff assessment
State the level of significance (high or low) of the issue or proposal as determined by the Council's Significance and Engagement Policy	Not applicable.
State the relevant Council policies (external or internal), legislation, and/or community outcomes (as stated in the LTP) that relate to this decision.	Not applicable.
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.	This is a community board report.
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.	Not applicable
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 (for example – youth, the aged and those with disabilities).	Not applicable
State the financial implications and where budgetary provisions have been made to support this decision.	There are no financial implications or budgetary provision as a result of this report
Chief Financial Officer review.	The Chief Financial Officer has not reviewed this report.



Standing Orders

Document number A1635430

1. The following Standing Orders were adopted by resolution of the Kaikohe-Hokianga Community Board passed on 15 November 2013.

2. Amendment Schedule:

Reference	Amendment	Date
2.6 – Voting Systems for Certain Appointments	Council resolved to use 'System A' for voting to make the appointment of Chairperson or deputy Chairperson	15 November 2013
3.10.1 - Notices of Motion	Notices of motion must be delivered in writing, which includes but is not limited to email, to the Far North District Council meeting coordinator assigned to the board, and to the board chair, stating the meeting at which it is proposed that it be considered, as least five clear working days before such meeting.	05 April 2017
3.17.3 – Meeting Minutes	<p>(a) Minutes shall be transcribed onto an electronic device</p> <p>(b) The minutes as transcribed shall be delivered, in printed form, to the chair at the end of the meeting, or as close to the end of the meeting as possible if there is not a printer available at the meeting venue.</p> <p>(c) The minutes shall be delivered in their final draft formatted form to the chair within three days of the meeting for the chair's comments on accuracy</p> <p>(d) The draft minutes shall be delivered, as corrected by the chair if necessary, to the board members within five days of the meeting.</p> <p>(e) The draft minutes, after correction by the chair, shall be available to the public on the FNDC website.</p>	03 May 2017

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1 GENERAL

1.1 Scope and General

This document sets out standing orders for the conduct of proceedings at meetings of territorial authorities, regional councils and community boards in the form of model orders for adoption with or without amendment. It incorporates new provisions in the Local Government Act 2002 as they affect the provisions of the model standing orders.

This Standard is presented in three parts. Part 1 is the general introduction. Part 2 covers constitutional and legislative matters, and Part 3 relates to meeting procedures.

Part 3 involves some repetition of Part 2, to ease use and to ensure each part can stand alone without the need for undue cross referencing.

1.2 Interpretation

The terms “normative” and “informative” have been used in these Standing Orders to define the application of the Appendix to which they apply. A “normative” appendix is an integral part of a Standard, whereas an “informative” appendix is only for information and guidance. Informative provisions do not form part of the mandatory requirements of the Standard.

In this Standard the word “shall” identifies a mandatory requirement for compliance with the Standard. The word “should” refers to practices which are advised or recommended.

Where direct quotations from the legislation are cited in these standing orders they are shown in italics with quotation marks.

1.3 Definitions

In these standing orders, unless inconsistent with the context:

Agenda means the list of items for consideration at a meeting together with reports and other attachments relating to those items.

Chairperson means the mayor of a territorial authority or chairperson of a regional council or community board including any person acting as the mayor of territorial authority or chairperson of the regional council or community board, and any person presiding at any meeting of a committee or subcommittee of a regional council, territorial authority or community board.

Chief executive means the chief executive of a local authority appointed under section 42 of the Local Government Act 2002, irrespective of their designation, and includes for the purposes of these standing orders, any other officer authorised by the local authority.

Clear working days means the number of working days prescribed in these standing orders for the giving of notice; and excluding the date of service of that notice and the date of the meeting, the subject of that notice.

Committee includes, in relation to a local authority:

- (a) A committee comprising all the members of that local authority;
- (b) A standing committee or special committee appointed by that local authority;
- (c) A joint committee appointed under clause 30 of Schedule 7 of the Local Government Act 2002; and
- (d) Any subcommittee of a committee described in items (a), (b) or (c) of this definition.

Deputation means a request from any person or interest group in the community to make a presentation to the local authority or any committee.

Extraordinary meeting has the same meaning as defined in clause 22 of Schedule 7 of the Local Government Act 2002.

Local authority means the local authority and/or the community boards covered by these standing orders, being a local authority or a community board as defined in section 5 of the Local Government Act 2002.

Mayor means the mayor of a territorial authority elected under the Local Electoral Act 2001.

Meeting means any first, or extraordinary meeting of a local authority; and any meeting of any committee, standing committee, joint committee, special committee or subcommittee of the local authority. At any meeting of a local authority, or of any committee or subcommittee of a local authority, at which no resolutions or decisions are made, the provisions of these standing orders regarding public access and notification need not apply.

Member means any person elected or appointed to the local authority or to any committee or subcommittee of the local authority, and includes the mayor of a territorial authority and the chairperson of a regional council or community board, or of any committee or subcommittee of a regional council, territorial authority or community board.

Minutes means the record of the proceedings of any meeting of the local authority and its committees and subcommittees.

Public excluded information means any information which can be excluded from the public for reasons meeting the provisions of the Local Government Official Information and Meetings Act 1987.

Public excluded session refers to those meetings or parts of meetings from which the public is excluded by the local authority as provided for in the Local Government Official Information and Meetings Act 1987.

Publicly notified means notified to members of the public by notice contained in some newspaper circulating in the district of the local authority, or where there is no such newspaper, by notice published on signboard affixed to public places in the district to which the notice relates.

Quorum means the minimum number of members needing to be present to constitute a valid meeting.

Working day means any day of the week other than:

(a) Saturday, Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's Birthday, and Labour Day, and

(b) day in the period commencing with the 25th day of December in any year and ending with the 15th day of January in the following year.

2 CONSTITUTIONAL AND LEGISLATIVE MATTERS

2.1 INTRODUCTION

2.1.1 Requirement for adoption of standing orders

"A local authority must adopt a set of standing orders for the conduct of its meetings and those of its committees. The standing orders of a local authority must not contravene [any provisions of the Local Government Act 2002], the Local Government Official Information and Meetings Act 1987, or any other Act."

[cl.27(1) & (2), Schedule 7, LGA]

2.1.2 Alteration of standing orders

"After the adoption of the first standing orders of a local authority, an amendment of the standing orders or the adoption of a new set of standing orders requires, in every case, a vote of not less than 75% of the members present."

[cl.27(3), Schedule 7, LGA]

2.1.3 Temporary suspension of standing orders

"A local authority or committee may temporarily suspend standing orders during a meeting by a vote of not less than 75% of the members present and voting, and the reason for the suspension must be stated in the resolution of suspension."

[cl. 27(4), Schedule 7, LGA]

(See Standing Order 3.2.1)

2.1.4 All members to abide by standing orders

"A member of a local authority must abide by the standing orders adopted under clause 27 [of Schedule 7 of the Local Government Act]."

[cl. 16(1), Schedule 7, LGA]

(See Standing Order 3.1.1)

2.2 FIRST MEETING OF THE LOCAL AUTHORITY FOLLOWING ELECTION

2.2.1 Meeting called by chief executive

"The first meeting of a local authority following a triennial general election of members must be called by the chief executive as soon as practicable after the results of the election are known. The chief executive must give the persons elected to a local authority not less than 7 days' notice of the meeting. [However] if an emergency exists, the chief executive may give notice of the meeting as soon as practicable. The chief executive (or, in the absence of the chief executive, a nominee of that officer) must chair the meeting until the chairperson has made and attested the declaration required under clause 14 [of schedule 7 of the Local Government Act]."

[cl. 21(1) – (4), Schedule 7, LGA]

2.2.2 Business to be conducted

"The business that must be conducted at the meeting must include –

- (a) the making and attesting of the declarations required of the mayor (if any) and members under clause 14 [of Schedule 7 of the Local Government Act]; and
- (b) the election of the chairperson (if any) and the making and attesting of the declaration required of the chairperson under clause 14 [of Schedule 7 of the Local Government Act]; and
- (c) a general explanation given or arranged by the chief executive, of –
 - (i) the Local Government Official Information and Meetings Act 1987; and

- (ii) other laws affecting members including - the appropriate provisions of the Local Authorities (Members' Interests) Act 1968; sections 99,105 and 105A of the Crimes Act 1961; and the Secret Commissions Act 1910 and the Securities Act 1978; and
 - (d) the fixing of the date and time of the first ordinary meeting of a local authority, or the adoption of a schedule of ordinary meetings; and
 - (e) the election of the deputy chairperson in accordance with clause 17 [of Schedule 7 of the Local Government Act]."
- [cl. 21(5), Schedule 7, LGA]*

2.2.3 Members to give notice of addresses

Every member of the Council must give to the chief executive a residential or business address together with, if desired, a facsimile or other address within the district or region of the local authority to which notices and material relating to meetings and Council business may be sent or delivered.

2.3 CHAIRPERSON OF MEETINGS

2.3.1 Mayor or chairperson of a local authority to preside

"The mayor or chairperson of the local authority must preside at each meeting of the local authority at which he or she is present unless the mayor or chairperson vacates the chair for a particular meeting... If the mayor or chairperson of a local authority... is absent from a meeting, the deputy mayor or deputy chairperson (if any) of the local authority must preside... If a deputy mayor or deputy chairperson has not been appointed, or if the deputy mayor or deputy chairperson is also absent, the members of the local authority... that are present must elect 1 of their number to preside at that meeting, and that person may exercise at that meeting the responsibilities, duties and powers of the mayor or chairperson."

[cl. 26(1), (5) & (6), schedule 7, LGA]

2.3.2 Chairperson of committee to preside

"The chairperson of a committee must preside at each meeting of the committee at which he or she is present unless the chairperson vacates the chair for a particular meeting... If the...chairperson of a committee is absent from a meeting, the deputy...chairperson (if any) of the committee must preside... If a deputy chairperson has not been appointed, or if ...the deputy chairperson is also absent, the members of the committee that are present must elect 1 of their number to preside at that meeting, and that person may exercise at that meeting the responsibilities, duties, and powers of the chairperson."

[cl. 26(2), (5) & (6), Schedule 7, LGA]

2.4 QUORUM AT MEETINGS

2.4.1 Requirement for a quorum

"A meeting is duly constituted if a quorum is present whether or not all of the members are voting or entitled to vote."

[cl. 23(1), Schedule 7, LGA]

2.4.2 Quorum to be present throughout meeting

"Business may not be transacted at any meeting unless at least a quorum of members is present during the whole of the time at which the business is transacted."

[cl. 23(2), Schedule 7, LGA]

2.4.3 Definition of quorum for local authority or joint committee meetings

"The quorum at any meeting of –

- (a) a local authority or joint committee consists of –

- (i) half of the members if the number of members (including vacancies is even); or
 - (ii) a majority of members if the number of members (including vacancies) is odd.”
- [cl. 23(3), Schedule 7, LGA]

2.4.4 Definition of quorum for committee meetings

“The quorum at a meeting of –

- (b) [...](b) a committee –
 - (i) is not fewer than two members of the committee (as determined by the local authority or committee that appoints the committee); and
 - (ii) in the case of a committee other than a subcommittee, must include at least 1 member of a local authority.”

[cl.23(3), Schedule 7, LGA]

(see Standing Order 3.4)

2.5 VOTING AT MEETINGS

2.5.1 Acts and decisions of the local authority by majority vote at meetings

- (1) “The acts of a local authority must be done, and the questions before the local authority must be decided, at a meeting by –
 - (a) vote; and
 - (b) the majority of members that are present and voting.”

Casting Vote

- (2) “For the purposes of [2.5.1(1)], the mayor or chairperson or other person presiding at the meeting:
 - (a) has a deliberative vote; and
 - (b) In the case of an equality of votes, has does not have a casting vote (and therefore the act or question is defeated and the status quo is preserved).”(see appendix H p52) (Council resolution 05.11.2007)

Open voting

- (3) “An act or question coming before the local authority must be done or decided by open voting.”

Mandatory requirements (1) and (2) apply unless the Local Government Act 2002 provides otherwise.

[cl.24, Schedule 7, LGA]

2.6 VOTING SYSTEMS FOR CERTAIN APPOINTMENTS

2.6.1 The Mayor has the power to appoint the;

- a) Deputy Mayor; and
- b) Chairperson of each committee of the local authority and, for that purpose, the Mayor:
 - (1) may make the appointment before the other members of the committee are determined; and
 - (2) may appoint himself or herself.
 - (a) If the Mayor declines to exercise the power to appoint the Deputy Mayor, the local authority (or a committee, if so directed by the local authority) must elect one of the members of the local authority to be Deputy Mayor.
 - (b) If the Mayor declines to exercise the power to appoint any chairperson of a committee, the local authority (or a committee, if so directed by the local authority) must elect that chairperson.

Apart from appointments by the Mayor, in the case of elections or appointments to positions, the local authority (or a committee, if so directed by the local authority) must determine by resolution that a person be elected or appointed by using one of the following systems of voting:

2.6.2 Provisions for election or appointment of deputy mayor, chairpersons and deputy chairpersons of local authorities and committees, and representatives of the local authority

“[This Standing Order applies to] –

- (a) The election or appointment of the chairperson and deputy chairperson of a regional council; and
- (b) the election or appointment of the deputy mayor; and
- (c) the election or appointment of the chairperson and deputy chairperson of a committee; and
- (d) the election or appointment of a representative of a local authority.

If this [Standing Order] applies, a local authority or a committee (if a local authority has so directed) must determine by resolution that a person be elected or appointed by using one of the following systems of voting:

- (a) [System A]; or
- (b) [System B]; (Council resolution 05 November 2007 to use system B)

System A

(a) requires that a person is elected or appointed if he or she receives the votes of a majority of the members of a local authority or committee present and voting; and

(b) has the following characteristics:

- (i) there is a first round of voting for all candidates; and
- (ii) if no candidate is successful in that round there is a second round of voting from which the candidate with the fewest votes in the first round is excluded; and
- (iii) if no candidate is successful in the second round there is a third, and if necessary subsequent, round of voting from which, each time, the candidate with the fewest votes in the previous round is excluded; and
- (iv) in any round of voting, if two or more candidates tie for the lowest number of votes, the person excluded from the next round is resolved by lot.

System B

(a) requires that a person is elected or appointed if he or she receives more votes than any other candidate; and

(b) has the following characteristics:

- (i) there is only one round of voting; and
- (ii) if 2 or more candidates tie for the most votes, the tie is resolved by lot.”

[cl.25, Schedule 7, LGA]

2.7 APPOINTMENT OF COMMITTEES AND OTHER SUBORDINATE DECISION-MAKING BODIES

2.7.1 Appointment of committees, subcommittees and other subordinate decision-making bodies

“A local authority may appoint – the committees, subcommittees, and other subordinate decision-making bodies that it considers appropriate and... a committee may appoint the subcommittees that it considers appropriate unless it is prohibited from doing so by the local authority.”

[cl.30(1) & (2), Schedule 7, LGA]

2.7.2 Discharge or reconstitution of committees, subcommittees and other subordinate decision-making bodies

"Unless expressly provided otherwise in an Act, -

- (a) a local authority may discharge or reconstitute a committee or subcommittee or other subordinate decision-making body; and
- (b) a committee may discharge or reconstitute a subcommittee.

A committee, subcommittee or other subordinate decision-making body is, unless the local authority resolves otherwise, deemed to be discharged on the coming into office of the members of the local authority elected or appointed at, or following, the triennial general election of members next after the appointment of the committee, subcommittee, or other subordinate decision-making body."

[cl.30(5) & (7), Schedule 7, LGA]

2.7.3 Committees and subordinate decision-making bodies subject to direction of local authority

"A committee or other subordinate decision-making body is subject in all things to the control of the local authority, and must carry out all general and special directions of the local authority given in relation to the committee or other body or the affairs of the committee or other body. A subcommittee is subject in all things to the control of the committee that appointed it, and must carry out all general and special directions of the committee given in relation to the subcommittee or its affairs... Nothing in this [standing order] entitles a local authority or committee to rescind or amend a decision made under a delegation authorising the making of a decision by a committee, subcommittee, or another subordinate decision-making body."

[cl.30(3), (4) & (6), Schedule 7, LGA]

2.8 JOINT COMMITTEES

2.8.1 Appointment of joint committees

"A local authority may appoint... a joint committee with another local authority or other public body."

[cl.30(1), Schedule 7, LGA]

2.8.2 Status of joint committees

"A joint committee... is deemed to be both a committee of the local authority and a committee of the other local authority or public body."

[cl.30(8) Schedule 7, LGA]

2.8.3 Powers and responsibilities of joint committees

Part 1 of Schedule 7 of the Local Government Act applies to a joint committee except that -

- (a) the powers to discharge any individual member and appoint another in his or her stead must be exercised by the local authority or public body that made the appointment; and
- (b) the meeting quorum is as outlined in 2.4.3; and
- (c) The committee may appoint and remove its own chairperson or deputy chairperson

[cl.30(9) Schedule 7, LGA]

2.8.4 Application to a public body that is not a local authority

For the purposes of a public body that is not a local authority, Standing Orders 2.8.2 and 2.8.3 apply to the extent that they are not inconsistent with the law applicable to committees of the public body.

[cl.30(10), Schedule 7 LGA]

2.9 MEMBERSHIP OF COMMITTEES AND SUBCOMMITTEES

2.9.1 Appointment or discharge of committee members and subcommittee members

"A local authority may appoint or discharge any member of a committee. Unless directed otherwise by the local authority, a committee may appoint or discharge any member of a subcommittee appointed by the committee."

[cl.31(1) & (2) Schedule 7, LGA]

2.9.2 Elected members on committees and subcommittees

"The members of a committee or subcommittee may, but need not be, elected members of the local authority, and a local authority or committee may appoint to a committee or subcommittee a person who is not a member of the local authority or committee if, in the opinion of the local authority, that person has the skills, attributes or knowledge that will assist the work of the committee or subcommittee... at least 1 member of a committee must be an elected member of the local authority; and an employee of a local authority acting in the course of his or her employment may not act as a member of any committee unless that committee is a subcommittee."

[cl.31(3) & (4) Schedule 7, LGA]

2.9.3 Local authority may replace members if committee not discharged

"If a local authority resolves that a committee, subcommittee, or other decision-making body is not to be discharged under clause 30(7) [of Schedule 7 of the Local Government Act], the local authority may replace the members of that committee, subcommittee or other subordinate decision-making body after the next triennial general election of members."

[cl.31(5), Schedule 7, LGA]

2.9.4 Minimum numbers on committees and subcommittees

"The minimum number of members is 3 for a committee, and is 2 for a subcommittee."

[cl.31(6) Schedule 7, LGA]

2.9.5 Mayor or chairperson of local authority as an ex-officio member

The mayor or chairperson of the local authority may be appointed an ex-officio member of any committee other than a community board or quasi-judicial committee.

2.10 POWERS OF DELEGATION

2.10.1 Delegations to committees, subcommittees, subordinate decision-making bodies, community boards, members and officers

- (1) "Unless expressly provided otherwise in [the Local Government Act 2002], or in any other Act, for the purposes of efficiency and effectiveness in the conduct of a local authority's business, a local authority may delegate to a committee or other subordinate decision-making body, community board or member or officer of the local authority any of its responsibilities, duties, or powers except –
 - (a) the power to make a rate; or
 - (b) the power to make a bylaw; or
 - (c) the power to borrow money, or purchase or dispose of assets, other than in accordance with the long-term council community plan; or
 - (d) the power to adopt a long-term council community plan, annual plan or annual report; or
 - (e) the power to appoint a chief executive; or
 - (f) the power to adopt policies required to be adopted and consulted on under [the Local Government Act 2002] in association with the long-term council community plan or developed for the purpose of the local governance statement; or
- (2) Nothing in this clause restricts the power of a local authority to delegate to a committee or other subordinate decision-making body, community board or member or officer of the local authority the power to do anything precedent to the exercise by the local authority (after consultation with the committee or body or person) of any power or duty specified in...[(a) – (f) above].
- (3) A committee or other subordinate decision-making body, community board or member or officer of the local authority may delegate any of its responsibilities, duties, or powers to a subcommittee or person, subject to any conditions, limitations, or prohibitions imposed by the local authority or by the committee or body or person that makes the original delegation *provided that where an officer has delegated a responsibility to another officer, the latter officer shall not have the power to further delegate the authority*."

[cl.32(1), (2) & (3), Schedule 7, LGA]

Note: In 2.10.1(3) above the amendment adding the words in bold italics were resolved by Council on 05.11.2007.

2.10.2 Use of delegated powers

"A committee, subcommittee, other subordinate decision-making body, community board or member or officer of the local authority to which or to whom any responsibilities, powers or duties are delegated may, without confirmation by the local authority, or committee or body or person that made the delegation, exercise or perform them in the like manner and with the same effect as the local authority could itself have exercised or performed them."

[cl.32(4), Schedule 7, LGA]

2.10.3 Delegations related to bylaws and other regulatory matters

"A local authority may delegate to any other local authority, organisation, or person the enforcement, inspection, licensing, and administration related to bylaws and other regulatory matters."

[cl.32(5), Schedule 7, LGA]

2.11 PROCEEDINGS NOT INVALIDATED BY VACANCIES OR IRREGULARITIES

2.11.1 Proceedings not invalidated by vacancies or irregularities

"An act or proceeding of a local authority or committee, or of a person acting as a member of a local authority or committee, is not invalidated by a vacancy in the membership of the local authority or committee at the time of that act or proceeding, or the subsequent discovery of some defect in the election or appointment of the person acting as a member of the local authority or committee, or that that person was or is incapable of being a member."

[cl.29, Schedule 7, LGA]

2.12 GENERAL PROVISIONS AS TO MEETINGS

2.12.1 Meetings to be held

"A local authority must hold the meetings that are necessary for the good government of its region or district."

[cl.19(1), Schedule 7, LGA]

2.12.2 Right to attend meetings

"A member of a local authority, or of a committee of a local authority, has, unless lawfully excluded, the right to attend any meeting of the local authority or committee."

[cl.19(2), Schedule 7, LGA]

2.12.3 Calling, public notification and conduct of meetings

"A meeting of a local authority must be called and conducted in accordance with [Schedule 7 of the Local Government Act]; and Part VII of the Local Government Official Information and Meetings Act 1987; and the standing orders of the local authority."

[cl.19(3), Schedule 7, LGA]

2.12.4 Agenda to be sent to members

In the case of each meeting to which Standing Order 2.12.1 applies, an agenda detailing the business to be brought before that meeting together with relevant attachments must be sent to every member not less than two clear working days before the day appointed for the meeting (in the case of extraordinary meetings cl.2.14.2 applies).

2.12.5 Meetings not invalid because notice not received

"A meeting of a local authority is not invalid if notice of that meeting was not received, or not received in due time, by a member of the local authority unless –

- (a) it is proved that the person responsible for giving notice of the meeting acted in bad faith or without reasonable care; and

- (b) the member concerned did not attend the meeting.

A member of a local authority may waive any requirement regarding the giving of notice of a meeting to that member."

[cl.20(1), (2), Schedule 7, LGA]

2.12.6 Minutes of proceedings

"A local authority must keep minutes of its proceedings. Minutes of proceedings duly entered and authenticated as prescribed by the local authority are prima facie evidence of those proceedings."

[cl.28(1), (2), Schedule 7, LGA]

2.13 NOTIFICATION OF ORDINARY MEETINGS TO MEMBERS

2.13.1 Period for notice in writing

"The chief executive must give notice in writing to each member of the time and place of [a] meeting -

- (a) not less than 14 days before the meeting; or
- (b) if the local authority has adopted a schedule of meetings, not less than 14 days before the first meeting on the schedule."

[cl.19(5)(a), (b), Schedule 7, LGA]

2.13.2 Schedule of meetings

"If a local authority adopts a schedule of meetings, -

- (a) the schedule may cover any future period that the local authority considers appropriate and may be amended; and
- (b) notification of the schedule or any amendment to that schedule constitutes a notification of every meeting on the schedule or amendment."

[cl.19(6), Schedule 7, LGA]

2.13.3 Cancellation of scheduled meetings

If it is necessary to cancel a scheduled meeting, all reasonable effort shall be taken to notify elected members and the public as soon as is practicable of the cancellation and of the reasons for the cancellation.

2.14 EXTRAORDINARY MEETINGS

2.14.1 Extraordinary meetings may be called

"If a resolution or requisition specifies the time and place at which the meeting is to be held and the general nature of the business to be brought before the meeting, a meeting may be called by-

- (a) a resolution of the local authority; or
- (b) a requisition in writing delivered to the chief executive and signed by -
 - (i) the mayor or chairperson; or
 - (ii) not less than one-third of the total membership of the local authority (including vacancies)."

[cl. 22(1), Schedule 7, LGA]

2.14.2 Notification of extraordinary meetings to members

"Notice in writing of the time and place of the meeting called under [Standing Order 2.14.1] and of the general nature of business must be given by the chief executive to each member of the local authority at least 3 working days before the day appointed for the meeting; or if the meeting is called by a resolution, within such lesser period of notice that is specified in the resolution, being not less than 24 hours."

[cl. 22(3), Schedule 7, LGA]

2.14.3 Calling of extraordinary meetings at earlier time

"If the business to be dealt with requires a meeting to be held at a time earlier than is allowed by the notice requirements specified [in Standing Order 2.14.2], a meeting may be called by the mayor or chairperson; or if the mayor or chairperson are unavailable, the chief executive."
[cl. 22(2), Schedule 7, LGA]

2.14.4 Notification of extraordinary meetings held at earlier time

"Notice of the time and place of a meeting called under [Standing Order 2.14.3] and of the matters in respect of which the meeting is being called must be given by the person calling the meeting or by another person on that person's behalf, by whatever means is reasonable in the circumstances, to each member of the local authority and to the chief executive at least 24 hours before the time appointed for the meeting."
[cl. 22(4), Schedule 7, LGA]

2.14.5 Public notice of resolutions of extraordinary meetings

"A local authority must, as soon as practicable, publicly notify any resolution passed at an extraordinary meeting of the local authority unless –

- (a) the resolution was passed at a meeting or part of a meeting from which the public was excluded; or
- (b) the extraordinary meeting was publicly notified at least 5 working days before the day on which the meeting was held.

For the purposes of this [Standing Order] resolution means the resolution on the matter or matters for which the extraordinary meeting was held."

[s. 51A, LGOIMA]

2.15 PUBLIC AT MEETINGS, ACCESS TO AGENDAS ETC.

2.15.1 Meetings normally to be open to the public

"Except as otherwise provided by [Part VII of the Local Government Official Information and Meetings Act] every meeting of a local authority shall be open to the public... For the purposes of [Part VII of the Local Government Official Information and Meetings Act] bona fide members of the news media shall be deemed to be members of the public, and shall be entitled to attend any meeting or any part of a meeting for the purpose of reporting the proceedings for any news media."

[s. 47 & 49(a), LGOIMA]

2.15.2 Information to be available to public

All information provided to members at Council and committee meetings must be available to the public and news media unless any item included in the agenda refers to any matter reasonably expected to be discussed with the public excluded.

[s. 5 & 49, LGOIMA]

2.15.3 Public notification about meetings

All meetings scheduled for the following month shall be publicly notified not more than 14 days and not less than 5 days before the end of every month, together with the dates on which and the times and places at which those meetings are to be held. Where any meeting is to be held on or after the 21st day of the month, such meetings may instead be publicly notified not more than 10 nor less than 5 working days before the day on which the meeting is to be held.

[s. 46, LGOIMA]

2.15.4 Public notification about extraordinary meetings

"Where any extraordinary meeting of a local authority is called and notice of that meeting cannot be given in the manner required or permitted by [Standing Order 2.15.3 as appropriate], the local

authority shall cause that meeting and the general nature of business to be transacted at that meeting to be publicly notified or otherwise advertised as soon as practicable before the meeting is to be held as is reasonable in the circumstances”.

[s. 46(3) & (4), LGOIMA]

2.15.5 Public notification additional requirements

The chief executive is to make any other arrangement for the notification of meetings including extraordinary meetings as the local authority may from time to time determine.

2.15.6 Meetings not invalid because not publicly notified

“No meeting of any local authority [is] invalid merely because that meeting was not publicly notified in accordance with [Standing Orders 2.15.3 - 2.15.5].”

[s. 46(5), LGOIMA]

2.15.7 Public notice of meetings not notified

“Where a local authority becomes aware that any meeting of that local authority has not been publicly notified in accordance with [Standing Orders 2.15.3 - 2.15.5], the local authority shall, as soon as practicable, give public notice that that meeting was not so notified, and shall, in that notice, state the general nature of the business transacted at that meeting; and give the reasons why that meeting was not so notified.”

[s. 46(6), LGOIMA]

2.15.8 Availability of agendas and reports

“Any member of the public may, without payment of a fee, inspect, during normal office hours, within a period of at least 2 working days before every meeting, all agendas and associated reports circulated to members of the local authority and relating to that meeting. The agendas -

- (a) shall be available for inspection ... at the public offices of the local authority, (including service delivery centres) and the public libraries under the authority's control; and
- (b) shall be accompanied by either -
 - (i) the associated reports; or
 - (ii) a notice specifying the places at which the associated reports may be inspected.

...The associated reports shall be available for inspection at the public offices of the local authority. Any member of the public may take notes from any agenda or report inspected by that member of the public... Every member of the public who inspects an agenda or report made available and who requests a copy of any part of any such agenda or report and tenders the prescribed amount (if any) shall be given such a copy as soon as practicable. Where a meeting is an extraordinary meeting called pursuant to a resolution of the local authority, the agenda and any associated reports shall be made available as soon as is reasonable in the circumstances.”

[s. 46A(1)-(6), LGOIMA]

2.15.9 Exclusion from reports to be discussed with public excluded

The chief executive may exclude from the reports made available, reports or items from reports that are reasonably expected to be discussed with the public excluded. These items are to be indicated on each agenda.

2.15.10 Availability of agendas and reports for meetings of community boards

Where agendas and associated reports are for meetings of community boards, it is sufficient for the purposes of these standing orders that they be available for public viewing at the main office of the local authority and those service delivery centres and public libraries, if any, under the control of the local authority situated within the community.

2.15.11 Agenda to be made available to public who are at meetings

Additional copies of the agenda and further particulars indicating the nature of the items to be discussed must be available at meetings in sufficient numbers to enable any spare copies to be provided for members of the public to take away with them on payment of the prescribed amount (if any).

[s. 49, LGOIMA]

2.15.12 List of committee members publicly available

The members of each committee are to be named on the relevant agenda.

2.15.13 Public entitled to inspect minutes

The public is entitled without charge to inspect, take notes from, or receive copies of, minutes of any meeting or part of any meeting from which the public was not excluded.

[s. 51, LGOIMA]

2.15.14 Requests for minutes of meetings in closed session

The chief executive must consider any request for the minutes of a meeting or part thereof from which the public was excluded as a request for official information in terms of the Local Government Official Information and Meetings Act 1987.

[s. 51, LGOIMA]

2.16 REASONS TO EXCLUDE PUBLIC

2.16.1 Lawful reasons to exclude public

A local authority may by resolution exclude the public from the whole or any part of the proceedings of any meeting only on one or more of the grounds specified in section 48 of the Local Government Official Information and Meetings Act (see Appendix A).

(s. 48, LGOIMA)

2.16.2 Form of resolutions to exclude public

Any resolution to exclude the public must be in the form set out in Schedule 2A to the Local Government Official Information and Meetings Act 1987 and state the general subject of each matter to be considered while the public is excluded, the reason for passing that resolution in relation to that matter, and the grounds on which the resolution is based. (For an example resolution refer to Appendix B).

2.16.3 Motion to exclude public to be put with the public present

Every motion to exclude the public must be put at a time when the meeting is open to the public, and copies of the text of that motion must be available to any member of the public who is present. The resolution then forms part of the minutes of the local authority.

[s. 48(4), LGOIMA]

2.16.4 Provision for persons to remain after public excluded

A resolution in accordance with Standing Order 2.16.3 may provide for one or more specified persons to remain after the public has been excluded if those persons have, in the opinion of the local authority, knowledge that will assist the authority. Any such resolution is required to state the knowledge possessed by those persons which will be of assistance in relation to the matter to be discussed and how it is relevant to the matter. No such resolution is necessary in respect of the attendance of the chief executive and relevant staff during a public excluded session.

[s. 48(5) & (6), LGOIMA]

2.16.5 Release of public excluded information

A local authority may provide for the release to the public of information, which has been considered during the public excluded part of a meeting.

B. 2.17 APPLICATION OF STANDING ORDERS TO PUBLIC EXCLUDED SESSION

2.17.1 Standing orders to apply

Standing orders apply to meetings or parts of meetings from which the public has been excluded.

C. 2.18 USE OF PUBLIC EXCLUDED INFORMATION

2.18.1 Public excluded business not to be disclosed

Subject to the provisions of the Local Government Official Information and Meetings Act 1987, no member or officer is permitted to disclose to any person, other than a member or officer, any information which has been or is to be presented to any meeting from which the public is properly excluded, or where it is proposed that the public be properly excluded.

3 MEETING PROCEDURES

3.1 APPLICATION OF STANDING ORDERS

3.1.1 All members to abide by standing orders

"A member of a local authority must abide by the standing orders adopted under clause 27 [of Schedule 7 of the Local Government Act]."

[cl. 16(1), Schedule 7, LGA]

(see Standing Order 2.1.4)

3.1.2 Additional to or substitution of standing orders

Notwithstanding the generality of Standing Order 3.1.1, for any quasi-judicial proceedings, the local authority may adopt meeting procedures and practices additional to, or in substitution of, these standing orders for the conduct of the business to be transacted.

For example, committees appointed to hear applications under the Resource Management Act have powers under the Commissions of Inquiry Act 1908.

[s. 41, RMA]

3.1.3 Exclusions for meetings at which no resolutions or decisions are made

For the avoidance of doubt, any provision of these standing orders relating to the making of decisions and the passing of resolutions does not apply to any meeting of the local authority or of any committee or subcommittee or other subordinate decision-making body of the local authority which has been properly constituted as a meeting at which no resolutions or decisions are to be made under the Local Government Act 2002 or the Local Government Official Information and Meetings Act 1987.

3.2 SUSPENSION OF STANDING ORDERS

3.2.1 Temporary suspension

A local authority or committee may temporarily suspend one or more standing orders during a meeting by a vote of not less than 75% of the members present and voting. The reason for the suspension and the specific order(s) suspended must be stated in the resolution of suspension *(see Standing Order 2.1.3)*.

[cl. 27(4), Schedule 7, LGA]

3.3 CONDUCT OF MEETINGS

3.3.1 Mode of address for chairperson

The person in the chair is to be addressed in such terms as denotes the statutory office of that person, the choice of mode of address being as determined by that person.

3.3.2 Chairperson to decide

The chairperson is to decide all questions where these standing orders make no provision or insufficient provision, and all points of order, and any member who refuses to obey any order or ruling of the chairperson shall be held guilty of contempt (see Standing Orders 3.1.1, 3.13.6 and Appendix C).

3.3.3 Chairperson rising

Whenever the chairperson rises during a debate any member then speaking or offering to speak is to be seated, and members are to be silent so that the chairperson may be heard without interruption.

3.3.4 Members to speak in places and address the chair

Members granted the right to speak at meetings are to address the chairperson, and may not leave their place while speaking without the leave of the chairperson. Members may remain seated when speaking at extraordinary meetings of the local authority and at committee meetings.

3.3.5 Priority of speakers

When two or more members seek the right to speak, the chairperson is to name the member who has the right to speak first, provided that the following members shall have precedence, where in order, when they state their intention to:

- (a) Raise a point of order (see Standing Order 3.13.1), including any request to obtain a time extension for the previous speaker;
- (b) Move a motion to terminate or adjourn the debate (see Standing Order 3.12.1); or
- (c) Make a point of explanation or request an indulgence of the chairperson (see Standing Order 3.8.13).

3.3.6 Speeches in English or Māori

A member may address the chairperson in English or Māori. The chairperson may order that a speech be translated and printed in another language. A member must give prior notice, not less than 2 working days before the meeting, to the chairperson if he or she intends to address the chairperson in Māori, when the normal business of the committee is conducted in English, or in English when the normal business of the committee is conducted in Māori.

3.3.7 Duration of meetings and time limits

Unless pursuant to a resolution to continue, no meeting may continue for more than six hours or beyond 10.30pm, and any business on the agenda not dealt with must be adjourned to the next ordinary meeting or extraordinary meeting. (Deleted by Council resolution 24.01.08)

3.3.8 Reporting of meetings

When a meeting of a local authority is open to the public the following provisions shall apply:

- (a) Members of the public including bona fide members of the news media are entitled to attend any meeting or any part of a meeting and to report on the proceedings.
[s. 49(a) LGOIMA]
- (b) Any recording of meetings must be carried out in an unobtrusive manner, and must not be distracting to members.

- (c) Any recording of meetings must be notified to the chairperson at the commencement of the meeting.

3.3.9 Disorderly members to withdraw

Members called to order by the chairperson are to resume their seats and/or stop speaking, as the case may be. Should any member refuse to obey, such member may be directed by the chairperson to withdraw from the meeting. Upon such direction, any such member is to withdraw and must not be permitted to return during the meeting, or any period of that meeting that the chairperson may determine (see Appendix C).

3.3.10 Members not to be disrespectful

No member of the local authority at any meeting may be disrespectful in speech or use offensive or malicious language, including in reference to the local authority, any other member, or any officer or employee of the local authority. In addition, no member may impute improper motives or make offensive remarks about the private affairs of any other member of the local authority or its staff.

3.3.11 Retraction of, or apology for, offensive or malicious language

The chairperson may call upon any member or speaker to withdraw any offensive or malicious expression and may require the member to apologise for the expression.

3.3.12 Withdrawal from meeting

Any member who refuses to withdraw the expression or apologise, if required by the chairperson, can be directed to withdraw from the meeting for a time specified by the chairperson.

3.3.13 Disorder in meeting

The chairperson may require any member whose conduct is disorderly or who is creating a disturbance to withdraw immediately from the meeting for a time specified by the chairperson.

3.3.14 Adjournment of meeting following disorder

Should the disorder continue, the chairperson has the right to adjourn the meeting for a time specified by the chairperson. At the end of that period the meeting shall resume and decide without debate the question as to whether the meeting shall proceed or be adjourned. The chairperson may also take such action in relation to disorder from other sources or in the event of an emergency.

3.3.15 Contempt to be recorded in minutes

Where the meeting resolves to find the member in contempt that resolution must be recorded in the minutes.

3.3.16 Removal from meeting

"A member of the police, or an officer or employee of the local authority, may, at the request of the chairperson, remove or exclude a member from a meeting if that member is required to leave the meeting by a ruling made under the standing orders and that member –

- (a) refuses or fails to leave the meeting; or
- (b) having left the meeting, attempts to re-enter the meeting without the permission of the chairperson."

[cl. 16(2), Schedule 7, LGA]

3.4 QUORUM MEETINGS

3.4.1 Requirement for a quorum

"A meeting is duly constituted if a quorum is present, whether or not all of the members are voting or entitled to vote."

[cl. 23(1), Schedule 7, LGA]

3.4.2 Quorum to be present throughout meeting

"Business may not be transacted at any meeting unless at least a quorum of members is present during the whole of the time at which the business is transacted."

[cl. 23(2), Schedule 7, LGA]

3.4.3 Definition of quorum for local authority or joint committee meetings

"The quorum at a meeting for local authority or joint committee consists of –

(a) half the members if the number of members (including vacancies) is even;

or

(b) a majority of members if the number of members (including vacancies) is odd."

[cl. 23(3), Schedule 7, LGA]

3.4.4 Definition of quorum for committee meetings

"The quorum at a meeting of –

(b) a committee –

(i.) is not fewer than 2 members of the committee (as determined by the local authority or committee that appoints the committee); and

(ii.) in the case of a committee other than a subcommittee, must include at least 1 member of the local authority."

[cl. 23(3), Schedule 7, LGA]

(See Standing Order 2.4)

3.5 FAILURE OF A QUORUM

3.5.1 Meeting lapses if no quorum

If a meeting is short of a quorum at its commencement, or falls short of a quorum, the business is to stand suspended and, if no quorum is present within 10 minutes, the chairperson is to vacate the chair and the meeting shall lapse.

3.5.2 Lapsed business

The business remaining to be disposed of following the lapsing of a meeting is to stand adjourned until the next ordinary meeting unless an earlier meeting is fixed by the chairperson and notified by the chief executive.

3.5.3 Minutes to record failure of quorum

If a meeting lapses by reason of failure of a quorum, the names of the members then in attendance, and the fact of the lapse, are to be recorded in the minutes.

3.6 LEAVE OF ABSENCE AND APOLOGIES

3.6.1 Granting leave of absence

The local authority may grant leave of absence to a member from a meeting or other meetings of the local authority or its committees upon application by the member.

3.6.2 Apologies at meetings

If a member has not obtained leave of absence an apology may be tendered on behalf of the member and the apology may be accepted or declined by the local authority. Acceptance of the apology shall be deemed to be a granting of leave of absence for that meeting.

3.6.3 Recording of apologies

The chairperson of each meeting must invite apologies at the beginning of each meeting, including apologies for lateness and early departure, and these and subsequent apologies during the meeting shall be recorded in the minutes, including whether they were accepted or declined, and the time of arrival and departure of all members.

3.6.4 Absence without leave

An extraordinary vacancy is created where any member is absent without leave of the territorial authority, regional council or community board from 4 consecutive meetings other than extraordinary meetings of the territorial authority, regional council or community board.

[cl. 5, Schedule 7, LGA]

3.7 ORDER OF BUSINESS

3.7.1 Adoption of order of business

The order of business is to be determined by the local authority.

3.7.2 Agenda

The chief executive is to prepare for each meeting an agenda listing and attaching information on the items of business to be brought before the meeting so far as is known. At the meeting the business is to be dealt with in the order in which it stands on the agenda unless the meeting or the chairperson accord precedence to any business set down on the agenda.

3.7.3 Public excluded items

The chief executive must place on a public excluded agenda any matters for which he/she considers the local authority, or committee of the local authority, is likely in his/her opinion to wish to exclude the public in terms of the Local Government Official Information and Meetings Act 1987, provided that an indication of the subject matter likely to be considered with the public excluded is placed on the agenda available to the public.

3.7.4 Chairperson's report

The chairperson, by report, has the right to direct the attention of the local authority, or the relevant committee as the case may be, to any matter or subject within the role or function of the local authority or committee respectively.

3.7.5 Major items not on the agenda may be dealt with

"An item that is not on the agenda for a meeting, may be dealt with at that meeting if -

- (a) The local authority by resolution so decides; and
- (b) The presiding member explains at the meeting at a time when it is open to the public,
 - (i.) The reason why the item is not on the agenda; and
 - (ii.) The reason why the discussion of the item cannot be delayed until a subsequent meeting."

[s.46A(7), LGOIMA]

3.7.6 Minor items not on the agenda may be discussed

Where an item is not on the agenda for a meeting, -

- (a) That item may be discussed at that meeting if -
 - (i.) That item is a minor matter relating to the general business of the local authority; and

- (ii.) (ii) The presiding member explains at the beginning of the meeting, at a time when it is open to the public, that the item will be discussed at the meeting; but
- (b) No resolution, decision, or recommendation may be made in respect of that item except to refer that item to a subsequent meeting of the local authority for further discussion."

[s. 46A(7) & 46A(7A), LGOIMA]

3.7.7 Chairperson's recommendation

The chairperson of any meeting may include on the agenda for that meeting a chairperson's recommendation regarding any item brought before the meeting.

3.8 RULES OF DEBATE

3.8.1 Reserving speech

A member may second a motion or amendment without speaking to it, reserving the right to speak later in the debate.

3.8.2 Irrelevant matter and needless repetition

In speaking to any motion or amendment, members are to confine their remarks strictly to such motion or amendment, and shall not introduce irrelevant matters or indulge in needless repetition. In this matter, the chairperson's ruling is final and not open to challenge.

3.8.3 Limitation on speakers

If 3 speakers have spoken consecutively in support of, or in opposition to a motion, the chairperson may call for a speaker to the contrary. If no such speaker is forthcoming and after the mover has had the right of reply, the motion must be put. Members speaking must, if so called upon by the chairperson, announce whether they are speaking in support of, or against the motion or amendment being debated.

3.8.4 Taking down words

When any member objects to words used and desires his/her objection to be recorded in the minutes, the chairperson may order the objection to be recorded, provided such objection be made at the time the words were used and not after any other members have spoken (see Standing Order 3.13.4).

3.8.5 Reading of speeches

Members shall not read their speeches, except with the permission of the chairperson, but may refresh their memory by reference to notes.

3.8.6 Time limits on speakers

The following time limits apply to members speaking at local authority meetings, unless extended by a majority vote of members present:

- (a) Movers of motions when speaking to the motion, ten minutes;
- (b) Movers of motions, when exercising their right of reply, five minutes;
- (c) Other members, not more than five minutes.

(See also *Standing Order 3.19.6.*)

3.8.7 Member speaking more than once

A member may not speak more than once to a motion, save that this order does not apply to meetings of committees or subcommittees.

3.8.8 Restating of motion

Members may request the chairperson to restate the motion for their information at any time during the debate, but not so as to interrupt.

3.8.9 Right of reply

The mover of an original motion (not an amendment) has a right of reply. After the mover has commenced such reply, or has intimated the wish to forego this right, or having spoken to an amendment to the motion and the chairperson has intimated his/her intention to put the motion, no other member of the local authority may speak on the motion. Movers in reply are not to introduce any new matter and must confine themselves strictly to answering previous speakers.

3.8.10 When right of reply may be exercised

The right of reply is governed as follows:

- (a) Where no amendment has been moved, the mover may reply at the conclusion of the discussion on the motion;
- (b) If there is an amendment, the mover of the original motion may make such reply at the conclusion of the debate on such amendment, and this reply exhausts their rights as mover of the original motion (see Standing Order 3.8.9), provided that the mover may reserve such right of reply. The mover may, however, take part in the discussion upon subsequent amendments.

NOTE - A right of reply can be exercised at either the end of the debate on an original motion or at the end of the debate on an amendment. Only the mover of an original motion has a right of reply and that right can only be used once. In addition to a right of reply, the mover of an original motion may reserve a right of reply and speak once to an original motion and once to each amendment without losing that right of reply.

3.8.11 Speaking only to relevant matters

Members may speak to any matter before the meeting or upon a motion or amendment to be proposed by themselves, or upon a point of order arising out of debate, but not otherwise.

3.8.12 Personal explanation

Notwithstanding Standing Order 3.8.7, members may make a personal explanation with the permission of the chairperson, but such matters may not be debated.

3.8.13 Explanation of previous speech

With the permission of the chairperson, explanation of some material part of a previous speech in the same debate may be given by a member who has already spoken, but new matter may not be introduced.

3.9 MOTIONS AND AMENDMENTS

3.9.1 Requirement for a seconder

All motions and amendments moved in debate (including notices of motion) must be seconded, and thereupon the chairperson shall state the matter raised and propose it for discussion.

3.9.2 Withdrawal of motions and amendments

Once motions or amendments have been seconded and put to the meeting by the chairperson they cannot be withdrawn without the consent of the majority of the members present and voting. A motion to which an amendment has been moved and seconded, cannot be withdrawn until the amendment is withdrawn or lost.

3.9.3 Substituted motion by amendment

The meeting may allow a motion, which is subject to an amendment, to be withdrawn and replaced by the amendment as the substituted motion, provided the mover and seconder of the original motion agree to the withdrawal of the original motion. In such circumstances, members who have spoken to the original motion may speak again to the substituted motion.

3.9.4 Motions in writing

The chairperson may require movers of motions or amendments to provide them in writing signed by the mover.

3.9.5 Motions expressed in parts

The chairperson or any member may require a motion expressed in parts to be decided part by part.

3.9.6 Amendment once moved

When a motion has been moved and seconded, then proposed by the chairperson for discussion, an amendment may be moved or seconded by any member who has not spoken to the motion, whether an original motion or a substituted motion. The mover or seconder of a motion for the adoption of the report of a committee, who desires to amend any item in the report, may also propose or second an amendment.

3.9.7 Amendments and motions not seconded

Amendments and motions which are proposed but not seconded are not in order and are not entered in the minutes.

3.9.8 Further amendments

No further amendment may be allowed until the first amendment is disposed of, although members may notify the chairperson of their intention to move further amendments and the tenor of their content.

3.9.9 Where amendment lost

Where an amendment is lost, another may be moved and seconded by any members who have not spoken to the motion, whether an original motion or substituted motion. Movers of previous amendments which were lost are regarded as having spoken to the motion only and are entitled to speak to the new amendment, but are not entitled to move or second the new amendment.

3.9.10 Where amendment carried

Where an amendment is carried, the motion as amended becomes the substantive motion, and any member, other than previous movers or seconders in the debate, may then propose a further amendment.

3.9.11 Amendments relevant

Every proposed amendment must be relevant to the motion under discussion and not be in similar terms to an amendment which has been lost.

3.9.12 Direct negatives not allowed

No amendment which amounts to a direct negative, is to be allowed which, if carried, would have the same effect as negating the motion.

3.9.13 Procedure until resolution

The procedures in Standing Orders 3.9.6 and 3.9.8 must be repeated until a resolution is adopted.

3.9.14 Flow chart of motions and amendments

A flow chart illustrating the process regarding motions and amendments is included in these standing orders as Appendix D.

3.9.15 Revocation or alteration of resolutions

A notice of motion for the revocation or alteration of all or part of a previous resolution of the local authority is to be given to the chief executive by the member intending to move such a motion.

- (a) Such notice is to set out:
 - (i.) The resolution or part thereof which it is proposed to revoke or alter;
 - (ii.) The meeting date when it was passed; and
 - (iii.) The motion, if any, that is intended to be moved in substitution thereof.
- (b) Such notice is to be given to the chief executive at least 5 clear working days before the meeting at which it is proposed to consider such a motion and is to be signed by not less than one third of the members of the local authority, including vacancies.
- (c) The chief executive must then give members at least 2 clear working days notice in writing of the intended motion and of the meeting at which it is proposed to move such.

3.9.16 Restriction on action to be taken on previous resolution

Where a notice of motion has been given in terms of Standing Order 3.9.15, no action which is irreversible may be taken under the resolution which is proposed for revocation or alteration until the proposed notice of motion has been dealt with by the local authority, provided that if, in the opinion of the chairperson:

- (a) The practical effect of the delay would be equivalent to a revocation of the resolution, or if;
- (b) By reason of repetitive notices the effect of the notice is an attempt by a minority to frustrate the will of the local authority;

then, in either case, action may be taken as though no such notice to the chief executive had been given or signed.

3.9.17 Revocation or alteration of resolution at same meeting

If, during the course of a meeting of the local authority, fresh facts or information are received concerning a matter already resolved at the meeting, the previous resolution may be revoked or altered by the consent of 75% of the members then present and voting.

3.9.18 Local authority may revoke or alter any previous resolution

A local authority meeting may, on a recommendation contained in a report by the chairperson or chief executive, or the report of any committee, revoke or alter all or part of resolutions previously passed at meetings. At least two clear working days notice of any meeting to consider such a proposal must be given to members, accompanied by details of the proposal to be considered.

3.9.19 Restating the motion

The chairperson may, immediately prior to any division being taken, request the chief executive to restate the motion upon which the division is to be taken.

3.9.20 No speakers after reply or question has been put

Members may not speak on any motion once the mover has commenced replying or where the chairperson has commenced putting the question.

3.9.21 Reflections on resolutions

In speaking in any debate no member may unduly criticise the validity of any resolution of the local authority except by a notice of motion to amend or revoke the same.

3.10 NOTICES OF MOTION

3.10.1 Notices of motion to be in writing

Notices of motion must be delivered in writing, which includes but is not limited to email, to the Far North District Council meeting coordinator assigned to the board, and to the board chair, stating the meeting at which it is proposed that it be considered, as least five clear working days before such meeting.

3.10.2 Refusal of notice of motion

The chairperson may direct the chief executive to refuse to accept any notice of motion which:

- (a) Is disrespectful or which contains offensive language or statements made with malice; or
- (b) Is not related to the role or functions of the local authority; or
- (c) Contains an ambiguity or a statement of fact or opinion which cannot properly form part of an effective resolution, and where the mover has declined to comply with such requirements as the chief executive may make; or
- (d) Is concerned with matters which are already subject of reports or recommendations from a committee to the meeting concerned.

Reasons for refusing a notice of motion should be provided to the proposer.

3.10.3 Mover of notice of motion

Notices of motion shall not proceed in the absence of the mover, unless moved by another member authorized in writing by the mover to do so.

3.10.4 Alteration of notice of motion

A notice of motion may be altered only by the mover with the consent of the meeting.

3.10.5 When notices of motion lapse

Notices of motion not moved on being called for by the chairperson, shall lapse.

3.10.6 Referral of notices of motion to committees

Any notice of motion referring to any matter ordinarily dealt with by a committee of the local authority may be referred to that committee by the chief executive. Where such notices are so referred, the mover of the motion shall, if not a member of that committee, have the right to move that motion, and of reply, as if a committee member.

3.11 REPEAT NOTICES OF MOTION

3.11.1 First repeat where notice of motion rejected

When a motion which is the subject of a notice of motion has been considered and rejected by the local authority, no similar notice of motion which, in the opinion of the chairperson, is substantially the same in purport and effect may be accepted within the next 6 months unless signed by not less than one third of all members, including vacancies.

3.11.2 Second repeat where notice of motion rejected

If such a repeat notice of motion as provided for in Standing Order 3.11.1 is also rejected by the local authority, any further notice prior to the expiration of the original period of 6 months must be signed by a majority of all members, including vacancies.

3.11.3 No repeats where notice of motion adopted

Where a notice of motion has been considered and adopted by the local authority, no notice of any other motion which is, in the opinion of the chairperson, to the same effect may be put again whilst such original motion stands.

3.12 PROCEDURAL MOTIONS TO TERMINATE OR ADJOURN DEBATE

3.12.1 Members may move procedural motions to terminate or adjourn debate

Any member who has not spoken on the matter under debate, may move any one of the following procedural motions to terminate or adjourn debate, but not so as to interrupt a member speaking:

- (a) That the meeting be adjourned to the next meeting, unless an alternative time and place is stated; or
- (b) That the item of business being discussed be adjourned to a time and place to be stated; or
- (c) That the motion under debate be now put (a "closure motion"); or
- (d) That the meeting move directly to the next business, superseding the item under discussion; or
- (e) That the item of business being discussed does lie on the table, and not be further discussed at that meeting; or
- (f) That the item of business being discussed be referred (or referred back) to the relevant committee of the local authority.

3.12.2 Chairperson may accept closure motions

The chairperson may accept a closure motion if there have been no less than 2 speakers for and 2 speakers against the motion, or, if there are no such speakers, in the chairperson's opinion, it is reasonable to do so.

3.12.3 Procedural motions to terminate or adjourn debate to take precedence

Procedural motions to terminate or adjourn debate take precedence over other business, other than points of order, and shall, if seconded, be put to the vote immediately without discussion or debate.

3.12.4 Voting on procedural motions to terminate or adjourn debate

All procedural motions to terminate or adjourn debate must be determined by a majority of those members present and voting. If lost, a further procedural motion to terminate or adjourn debate, may not be moved by any member within the next 15 minutes.

3.12.5 Closure motion to be put if no further speaker

Notwithstanding Standing Order 3.12.4, a closure motion shall be put if there is no further speaker in the debate.

3.12.6 Closure motion on amendment

When an amendment to a motion is under debate, a closure motion relates to the amendment and not to the motion.

3.12.7 Right of reply following closure

If a closure motion is carried, the mover of the motion then under debate is entitled to the right of reply, and the motion or amendment under debate is then to be put.

3.12.8 Debate on items previously adjourned

The debate on adjourned items of business is to be resumed with the mover of such adjournment being entitled to speak first in the debate. Members who have already spoken in the debate may not speak again.

3.12.9 Adjourned items taken first

Adjourned items of business are to be taken first at the subsequent meeting in the class of business to which they belong.

3.12.10 Other business not superseded

The carrying of any motion to adjourn a meeting shall not supersede other business before the meeting remaining to be disposed of, and such other business is to be considered at the next meeting.

3.12.11 Referral or referred back to committee

Business referred, or referred back, to a specified committee is to be considered at the next meeting of that committee, unless otherwise specified.

3.12.12 Table of procedural motions

A table of procedural motions is included in these standing orders as Appendix E.

3.13 POINTS OF ORDER

3.13.1 Members rising to points of order

Any member may rise to speak to a point of order upon any breach of these Standing Orders and the member previously speaking is to be seated and stop speaking.

3.13.2 Stating subject matter of point of order

The member rising is to state without explanation precisely the subject matter of the point of order.

3.13.3 Points of order during division

No point of order may be raised during a division except by the permission of the chairperson.

3.13.4 Types of points of order

The following are recognized as substance for points of order:

- (a) Where disorder is drawn to the attention of the chairperson; or
- (b) Use of disrespectful, offensive or malicious language; or
- (c) Discussion of a question not before the local authority; or
- (d) Misrepresentation of any statement made by a member or by an officer or employee of the local authority or
- (e) The breach of any standing order; or
- (f) A request that words objected to be recorded in the minutes.

3.13.5 Contradiction not point of order

Rising to express a difference of opinion or to contradict a statement of a previous speaker does not constitute a point of order.

3.13.6 Decision of chairperson final

The chairperson may decide on any point of order immediately after it has been raised by any member, or may first hear further argument before deciding. The ruling of the chairperson upon any point of order is not open to any discussion and is final.

3.14 VOTING

3.14.1 Decisions to be decided by majority votes

"[Unless the Local Government Act 2002 provides otherwise], the acts of a local authority must be done and the questions before the local authority must be decided, at a meeting by –

- (a) vote; and
- (b) the majority of members that are present and voting".

[cl. 24, Schedule 7, LGA]
(See Standing Order 2.5.1)

3.14.2 Chairperson's voting

Unless the Local Government Act 2002 provides otherwise, for the purposes of Standing Order 3.14.1, the mayor or chairperson or other person presiding at the meeting –

- (a) has a deliberative vote; and
- (b) in case of equality of votes, does not have has a casting vote (and therefore the act or question is defeated and the status quo is preserved).(see appendix H p52) (amendment Council resolution 05.11.2007)

3.14.3 Open voting

"An act or question coming before the local authority must be done or decided by open voting".

[cl. 24(3), Schedule 7, LGA]

3.14.4 Members may abstain

Any member may abstain from voting.

3.14.5 Members may have their votes recorded

Any member's vote or abstention must be recorded in the minutes if so requested by that member.

3.14.6 Method of voting

The method of voting shall be as follows:

- (a) The chairperson in putting the motion shall call for an expression of opinion on the voices or take a show of hands, the result of either of which, as announced by the chairperson, shall be conclusive unless such announcement is questioned immediately by any member, in which event the chairperson shall call a division.
- (b) The chairperson or any member may call for a division instead of or after receiving opinion on the voices and taking a show of hands.
- (c) Where a suitable electronic voting system is available, that system may be used instead of a show of hands, vote by voices or division, and the result displayed shall be notified to the chairperson who shall declare the result.

3.14.7 Division

When a division is called, the chief executive or his/her nominee shall take down the names of the members voting for and against the motion and abstentions and is to hand the list to the chairperson to declare the result. The result of the division shall be entered into the minutes.

3.14.8 Second division

The chairperson may call a second division where there is confusion or error in the original division, unless the same can be otherwise corrected.

3.14.9 Pecuniary interest

No members may vote or take part in the discussion of any matter at any meeting where they, directly or indirectly, have any pecuniary interest as defined in law, other than an interest in common with the public.

[s. 6(1), *Local Authorities (Members' Interests) Act*]

3.14.10 Declaration of pecuniary interest

Every member present when any matter is raised in which they directly or indirectly have a pecuniary interest, apart from any interest in common with the public, is under a duty to fully declare any such interest to the meeting. This disclosure and the subsequent abstention of such members from both discussion and voting on the item, is to be recorded in the minutes.

[s. 6(1), *Local Authorities (Members' Interests) Act*]

3.14.11 Pecuniary interest a reason for leaving room

Members who have declared a pecuniary interest in matters to be discussed under Standing Order 3.14.10 should consider leaving the meeting room for the full duration of discussion on such matters.

3.15 QUALIFIED PRIVILEGE

3.15.1 Qualified privilege relating to agenda and minutes

Where a meeting of any local authority is open to the public during the proceedings or any part thereof, and a member of the public is supplied with a copy of the agenda for the meeting or any part of the minutes of that meeting are provided, the publication of any defamatory matter included in the agenda or in the minutes is privileged unless the publication is proved to have been made with ill will or taking improper advantage of the publication.

[s. 52, *LGOIMA*]

3.15.2 Qualified privilege relating to oral statements

Any oral statement made at any meeting of a local authority in accordance with the rules that have been adopted by that local authority for the guidance and order of its proceedings, is privileged, unless the statement is proved to have been made with ill will or taking improper advantage of the publication.

[s. 53, *LGOIMA*]

3.15.3 Qualified privilege additional to any other provisions

The privilege conferred by Standing Order 3.15.2 is in addition to, and not in substitution for, or derogation of any other privilege, whether absolute or qualified, that applies, by virtue of any other enactment or rule of law, to the proceedings of any local authority.

3.16 MAINTENANCE OF PUBLIC ORDER AT MEETINGS

3.16.1 Chairperson may require members of the public to leave meeting

The chairperson presiding at any meeting of the local authority may require any member of the public to leave the meeting if it is believed on reasonable grounds that the behaviour of that member of the public is likely to prejudice the orderly conduct of the meeting if that person is permitted to remain.

[s. 50, *LGOIMA*]

3.16.2 Removal of members of public

If any member of the public who is required in accordance with Standing Order 3.16.1 to leave a meeting, refuses or fails to leave the meeting or, having left the meeting, attempts to re-enter the meeting without the permission of the chairperson, any police officer or employee of the local authority

may, at the request of the chairperson, remove or exclude that member of the public from the meeting.

3.17 MINUTES OF PROCEEDINGS

3.17.1 Minutes to be evidence of proceedings

- (1.) "A local authority must keep minutes of its proceedings.
- (2.) Minutes of proceedings duly entered and authenticated as prescribed by a local authority are prima facie evidence of those proceedings."

[cl. 28, Schedule 7, LGA]

3.17.2 Keeping of minutes

The chief executive or his/her designated representative must keep the minutes of meetings. The minutes must record the date, time and venue of the meeting; the names of those members present; identification of the chairperson; apologies tendered and accepted; arrival and departure times of members; any failure of a quorum; a list of speakers in the public forum and the topics they cover; a list of items considered; resolutions and amendments pertaining to those items; any objections to words used; all divisions taken; names of any members requesting the recording of their abstentions or votes; declarations of pecuniary interest; contempt, censure and removal of any members; resolutions to exclude members of the public; and the time that the meeting concludes or adjourns (see Standing Orders 2.16.3, 3.3.15, 3.5.3, 3.6.3, 3.8.4, 3.14.4, 3.14.5, and 3.14.11).

3.17.3 Meeting Minutes

- (a) Minutes shall be transcribed onto an electronic device
- (b) The minutes as transcribed shall be delivered, in printed form, to the chair at the end of the meeting, or as close to the end of the meeting as possible if there is not a printer available at the meeting venue.
- (c) The minutes shall be delivered in their final draft formatted form to the chair within three days of the meeting for the chair's comments on accuracy
- (d) The draft minutes shall be delivered, as corrected by the chair if necessary, to the board members within five days of the meeting.
- (e) The draft minutes, after correction by the chair, shall be available to the public on the FNDC website.

3.17.1 No discussion on minutes

No discussion shall arise on the substance of minutes at any succeeding meeting, except as to their correctness.

3.18 MINUTE BOOKS

3.18.1 Inspection of minute books

The minute books of the local authority must be kept by the chief executive and be open to inspection in accordance with the Local Government Official Information and Meetings Act 1987 and the Local Government Act (see Standing Order 2.15.14).

[s. 51, LGOIMA]

3.18.2 Minutes of last meeting before election

The chairperson and the chief executive shall authenticate the minutes of the last meeting of the Council prior to the next election of members.

3.19 DEPUTATIONS AND PRESENTATIONS

3.19.1 Deputations where heard

Deputations may be received by the local authority or any of its committees provided an application for admission setting forth the subject, has been lodged with the chief executive at least 2 working days before the date of the meeting concerned and has been subsequently approved by the chairperson. The chairperson may refuse requests for deputations which are repetitious or offensive.

3.19.2 Urgency or major public interest

Notwithstanding Standing Order 3.19.1, where in the opinion of the chairperson the matter which is the subject of a deputation is one of urgency or major public interest, the chairperson may determine that the deputation be received.

3.19.3 Deputations and presentations in English or Māori

A deputation or presentation to a local authority or any of its committees, may be made in English or Māori. Prior arrangement with the chairperson should be sought at least 2 working days before the meeting if the address is not in English. The chairperson may order that any speech or document presented be translated and/or printed in another language.

3.19.4 Procedures for deputations

Except with the approval of the local authority or committee, not more than 2 members of a deputation may address the meeting. After a presentation is received members may put to the deputation any question pertinent to the subject heard, but no member may express an opinion upon, or discuss the subject, until the deputation has completed making its submissions and answering questions (see Standing Order 3.15.2 regarding qualified privilege).

3.19.5 Termination of presentation if disrespectful

The chairperson may terminate a presentation in progress which is disrespectful or offensive, or where the chairperson has reason to believe that statements have been made with malice (see Standing Order 3.15.2 regarding qualified privilege).

3.19.6 Time limit on presentation

Unless the meeting determines otherwise in any particular case, a limit of 10 minutes is placed on a speaker making a presentation, or if there are 2 members of the deputation addressing the meeting 10 minutes in total for the 2 speakers.

3.20 PETITIONS

3.20.1 Form of petitions

Every petition presented to the local authority or to any of its committees, must comprise fewer than 50 words (not including signatories) and not be disrespectful, nor use offensive language or include statements made with malice (see Standing Orders 3.15.1 and 3.15.2 regarding qualified privilege).

3.20.2 Petition where presented by members

Any member of the local authority, who presents a petition on behalf of the petitioners is to confine himself/herself to reading the petition and the statement of the parties from which it comes, and the number of signatures attached to it.

3.20.3 Petition in English or Māori

A petition presented to a local authority or any of its committees may be in English or Māori. Prior arrangement with the chairperson should be sought at least 2 working days before the meeting if the petition is not in English. The chairperson may order that any petition be translated and/or printed in another language.

3.20.4 Petition where presented by petitioner

Where a petition is presented by a petitioner, unless the local authority determines otherwise, a limit of 5 minutes is placed on that person (see Standing Orders 3.15.1 and 3.15.2 regarding qualified privilege). If the chairperson has reason to believe that the petitioner is disrespectful or offensive, or has made statements with malice, the chairperson shall terminate presentation of the petition.

3.21 QUESTIONS

3.21.1 Questions to officers during debate

In the course of any debate at any local authority meeting, any member may, at the chairperson's discretion, ask any question of the relevant officer on any matter under debate. Such questions are to be directed through the chair.

4 APPENDICES

APPENDIX A

GROUND TO EXCLUDE THE PUBLIC FROM MEETINGS IN TERMS OF THE LOCAL GOVERNMENT OFFICIAL INFORMATION AND MEETINGS ACT 1987

(Normative)

A local authority may by resolution exclude the public from the whole or any part of the proceedings of any meeting only on one or more of the following grounds:

- A1** That the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information where such disclosure would be likely:
- (a) To prejudice the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial; or
 - (b) To endanger the safety of any person.
- A2** That the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information where the withholding of the information is necessary to:
- (a) Protect the privacy of natural persons, including that of deceased natural persons; or
 - (b) Protect information where the making available of the information:
 - (i) Would disclose a trade secret; or
 - (ii) Would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information; or
 - (c) In the case only of an application for a resource consent, or water conservation order, or a requirement for a designation or heritage order, under the Resource Management Act 1991, to avoid serious offence to tikanga Māori, or to avoid the disclosure of the location of wāhi tapu; or
 - (d) Protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information:
 - (i) Would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied

Or

- (ii) Would be likely otherwise to damage the public interest; or
- (e) Avoid prejudice to measures protecting the health or safety of members of the public; or
- (f) Avoid prejudice to measures that prevent or mitigate material loss to members of the public; or
- (g) Maintain the effective conduct of public affairs through the protection of members, officers or employees of any local authority from improper pressure or harassment; or
- (h) Maintain legal professional privilege; or
- (i) Enable the local authority holding the information to carry out, without prejudice or disadvantage, commercial activities; or
- (j) Enable the local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations); or
- (k) Prevent the disclosure or use of official information for improper gain or improper advantage.

Provided that where A2 of this Appendix applies the public may be excluded, unless, in the circumstances of the particular case, the exclusion of the public is outweighed by other considerations which render it desirable, in the public interest, that the public not be excluded.

A3 That the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information, the public disclosure of which would:

- (a) Be contrary to the provisions of a specified enactment; or
- (b) Constitute contempt of Court or of the House of Representatives.

A4 That the purpose of the whole or the relevant part of the proceedings of the meeting is to consider a recommendation made to the local authority by an Ombudsman under section 30(1) or section 38(3) of the Local Government Official Information and Meetings Act 1987 (in the case of a local authority named or specified in the First Schedule to this Act).

A5 That the exclusion of the public from the whole or the relevant part of the proceedings of the meeting is necessary to enable the local authority to deliberate in private on its decision or recommendation in:

- (a) Any proceedings before a local authority where:
 - (i) A right of appeal lies to any Court or Tribunal against the final decision of the local authority in those proceedings; or
 - (ii) The local authority is required, by any enactment, to make a recommendation in respect of the matter that is the subject of those proceedings; and
- (b) Any proceedings of a local authority in relation to any application or objection under the Marine Farming Act 1971.

APPENDIX B SAMPLE RESOLUTION TO EXCLUDE THE PUBLIC

(Informative)

Section 48, Local Government Official Information and Meetings Act 1987.

I move that the public be excluded from the following parts of the proceedings of this meeting.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

Item No	Minutes/report of:	General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under section 48(1) for the passing of this resolution
1.	Report of the Chair of the Strategy and Finance Committee.	Appointment of Directors – City Services limited	Good reason to withhold exists under section 7	Section 48(1)(a)
2.	Report of the Sustainable Transport and Utilities Committee Meeting of 24/12/2003	Northern connection to Smith Road. Purchase of Land	Good reason to withhold exists under section 7	Section 48(1)(a)
3.	Report of the Chairman of the Parks, Gardens and Waterways Committee	Property purchase – 20 Smith Street	Good reason to withhold exists under section 7	Section 48(1)(a)
4.	Report of the Council Hearings Panel	Recommendation on Submissions to Variation 100 to City Proposed District Plan	Good reason to withhold exists under section 7	Section 48(1)(a)

This resolution is made in reliance on section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by section 6 or section 7 of that Act which would be prejudiced by the holding of the whole or relevant part of the proceedings of the meeting in public are as follows:

Item No:	
1	Protection of privacy of natural persons (Section 7(2)(a))
2,3	Conduct of negotiations (Section 7(2)(i))
4	Prevention of improper advantage (Section 7(2)(j))

NOTE –

Section 48(4) of the Local Government Official Information and Meetings Act 1987 provides as follows:

“(4) Every resolution to exclude the public shall be put at a time when the meeting is open to the public, and the text of that resolution (or copies thereof):

- (a) Shall be available to any member of the public who is present; and
- (b) Shall form part of the minutes of the local authority.”

APPENDIX C POWERS OF THE CHAIRPERSON

(Normative)

This Appendix is intended to separately set out the chairperson's powers which are contained in various parts of the Model Standing Orders.

The provisions in the Model Standing Orders shall be authoritative. The relevant Model Standing Orders are referred to in brackets.

C1 Chairperson to decide all questions

The chairperson is to decide all questions where these standing orders make no provision or insufficient provision. The chairperson's ruling is final and not open to debate.

(See *Standing Order 3.3.2*)

C2 Chairperson to decide points of order

The chairperson is to decide any point of order and may do so immediately after it has been raised or may first hear further argument before deciding. The ruling of the chairperson upon any point of order is not open to any discussion and is final. No point of order may be raised during a division except by permission of the chairperson.

(See *Standing Orders 3.13.3 and 3.13.6.*)

C3 Items not on the agenda

Items not on the agenda may be dealt with at that meeting if so resolved by the local authority and the chairperson explains at the meeting at a time when it is open to the public the reason why the item was not listed on the agenda and the reason why discussion of the item cannot be delayed until a subsequent meeting.

Minor matters not on the agenda relating to the general business of the local authority may be discussed if the chairperson explains at the beginning of the meeting at a time when it is open to the public that the item will be discussed at that meeting, but no resolution, decision or recommendation may be made in respect of that item except to refer it to a subsequent meeting of the Council for further discussion.

(See *Standing Orders 3.7.5 and 3.7.6.*)

C4 Chairperson's report

The chairperson, by report, has the right to direct the attention of the local authority to any matter or subject within the role or function of the local authority.

(See *Standing Order 3.7.4.*)

C5 Chairperson's recommendation

The chairperson of any meeting may include on the agenda for that meeting a chairperson's recommendation regarding any item brought before the meeting. The purpose of such a recommendation is to focus debate on a suggested motion.

(See *Standing Order 3.7.7.*)

C6 Chairperson's voting

The chairperson at any meeting has a deliberative vote and, in the case of equality of votes, does not have a casting vote. (Council resolution 5 November 2007)

(See *Standing Order 2.5.21.*)

C7 Motion in writing

The chairperson may require the mover of any motion or amendment to submit it in writing signed by the mover.

(See *Standing Order 3.9.4*)

C8 Motion in parts

The chairperson may require any motion expressed in parts to be decided part by part.

(See *Standing Order 3.9.5*)

C9 Notice of motion

The chairperson may direct the chief executive to refuse to accept any notice of motion which:

- (a) Is disrespectful or which contains offensive language or statements made with malice; or
- (b) Is not within the scope of the role or functions of the local authority; or
- (c) Contains an ambiguity or statement of fact or opinion which cannot properly form part of an effective resolution; and the mover has declined to comply with such requirements as the chief executive may have made; or
- (d) Is concerned with matters which are already the subject of reports or recommendations from a committee to the meeting concerned.

Reasons for refusing a notice of motion should be provided to the proposer.

Where a notice of motion has been considered and agreed by the local authority, no notice of any other motion which is, in the opinion of the chairperson, to the same effect may be put again whilst such original motion stands.

(See *Standing Orders 3.10.2 and 3.11.3*)

C10 Action on previous resolutions

If in the opinion of the chairperson the practical effect of a delay in taking action on a resolution which is subject to a notice of motion, until the proposed notice of motion has been dealt with by the local authority, would be equivalent to revocation of the resolution, or if repetitive notices of motion are considered by the chairperson to be an attempt by a minority to frustrate the will of the local authority, action may be taken as though no such notice had been given.

(See *Standing Order 3.9.16*)

C11 Repeat notice of motion

If in the opinion of the chairperson, a notice of motion is substantially the same in purport and effect to any previous notice of motion which has been considered and rejected by the local authority, no such notice of motion may be accepted within six months of consideration of the first notice of motion unless signed by not less than one third of the members of the local authority including vacancies.

(See *Standing Order 3.11.1*)

C12 Revocation or alteration of previous resolution

A chairperson may recommend in a report to the local authority the revocation or alteration of all or part of any resolution previously passed, and the local authority meeting may act on such recommendation.

(See *Standing Order 3.9.18*)

C13 Chairperson may call a meeting

The chairperson:

- (a) May call a meeting to dispose of the business to be transacted following the lapsing of a meeting due to failure of a quorum if such business cannot be delayed until the next ordinary meeting;
- (b) May requisition an extraordinary meeting to be held at a specified time and place in order to conduct specified business;

(See *Standing Orders 3.5.2, 2.14.1 and 2.14.2*)

C14 Irrelevant matter and tedious repetition

The chairperson's ruling preventing members when speaking to any motion or amendment from introducing irrelevant matter or indulging in needless repetition is final and not open to challenge.

(See *Standing Order 3.8.2*)

C15 Taking down words

The chairperson may order words used and objected to by any member to be recorded in the minutes, provided such objection is made at the time the words are used and not after any other members have spoken.

(See *Standing Order 3.8.4*)

C16 Reading of speeches

The chairperson may permit members who request permission to do so, to read their speeches. (See *Standing Order 3.8.5*)

C17 Explanations

The chairperson may permit members to make a personal explanation in addition to speaking to a motion, and members who have already spoken, to explain some material part of a previous speech in the same debate.

(See *Standing Orders 3.8.12 and 3.8.13*)

C18 Chairperson rising

Whenever the chairperson rises during a debate any member then speaking or offering to speak is to be seated and members are to be silent so that the chairperson may be heard without interruption.

(See *Standing Order 3.3.3*)

C19 Members may leave places

The chairperson may permit members to leave their place while speaking.

(See *Standing Order 3.3.4*)

C20 Priority of speakers

The chairperson shall determine the order in which members may speak when two or more members indicate their wish to speak.

(See *Standing Order 3.3.5*)

C21 Minutes

The chairperson is to sign the minutes and proceedings of every meeting once confirmed. The chairperson and chief executive are responsible for confirming the correctness of the minutes of the last meeting of a local authority prior to the next election of members.

(See *Standing Orders 3.17.1 and 3.18.2*.)

C22 Questions of speakers

The chairperson may permit members to ask questions of speakers under public forum or tangata whenua participation, for the purpose of obtaining information or clarification on matters raised by the speaker.

(See *Appendices F4 and G5*)

C23 Withdrawal of offensive or malicious expressions

(a) The chairperson may call upon any member to withdraw any offensive or malicious expression and may require the member to apologise for the expression.

(See *Standing Order 3.3.11*)

(b) Any member who refuses to withdraw the expression or apologise, if required by the chairperson, can be directed to withdraw from the meeting for a time specified by the chairperson. (See *Standing Order 3.3.12*)

C24 Chairperson's rulings

Any member who refuses to accept a ruling of the chairperson may be required by the chairperson to withdraw from the meeting for a specified time.

(See *Standing Orders 3.1.1 and 3.3.2*)

C25 Disorderly behaviour

The chairperson may:

- (a) Require any member or member of the public whose conduct is disorderly or who is creating a disturbance to withdraw immediately from the meeting for a time specified by the chairperson. (See *Standing Orders 3.3.13 and 3.16.1*)

- (b) Ask the meeting to hold in contempt any member whose conduct is grossly disorderly and where the meeting resolves to find the member in contempt, that resolution must be recorded in the minutes.

(See Standing Orders 3.3.14 and 3.3.15)

C26 Failure to leave meeting

If a member or member of the public who is required, in accordance with a chairperson's ruling, to leave the meeting, refuses or fails to do so, or having left the meeting, attempts to re-enter without the permission of the chairperson, any member of the police or officer or employee of the local authority may, at the chairperson's request, remove or exclude that person from the meeting.

(See Standing Orders 3.3.16 and 3.16.2)

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APPENDIX E

TABLE OF PROCEDURAL MOTIONS

(Normative)

See Standing Orders 3.12.1 to 3.12.2.12 and 3.13.1 to 3.13.6

Motion	Has the Chair discretion to refuse this motion?	Is seconder required?	Is discussion in order?	Are amendments in order?	Is mover of procedural motion entitled to reply?	Are previous participants in debate entitled to move this motion?	Can speaker be interrupted by the mover of this motion?	If lost, can motion be moved after an interval?	Position if an amendment is already before the Chair	Position if a procedural motion is already before the Chair	Remarks
a) "That the meeting be adjourned to the next meeting, or to a stated time and place"	No	Yes	No	As to time and date only	No	No	No	Yes - 15 minutes	If carried, debate on the original motion and amendment are adjourned.	If carried, debate on the original motion and amendment are adjourned.	On resumption of debate, the mover of the adjournment speaks first. Members who have already spoken in the debate may not speak again.
b) "That the item of business being discussed be adjourned to a stated time and place."	No	Yes	No	As to time and date only	No	No	No	Yes - 15 minutes	If carried, debate on the original motion and amendment are adjourned.	If carried, debate on the original motion and amendment are adjourned.	
c) "That the motion under debate be now put (closure motion)."	No	Yes	No	No	No	No	No	Yes - 15 minutes	If carried, only the amendment is put.	If carried, only the procedural motion is put	The mover of the motion under debate is entitled to exercise a right of reply before the motion or amendment under debate is put.

Motion	Has the Chair discretion to refuse this motion?	Is seconder required?	Is discussion in order?	Are amendments in order?	Is mover of procedural motion entitled to reply?	Are previous participants in debate entitled to move this motion?	Can a speaker be interrupted by the mover of this motion?	If lost, can motion be moved after an interval?	Position if an amendment is already before the Chair	Position if a procedural motion is already before the Chair	Remarks
d) "That the meeting move directly to the next business, superseding the item under discussion."	No	Yes	No	No	No	No	No	Yes – 15 minutes.	If carried, debate on the original motion and amendment are adjourned.	If carried, debate on the original motion and amendment are adjourned.	
e) "That the item of business being discussed does lie on the table and not be further discussed at this meeting."	No	Yes	No	No	No	No	No	Yes – 15 minutes.	If carried, the original motion and amendment are both laid on the table.	Motion not in order	
f) "That the item of business being discussed be referred to the relevant committee."	No	Yes	No	As to committee, time for reporting back etc. only.	No	No	No	Yes – 15 minutes.	If carried, the original motion and all amendments are referred to the committee.	If carried, the procedural motion is deemed disposed of.	
(g) "Points of order."	No – but may rule against.	No	Yes – at discretion of Chairperson.	No	No	Yes	Yes	No	Point of order takes precedence.	Point of order takes precedence.	See Standing Orders 3.13.1 to 3.13.6

**APPENDIX F
PUBLIC FORUM**

(Informative)

F1 Public forum

A period of up to 30 minutes, or such other time as the local authority may determine, will be set aside for a public forum at the commencement of ordinary meetings of the local authority, committee and subcommittee meetings which are open to the public. Each speaker during the public forum section of a meeting, may speak for three minutes. (amend F1 to add "*At the discretion of the Chairperson*" at the beginning of the first sentence – Council resolution 05.11.2007)

F2 Time extension

Standing orders may be suspended on a vote of not less than 75% of those present, to extend the period of public participation or the period any speaker is allowed to speak.

F3 Subjects of public forum

In respect of local authority, committee and subcommittee meetings, the public forum is to be confined to those items falling within the terms of reference of that meeting, provided the matter is not sub-judice.

NOTE – The public forum procedure does not apply in respect of any hearing, including the hearing of submissions where the local authority, committee or subcommittee sits in a quasi-judicial capacity.

F4 Questions of speakers during public forum

With the permission of the chairperson, members may ask questions of speakers during the period reserved for public forum. If permitted by the chairperson, questions by members are to be confined to obtaining information or clarification on matters raised by the speaker.

**APPENDIX G
ADDITIONAL PROVISIONS FOR TANGATA WHENUA**

(Informative)

G1 Tangata whenua representation at meetings

Where representatives of the tangata whenua identify any item on the agenda for a meeting of a local authority, committee or subcommittee which the tangata whenua wish to discuss, they may attend the meeting for that purpose. These provisions do not apply to any meeting of the local authority, committee or subcommittee which is sitting in a quasi-judicial capacity in respect of any matter to be heard. (amend G1 to add "*At the discretion of the Chairperson*" at the beginning of the first sentence – Council resolution 05.11.2007)

G2 Speaking rights in addition to public forum

The right to speak at meetings of the local authority conferred by these provisions are in addition to and separate from those rights of a public forum available in terms of Appendix F.-(deleted – Council resolution 05.11.2007)

G3 Tangata whenua representation at committees and subcommittees

Where representatives of the tangata whenua have, in accordance with clause F1, identified items they wish to discuss at a meeting, they may be represented by such number of representatives as is equal to the number of permanent members of that committee or subcommittee who are present at that meeting.

G4 Tangata whenua speaking time

Representatives of the tangata whenua shall have the right to address any meeting of the local authority, committee or subcommittee for a period of 15 minutes in total on any item or issue which has been identified or initiated by the tangata whenua and listed for consideration at a meeting.

G5 Questions of speakers during tangata whenua participation

With the permission of the chairperson, members may ask questions of representatives of the tangata whenua. If permitted by the chairperson, questions by members are to be confined to obtaining information or clarification on matters raised by the speaker.

NOTE - The term "tangata whenua" is not mentioned in the Local Government Act 2002. The Act refers to "Māori".

APPENDIX H
PROVISION FOR CASTING VOTE

(Normative)

Where a local authority wishes to have a casting vote replace Standing Order 3.14.2(b) with “in the case of equality of votes the chairperson has a casting vote.”

Casting vote provided for by Council resolution 05 November 2007
(clause 27, Schedule 7 of the Local Government Act 2002 applies)

5.5 EXPLANATION OF LAWS AFFECTING ELECTED MEMBERS

File Number: A2715919

Author: Aisha Huriwai, Team Leader Governance Support

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

PURPOSE OF THE REPORT

At the first meeting after the three-yearly local election, elected members are required to receive a general explanation of the laws that affect them as elected members. This report outlines the core legislation affecting members supported by a presentation by Council's In-House Counsel.

RECOMMENDATION

That the Kaikohe-Hokianga Community Board note the report "Explanation of Laws Affecting Elected Members", and the advice provided at this meeting.

BACKGROUND

It is a requirement to have the core legal requirements brought to the members' attention at the first meeting following the triennial election, under Clause 21 (5)(c) of Schedule 7 of the Local Government Act 2002.

DISCUSSION AND NEXT STEPS

There are a number of core legal requirements that elected members should be aware of when making decisions. These include the:

- Local Government Act 2002
- Local Government Official Information and Meetings Act 1987
- Local Authorities (Members' Interests) Act 1968
- Health and Safety at Work Act 2015
- Crimes Act 1961
- Secret Commissions Act 1910
- Financial Markets Conduct Act 2013
- Council decision-making requirements
- Personal liability of elected members
- Public law decision-making principles.



In addition to these core legal requirements, there are many other statutes relevant to certain council decisions (for example the Resource Management Act 1991 and the Reserves Act 1977).

Elected members will receive advice from staff on a case-by-case basis to ensure that they understand their legal obligations when making decisions.

FINANCIAL IMPLICATIONS AND BUDGETARY PROVISION

There are no financial implications or budgetary provision needed as a result of this report and presentation.

ATTACHMENTS

1. **Guidance for Members of Local Authorities about the Local Authorities (Members' Interests) Act 1968 - A2699789** [↓](#) 
2. **Explanation of Laws Affecting Elected Members - A2719572** [↓](#) 



CONTROLLER AND AUDITOR-GENERAL
Tumuaki o te Mana Arotake

Good practice guide

Guidance for
members of
local authorities
about the Local
Authorities
(Members'
Interests) Act
1968

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Guidance for members of local authorities about the Local Authorities (Members' Interests) Act 1968

This is a good practice guide,
published under section 21 of the
Public Audit Act 2001.

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Auditor-General's overview

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I am pleased to issue this new edition of our guide for local authorities on the requirements of the Local Authorities (Members' Interests) Act 1968 (the Act). We produced the first of these guides in 1995 to help people understand the Act's requirements and what they need to do to comply. We revise it every three years at the time of the local authority elections so that up-to-date guidance is available for new members when they take office.

The Act helps protect the integrity of local authority decision-making by ensuring that people are not affected by personal motives when they participate in local authority decision-making and cannot use their position to obtain preferential access to contracts. The two specific rules in the Act are that members cannot:

- enter into contracts with their local authority worth more than \$25,000 in a financial year; or
- participate in matters before their authority in which they have a pecuniary interest, other than an interest in common with the public.

In each case, my office has power to grant approvals or exemptions. The detail of the rules and the various exemptions is complex, and members need to take care to ensure that they understand how the Act may apply to them.

It can be serious if members get it wrong. Breaching these rules is a criminal offence, and we are the prosecuting authority. Disqualification from office is automatic if a person breaches the contracting rule, or if a person is convicted of having participated in matters in which they had a pecuniary interest.

My staff therefore work closely with the staff of local authorities to help members do the right thing. We have well-developed systems for considering requests for approvals and exemptions, and for providing advice. This guide explains those systems and the information that we need to respond to requests promptly.

Part 5 of this guide discusses more general conflicts of interest and bias questions that arise regularly in the local government sector. Although we do not have the same formal role in relation to these issues, we are regularly asked for guidance and comment on good practice. We have also issued a more general good practice guide that discusses these issues in more detail: *Managing conflicts of interest: Guidance for public entities* (June 2007).

I thank Dean Knight, a senior lecturer in the Faculty of Law at Victoria University of Wellington, for his assistance in preparing this new edition of the guide.



Lyn Provost
Controller and Auditor-General

14 October 2010

Document number A2699789

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Part 1

Introduction

What this guide is about

- 1.1 This is a guide to the Local Authorities (Members' Interests) Act 1968 (the Act) for members of the governing bodies of territorial authorities, regional councils, tertiary institutions, and those other public bodies that are covered by the Act.¹ Appendix 1 sets out a full list of the organisations covered by the Act.
- 1.2 The Act has two main purposes:
 - ensuring that members are not affected by personal motives when they participate in decisions of their local authority; and
 - preventing members, in contracting situations, from using their position to obtain preferential treatment from the authority.
- 1.3 Part 5 of this guide sets out information on other aspects of the law applying more generally to conflicts of interest.

Terms used in this guide

- 1.4 In this guide:
 - “you” and “member” means a member of an authority as described in paragraph 1.1 and Appendix 1;
 - “local authority” or “authority” means a body subject to the Act;
 - “we”, “our”, and “us” refer to the Auditor-General and the Office of the Auditor-General;
 - “the Act” means the Local Authorities (Members' Interests) Act 1968; and
 - “common law” refers to law that has been developed by the courts.

Who does this guide apply to?

- 1.5 This guide is intended for members of local authorities. It focuses on the requirements of the Act that apply to members in decision-making at authority meetings and the capacity of members to contract with the authority of which they are a member.
- 1.6 This guide does not discuss other behaviour or situations that, while not unlawful, might be regarded as unethical.
- 1.7 Neither the Act nor this guide applies to staff of local authorities but may be useful to them in providing advice to members.

1 Previous editions of this guide were called *A Guide to the Local Authorities (Members' Interests) Act 1968* (1995 and 1998); *Financial Conflicts of Interest of Members of Governing Bodies: A Guide to the Local Authorities (Members' Interests) Act 1968* (2001); *Conflicts of Interest: A Guide to the Local Authorities (Members' Interests) Act 1968 and Non-pecuniary Conflicts of Interest* (2004); and *Guidance for members of local authorities about the law on Conflicts of Interest* (2007).

Other guidance

- 1.8 We have published separate guidance about managing conflicts of interest in the public sector more generally: see our 2007 publication *Managing conflicts of interest: Guidance for public entities*. That publication discusses a broader range of organisations, situations, and personnel, and considers ethical expectations as well as legal rules. Members of local authorities may also find that guide useful in cases where there is no risk of breaching the Act but where there may still be doubts about whether the situation or behaviour is ethically appropriate in a public sector context.

The law applying to conflicts of interest generally

- 1.9 The Act is a small subset of the law about conflicts of interest that applies to local authority members. The body of law on conflicts of interest has been developed by the courts over a long period of time as part of the law on bias, and applies to local authority members when they are making decisions. In Part 5 of this guide we set out some general comments on the common law applying to conflicts of interest. However, the Auditor-General has no specific role in relation to conflicts of interest generally. We have a specific role only in relation to pecuniary conflicts of interest that are regulated by the Act.
- 1.10 We have no formal decision-making role in relation to non-pecuniary conflicts of interests. Only the courts can determine whether the law has been breached in any particular instance and what the consequence should be. However, we can look into matters of probity involving a member of an authority, which could include examining whether a member failed to declare a conflict of interest.

What the Local Authorities (Members' Interests) Act 1968 applies to

- 1.11 The Act applies to the pecuniary interests of members of local authorities. The Act:
- controls the making of contracts worth more than \$25,000 in a financial year between members and their authority (see Part 2); and
 - prohibits members from participating in matters before the authority in which they have a pecuniary interest, other than an interest in common with the public (see Part 3).
- 1.12 The Act applies to members of city councils, district councils, regional councils, community boards, tertiary institutions, and a range of other public bodies (see Appendix 1).

- 1.13 The Act regulates the actions of individual members of authorities, not the actions of their authorities.
- 1.14 Members, not their authorities, may be prosecuted for breaches of the Act.
- 1.15 The Act also applies to members of committees of those authorities (regardless of whether a committee member is also a member of the authority). It does not apply to council-controlled organisations, port companies, airport companies, or energy companies.

The role of the Auditor-General under the Act

- 1.16 Our role in administering the Act includes:
- deciding applications for approval of contracts worth more than \$25,000 in a financial year;
 - deciding applications for exemptions or declarations from the rule against members discussing and voting where they have a pecuniary interest;
 - providing guidance to local authority members and officers, to help them comply with the Act in particular situations; and
 - investigating and prosecuting alleged offences against the Act.
- 1.17 We do not issue “rulings” about whether a member has a pecuniary interest in a particular matter, nor about whether the Act has been breached. Only the courts can determine those matters.

What is a pecuniary interest?

- 1.18 A pecuniary interest is one that involves money. It can sometimes be difficult to decide whether an interest in a particular matter is pecuniary or some other kind (see “Frequently asked questions” in Part 6).

This guide is not a substitute for the law

- 1.19 This guide discusses the Act and suggests some ways to approach questions that could arise for you. However, it is not a formal or definitive statement of the law. Nor is it to be treated as legal advice for specific situations. In difficult situations, we recommend that you refer to the actual wording of the Act or consult your own lawyer.

Part 2

The rules on contracting with your authority

- 2.1 In this Part, we explain the Act's restrictions on your ability as a member of an authority to be involved in contracts with the authority.

Disqualifying contracts

The disqualification rule

- 2.2 You will be automatically disqualified from office if you are "concerned or interested" in contracts with your authority and the total payments made, or to be made, by or on behalf of the authority exceed \$25,000 in any financial year. In practice, we use the authority's financial year as the relevant time period (that is, 1 July to 30 June).
- 2.3 The \$25,000 limit includes GST. The limit relates to the value of all payments made for all contracts in which you are interested during the financial year. It does not apply separately to each contract, nor is it just the amount of the profit the contractor expects to make or the portion of the payments to be personally received by you.
- 2.4 We can give prior approval and, in limited cases, retrospective approval for contracts that would otherwise disqualify you under the Act. See paragraphs 2.25-2.48 for information on how to apply.
- 2.5 It is an offence under the Act for a person to act as a member of an authority (or a committee of the authority) while disqualified.
- 2.6 A disqualification lasts until the next:
- general election for the authority; or
 - opportunity for appointment to the authority.
- 2.7 Disqualification means that you cannot be elected or appointed to:
- the authority; or
 - any committee of the authority;
- or hold office as a member of the authority (or any committee).

The restriction applies to you, not your authority

- 2.8 The restriction on contracting applies to you, not to the authority. The Act does not affect the authority's power to enter into contracts. The fact that a contract has disqualified you from membership does not invalidate the contract.
- 2.9 It is your responsibility to keep track of payments under any contracts or subcontracts in which you are concerned or interested. If you are concerned or

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interested in contracts through your business, you should ensure that everyone in your business is aware that you could be disqualified from membership of the authority if the total amount of payments to the business exceeds the \$25,000 limit in one financial year (without our prior approval).

- 2.10 You should ensure that all business interests are recorded in the authority's register of interests (if one exists). This will help the staff of the authority to support your compliance with the Act. You should also regularly advise the chief executive of your authority about interests that may result in dealings with the authority.

You cannot discuss or vote on the contract

- 2.11 If you are concerned or interested in any contract with your local authority, you cannot participate in any discussion or voting on that contract (see Part 3).

When are you “concerned or interested” in a contract?

- 2.12 You can be disqualified if you are either directly or indirectly concerned or interested in a contract with your authority.
- 2.13 You are directly concerned or interested if you are a party to the contract. You may be indirectly concerned or interested if the contract is between the authority and another person, and you:
- have a personal connection with that person; or
 - could benefit from the contract.

Types of indirect interest

- 2.14 It is difficult to be precise about what is or is not an indirect “concern or interest” in a contract. Each case has its own circumstances. The Act does provide certainty in two common types of case (discussed below). However, it is important to note that you can be indirectly concerned or interested in a contract in other ways (such as, for example, where your family trust has a contract with your authority and you are a beneficiary of that trust).

Interest through spouse or partner

- 2.15 If your spouse, civil union partner, or de facto partner is concerned or interested in a contract, the Act says that you are deemed to be concerned or interested, unless:
- the two of you are living apart; or
 - you did not know, and had no reasonable opportunity of knowing, that they were concerned or interested in the contract.

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- 2.16 This rule applies whether their interest is direct or indirect.

Interest in a company

- 2.17 If a contract is between the authority and a company in which you or your spouse or partner have some interest or involvement, the disqualification rule applies only in the following cases:
- you or your spouse or partner, singly or together, own 10% or more of the shares in:
 - the company; or
 - another company that controls it; or
 - either you or your spouse or partner is a shareholder of the company, or another company that controls it and either of you is the managing director or general manager (by whatever name you are actually called) of the company or the controlling company; or
 - either you or your spouse or partner is the managing director or general manager (by whatever name you or they are actually called) of the company and either of you is a shareholder of another company that controls it.

The disqualification rule also applies to subcontracts

- 2.18 The disqualification rule also applies if you are concerned or interested in a contract with the authority as a subcontractor, as if it were a contract directly with the authority. The limit of \$25,000 applies to the value of the subcontract, not the head contract.
- 2.19 The term “subcontract” is defined in section 2(1) of the Act. The definition is wider than the generally understood meaning, because it extends to subsidiary transactions. For example, if you are involved in a contract with an authority as an agent for the other contracting party (such as a real estate agent acting in relation to a property transaction), the arrangement for your remuneration as agent falls within the definition of a subcontract.

Community boards

- 2.20 Community boards are subject to the Act in their own right, separate from their “parent” authority. If you are a member of a community board, but not a member of the “parent” city or district council, the disqualification rule will not apply to your contracts with the council. This is because the disqualification rule applies only to contracts between you and the authority of which you are a member. This is the same for local boards in Auckland.

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Exceptions

- 2.21 There are several circumstances in which, although you are concerned or interested in a contract, you will not be disqualified.

If you were unaware of the contract

- 2.22 You will not be disqualified by a contract that exceeds the \$25,000 a year limit if:
- the contract was entered into by a committee of the authority, or an officer, acting under delegation; and
 - you were not a member of that committee and did not know, and had no reasonable opportunity of knowing, about the contract at the time it was made.

- 2.23 However, as soon as you or the authority becomes aware of the contract, the authority must write to us to verify that you did not know and had no reasonable opportunity of knowing about the contract. The letter must confirm that the committee or person who entered into the contract was properly authorised to do so.

If your contract is exempt from the Act

- 2.24 Certain types of contracts are not subject to the Act.² This means that you can be concerned or interested in the following types of contracts without being disqualified under the Act:
- an employment agreement between you and the authority;
 - a loan raised by the authority (whether as security or otherwise);
 - a payment for an advertisement inserted by the authority in any newspaper;
 - a lease granted to the authority;
 - a compensation payment under the Public Works Act 1981;
 - the supply of goods or services during a civil defence emergency;
 - a contract to be an administrator of an estate or a trustee of a trust – as long as you are not a beneficiary of the estate or trust, or a manager under the Protection of Personal and Property Rights Act 1988.

² The Act also includes a number of other exemptions for certain types of advances or agreements that are no longer relevant because the empowering legislation for those types of agreements or advances has been revoked and not been replaced. Those exemptions were for:

- an advance made by an authority under the Rural Housing Act 1939;
- an advance made or guarantee given by an authority under Part 32 of the Local Government Act 1974; and
- an agreement under section 81 of the Noxious Plants Act 1978.

Getting approval to exceed the limit

Prior approval

- 2.25 Under section 3(3)(a) of the Act, we can grant prior approval for contracts that would otherwise take you above the \$25,000 limit in any financial year.

When approval may be sought

- 2.26 We can give approval for:
- a single contract; or
 - multiple small contracts that are of the same or similar type (such as day-to-day purchases of supplies), up to a particular value.
- 2.27 We prefer to specify a precise monetary amount or upper limit, but, if the exact amount is not yet known, a reasonable estimate of a suitable upper limit is sufficient. Where the approval is for an ongoing arrangement, our usual practice is to grant approval for only one financial year at a time.
- 2.28 We consider it a good idea to seek approval for a contract that does not exceed the \$25,000 limit by itself but could well do so when combined with the value of other small contracts. Similarly, where a number of similar small contracts may cumulatively approach or exceed the \$25,000 limit, we encourage an application for approval of a higher limit to apply to all of those contracts.

Criteria for approval

- 2.29 The Act requires the existence of a “special case” before prior approval can be granted. This requires a full assessment of the circumstances, to determine whether approval should be given.
- 2.30 In essence, we must be satisfied that there is no risk that you may have received preferential treatment from the authority or that you may have had an undue influence on the decision. We consider whether the process followed by the authority in awarding or agreeing to the contract is fair and transparent, and whether the authority’s reasons for selecting you as its preferred contractor are justifiable.
- 2.31 In the case of a single contract (usually for a larger amount), the following criteria will usually be relevant:
- Has the authority taken all reasonable steps to ensure that all potentially interested parties had an opportunity to tender or quote for the contract?
 - Has the authority considered and evaluated each of the tenders or quotations, and can it justify the preferred choice on the basis of cost, performance, or quality of service?

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- Has the authority resolved to accept the contract subject to the Auditor-General's approval?
- Do the minutes record that you declared your interest and did not vote or speak on the matter when it was considered at a meeting of the authority?

2.32 In the case of multiple contracts for smaller amounts, such as arise from day-to-day purchases of supplies, it will usually be necessary for the authority to confirm that:

- after due enquiry, it has found no alternative satisfactory source of supply or product; or
- the desired source of supply is the most efficient and/or the most competitive on the basis of cost, performance, or quality of service.

Prior approval is not automatic

2.33 Prior approval cannot be assumed. We must be satisfied that the criteria set out above are met and that the risk of preferential treatment has been addressed.

When to apply for approval

2.34 A local authority does not need to seek approval to invite tenders for a contract.

2.35 The most suitable time to seek approval of a tendered contract is usually either:

- once tenders for the project have been received and assessed, and it looks likely that the contract is to be offered to the member (or their company); or
- immediately after the authority has resolved to accept the tender, subject to the Auditor-General's approval.

2.36 In the case of a series of small contracts over a period of time that would not individually require approval but that cumulatively may exceed the \$25,000 limit, we suggest applying for approval:

- at the beginning of the financial year, if it seems certain that the limit will be exceeded; or
- as soon as it becomes clear that this is a distinct possibility.

Procedure

2.37 The authority, rather than you, must apply for approval to enter the contract. Usually the authority will hold the relevant information that we need to determine whether the criteria have been satisfied.

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- 2.38 The application must be made in writing and addressed to:

Assistant Auditor-General – Legal
Office of the Auditor-General
Private Box 3928
Wellington 6140
Telephone: 04 917 1500
Facsimile: 04 917 1549
Email: LAMIA@oag.govt.nz

- 2.39 Please indicate whether the application is urgent.

Information generally required in an application

- 2.40 In the authority's application, we need to be provided with information about:

- the reasons the authority wishes to use the proposed contractor for this work (for instance, how the authority justifies its choice on the basis of, for example, cost, performance, quality, expertise, or experience);
- the process the authority has followed in selecting the proposed contractor (including, for example, whether other potential contractors were considered or had the opportunity to quote or tender, whether the authority followed its standard procedures for contracts of this type or value, how the proposal was evaluated, and who was involved in making the relevant recommendation or decision);
- whether the member concerned has had any involvement in any authority decisions about the contract; and
- the monetary amount for which approval is sought.

- 2.41 We provide a checklist in Appendix 4 of the information that should be included in the application.

Retrospective approval

- 2.42 We have a limited power to grant retrospective approval for contracts that have already been entered into.

- 2.43 When considering an application for retrospective approval, we apply the same criteria as for an application for prior approval. As well, we must be satisfied that:

- there is a sufficient special reason why prior approval was not obtained; and
- prior approval would have been obtained if it had been sought.

- 2.44 We recognise that, in many cases, a failure to seek prior approval is the result of an oversight. We look at each case on its merits. However, because the test for retrospective approval is narrow, approval should not be assumed.

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Monitoring

- 2.45 We encourage authorities to establish a register of members' interests to support compliance with the Act. If the register is updated regularly, and relevant staff are aware of it, the register should help identify situations where contracts should not be entered into without our approval. Particular vigilance may be necessary for subcontracts.
- 2.46 If a local authority makes periodic purchases from businesses in which members have an interest, it should establish some form of monitoring system to provide regular checks of the accumulating value of contracts.

Seeking extensions to an approved limit

- 2.47 Contracts that have obtained our approval should be monitored, to ensure that payments do not exceed the amount approved. This can easily happen if contracts are varied or extended.
- 2.48 If the approved amount is exceeded, the consequence is the same as for exceeding the initial \$25,000 limit – the member is disqualified. This problem can be avoided by applying to us for an extension to the previous approval, to take account of the additional costs. This application should be made, and the extension obtained, before the payments exceed the original approval. Inadvertent breach of an approved amount requires retrospective approval, which should not be assumed.

Candidates for election or appointment**The disqualification rule also applies to candidates**

- 2.49 You cannot be elected or appointed to an authority if you have a disqualifying contract (or contracts) that is current at the time the election or appointment takes place. This means that, if you are concerned or interested in a current contract with the authority that exceeds \$25,000 at the time of the election, you cannot be elected or appointed to an authority. The basic rule is the same as for existing members.
- 2.50 Every candidate for election or appointment to an authority should consider whether they might be ineligible under this rule. You should consider what contracts you have with the authority in the year of the election, and the value of payments to be made in that year.

Exceptions

- 2.51 Certain types of contracts will not disqualify a candidate from election or appointment. A candidate who has a contract that falls within any of the following categories will not be disqualified:
- before the election or appointment, all of the candidate's obligations in relation to the contract have been performed and the amount to be paid by the authority has been fixed (whether or not it has been paid);
 - although the candidate's obligations under the contract have not been performed before the election or appointment, the amount to be paid by the authority is already fixed (subject to amendments and additions as allowed for in the contract), whether or not it has been paid; or
 - although the candidate's obligations under the contract have not been performed before the election or appointment, either:
 - the contract's duration does not exceed 12 months; or
 - the contract is relinquished (with the authority's consent) within a month of the candidate becoming a member and before they start to act as a member.
- 2.52 We cannot give prior or retrospective approval for contracts between a candidate and an authority. Therefore, if you are a candidate and are interested or concerned in current contracts with the authority that exceed \$25,000 prior to the election, you cannot be elected unless you either fall within one of the exceptions in the Act or cease to be concerned or interested in the contract.

What if you are re-elected or re-appointed?

- 2.53 If you are re-elected to the authority at a general election or re-appointed to the authority at any time, your membership is considered unbroken under the Act. If you have been granted an approval for a disqualifying contract, and you are re-elected or re-appointed to the authority during the financial year to which the approval relates, the approval remains valid.
- 2.54 Re-election or re-appointment also overcomes a disqualification from the previous term. However, you could still be prosecuted for acting as a member while disqualified during the previous term (see Part 4 for more details on prosecutions).

Part 3

Discussing or voting at meetings – the participation rule

- 3.1 This section explains the prohibition against discussing or voting on a matter in which you have a pecuniary interest.

What is the participation rule?

- 3.2 The participation rule is that members of an authority are not allowed to participate in discussion or voting on any matter before the authority in which they have a direct or indirect pecuniary interest, other than an interest in common with the public.
- 3.3 It is an offence under the Act to participate in the discussion or voting on any matter in which you have a pecuniary interest.
- 3.4 There are several exceptions to the participation rule. These are described in paragraph 3.35. In addition, we can grant exemptions from the rule in particular circumstances (see paragraphs 3.36-3.53 for more details).
- 3.5 There is a flow diagram at the end of this Part to help you assess whether the participation rule will apply to you.

What is a pecuniary interest?

- 3.6 The Act does not define a pecuniary interest. The test we use is:
whether, if the matter were dealt with in a particular way, discussing or voting on that matter could reasonably give rise to an expectation of a gain or loss of money for the member concerned.
- 3.7 The rule needs to be applied pragmatically. It is a matter of judgement as to what is in fact a “pecuniary interest” for the purposes of the Act. That is, we apply a triviality threshold in determining what is a pecuniary interest. So, for example, if a member were to gain \$20 as a result of a decision, we would not usually consider that that sum amounted to a “pecuniary interest” that the rule would apply to. However, our ability to read a triviality threshold into the Act is limited because the Act includes a specific power for us to grant an exemption under section 6(3)(f) of the Act, on the basis that the pecuniary interest is insignificant.

When is there a pecuniary interest in a decision?

- 3.8 Some care needs to be taken when assessing a possible interest against the “pecuniary interest” test set out above. The nature and context of the particular decision will be important. There are many situations where the decision is in fact a procedural or more general decision, which does not affect your interest in the same way as a decision on whether to agree to a specific proposal. In addition, the democratic context in which the Act applies is also relevant.

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- 3.9 Once a relevant interest has been identified, it is important to assess whether it is a pecuniary interest that must be addressed. The interest has to be actually affected by the particular decision that is to be made. Sometimes, a member has a financial interest in an issue, but it will not be affected by the decision that the authority is about to take. For example, the decision may only be to raise an issue for discussion or to begin research or a consultation process. That decision may not have any particular effect on the member's financial interest.
- 3.10 It is sometimes helpful to view the different types of decisions an authority can make as a continuum: from a general idea, through development and consultation, to a firm proposal and implementation.³
- 3.11 When discussing a general idea or making procedural or general decisions, your interest may be so remote that it could not be reasonably expected that you would gain or lose financially from discussing or voting on an issue. There may still be a number of steps the proposal must go through, all of which might result in changes to the proposal. There may be a general possibility, but nothing concrete enough to amount to an expectation of financial gain or loss. That obviously changes, however, as the issue moves towards a fully developed proposal ready for adoption and implementation. You need to be careful and recognise when a proposal reaches the stage where it can reasonably be expected that it affects your interests – at this point you should no longer participate in the decision-making process.
- 3.12 Appendix 2 contains summaries of a number of leading cases in which the courts have discussed pecuniary interests. We suggest that you refer to these case summaries for guidance.

When is a pecuniary interest held “in common with the public”?

- 3.13 If your pecuniary interest can be said to be “in common with the public”, you will not be prohibited from discussing and voting on the matter.
- 3.14 Whether your interest is in common with the public will depend on the circumstances of the case, and is always a question of degree. The “interest in common with the public” exception needs to be applied in a realistic and practical way (see the examples set out in paragraph 3.19).
- 3.15 When considering whether your interest is in common with the public, you need to consider:
- the nature of your interest (such as the kind of interest, its size or extent, and whether it is a direct or indirect interest);

³ For the recognition of these different stages in a different context, see *Easton v Wellington City Council* [2009]

NZCA 513 at [14].

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- the size of the group of people who are also affected; and
 - whether or not your interests and the group's interests are affected in a similar way.
- 3.16 The nature of your interest, and the comparison with the interests of the public, will be important. The interests of different people will be affected by a decision in different ways and to different degrees. Some people might be directly affected by a decision; others will be indirectly affected by flow-on effects from the decisions. The effect on one person's interest may be substantial, whereas the effect on another's may be only slight.
- 3.17 For the exception to apply, not only must the public also be affected but there must be some similarity between the way you are affected and the way the public are affected. However, you do not need to be affected to exactly the same extent as other members of the public – there can be some variation in the degree to which you and other members of the public are affected.
- 3.18 The question of whether a group of people should be treated as “the public” is often a matter of degree. On the one hand, the interest does not need to be shared by all members of the public in the district. It is sufficient that you are part of a large group of people affected in a similar way. Most decisions about rating and charging, including targeted schemes, are broad enough in their application to be regarded as affecting the public generally. On the other hand, if you are in a small and clearly identifiable subset that is affected in a different way to the rest of the public, then your interest is not in common with the public. Although the size of the group is important, there is no formula that can be applied – an overall judgement is required.
- 3.19 For example:
- If you are a property developer, you may not have an interest in common with the public on changes to district or regional plans or development contributions policy because your interest is different in kind to that of most other residents or “ordinary” property owners.
 - As a ratepayer, the mere fact that you are affected slightly differently by the adoption of an overall rate because of the value of your property does not generally prevent you from having an interest which is in common with the public.
 - If you are one of a small number of ratepayers affected by a targeted rate, your interest may not be in common with the public because the interest is not shared by a group large enough that it could be reasonably said to constitute “the public”.⁴

⁴ These examples are discussed in further detail in our 2007 publication *Local government: Results of the 2005/06 audits*.

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- If you are one of a small group of permit holders directly affected by an increase in charges, your interest may not be in common with the public – even if the general public would be indirectly affected by a corresponding slight decrease in rates.⁵
- If you are a dog owner, and the authority is proposing to increase dog licensing fees, your interest would be one in common with the public, as the interest is shared by a group large enough that it could be reasonably said to constitute “the public”.

3.20 Another way is to ask yourself whether the matter affects you in a different way, or to a materially greater degree, than most other people. We acknowledge that it can be difficult to draw a clear line.

3.21 If you think that your pecuniary interest is not in common with the public, it is possible that you may still be able to participate if:

- we grant you an exemption because your pecuniary interest is remote or insignificant (see paragraph 3.42); or
- we make a declaration allowing you to participate (see paragraph 3.46).

Indirect pecuniary interests

3.22 It is difficult to be precise about when an indirect pecuniary interest exists. Each instance will have its own circumstances. However, the Act does provide certainty where an indirect pecuniary interest exists through a member’s spouse or partner, or through a company. However, it is important to note that, although the Act provides two examples, you can have an indirect pecuniary interest in other ways, such as where you are a beneficiary of a family trust that has a pecuniary interest in the decision.

Interest through spouse or partner

3.23 If your spouse, civil union partner, or de facto partner has a pecuniary interest in a matter before the authority, you are deemed for the purposes of the Act to have the same interest.

Interest in a company

3.24 If either you or your spouse or partner is involved in a company that has a pecuniary interest in a matter before the authority, you are deemed for the purposes of the Act to have the same interest only if:

- you or your spouse or partner, singly or together, own 10% or more of the shares in:

⁵ See our *Investigation into conflicts of interest of four councillors at Environment Canterbury* (December 2009), which is available on our website, www.oag.govt.nz.

- the company; or
- another company that controls it; or
- either you or your spouse or partner is a shareholder of the company, or another company that controls it; and either of you is the managing director or general manager (by whatever name you are actually called) of the company or the controlling company; or
- either you or your spouse or partner is the managing director or general manager (by whatever name you or they are actually called) of the company, and either of you is a shareholder of another company that controls it.

Direct and indirect interests

- 3.25 The “deeming” provisions on indirect interests can be deceptive. They mean that you are deemed to share a pecuniary interest that your spouse or partner or a company has in a matter. You could also have your own separate direct interest in a matter in addition to, or separate from, an indirect interest that you have through your spouse or partner or a company.
- 3.26 For example, you may be one of many landowners who form a company to develop a community asset in the surrounding area, in partnership with the authority. As well as the company’s interest, you may have a direct interest that arises from the prospect of increased land values in the vicinity of the project. That interest could be caught separately by the participation rule even if your involvement in the company is insufficient to meet the “deemed interest” test.

Managing pecuniary interests

- 3.27 There are a number of steps you and your authority can take to ensure that possible conflicts of interests are managed smoothly and effectively, before a matter comes before the authority for decision.
- 3.28 In addition, when a matter in which you have a pecuniary interest comes before your local authority, you must ensure that the obligations imposed by the Act, including the obligation to abstain from considering the matter, are carefully observed.

Pre-meeting processes and assistance

- 3.29 It is sensible for an authority to consider implementing systems that allow for the early identification and assessment of possible conflicts of interest. These may include:
- maintaining a register of interests for members of the authority;

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- ensuring that members have early and timely access to agenda papers so they can identify and assess whether they have a pecuniary interest in a particular matter that is to be discussed or voted on;
- providing members with access to legal advice to help them assess whether they have a pecuniary interest in a particular matter that needs to be addressed; and
- ensuring that there is the opportunity for a member to advise the mayor or chairperson of a pecuniary interest before the relevant meeting.

- 3.30 As a member of an authority, you would be wise to read agenda papers before a meeting to see whether you have an interest in any matters that are to be discussed or voted on. If you are unsure about whether your interest in the matter is a pecuniary interest that must be addressed, you should seek you seek advice, either independently or (if available) with the support of your local authority. If possible, you should advise the mayor or the chairperson before the meeting starts that you are going to declare an interest in a particular matter.

Addressing a pecuniary interest at a meeting (declaring and recording the interest and abstaining from participating)

- 3.31 If a matter comes before the authority in which you have a pecuniary interest, the Act says that you must:
- declare to the meeting the existence of a pecuniary interest;
 - abstain from discussion and voting; and
 - ensure that your disclosure and abstention are recorded in the meeting minutes.
- 3.32 You do not need to inform the meeting about the nature of your interest, nor why it exists.
- 3.33 The requirement to abstain from discussion and voting does not mean that you have to leave the meeting room. However, we consider that, to avoid any doubt about your abstention, you should leave the table and sit in the public gallery while the matter in which you have an interest is being discussed and voted on.
- 3.34 The quorum of the meeting is not affected if a member is unable to vote or discuss because of a conflict of interest, provided they are still in the room (see clause 23(1) of Schedule 7 of the Local Government Act 2002).

Matters to which the participation rule does not apply

- 3.35 The Act sets out a number of matters to which the participation rule does not apply. This means that a member can participate in discussion and voting on the following matters, despite the fact that the member may have a pecuniary interest:
- if you were elected by, or appointed to represent, a particular activity, industry, business, organisation, or group of persons, and your pecuniary interest in a matter is no different from the interest of those whom you represent – this exception is designed for situations where a person is explicitly elected or appointed to represent a particular group;⁶
 - any payment to you or for your benefit where it is legally payable and the amount, or the maximum amount, or the rate, or maximum rate, of the payment has already been fixed – such as payment of remuneration to members in accordance with determinations made under the Local Government Act 2002;
 - any contract of insurance insuring you against personal accident;
 - your election or appointment to any office, notwithstanding that any remuneration or allowance is or may be payable for that office;⁷
 - any formal resolution to seal or otherwise complete any contract or document in accordance with a resolution already adopted;
 - the preparation, recommendation, approval, or review of a district scheme or any section of such a scheme,⁸ unless the matter relates to:
 - any variation or change of, or departure from, a district scheme or section of the scheme; or
 - the conditional use of land,⁹ or
 - the preparation, recommendation, approval, or review of:¹⁰
 - reports as to the effect or likely effect on the environment of any public work or proposed public work within the meaning of the Public Works Act 1981.

⁶ This exception does not apply to councillors elected to represent general constituencies or wards. See our *Investigation into conflicts of interest of four councillors at Environment Canterbury* (December 2009), which is available on our website, www.oag.govt.nz.

⁷ This would apply, for example, to the appointment by a local authority of one or more of its members as directors of a council-controlled organisation. It would not, however, apply to any subsequent discussion of the directors' remuneration (see *Calvert & Co v Dunedin City Council*, discussed in Appendix 2).

⁸ This exception was applied in the case of *Auditor-General v Christensen* [2004] DCR 524.

⁹ The terminology about district schemes is based on the repealed Town and Country Planning Act 1977. We interpret it by reference to the Resource Management Act 1991.

¹⁰ The Act also includes another exemption for the preparation, recommendation, approval, or review of general schemes under the Soil Conservation and Rivers Control Act 1941 for the preventing or minimising of damage by floods and by erosion. This exemption is no longer available because the relevant provision of that Act, which enabled catchment boards to recommend, approve, or review general schemes, has been repealed.

Exemptions and declarations

- 3.36 If you are member of an authority with a pecuniary conflict of interest covered by section 6 of the Act, it is possible for you to apply to us for approval to participate. There are two ways in which we can approve participation:
- Section 6(3)(f) allows the Auditor-General to grant an exemption if your interest is, in our opinion, so remote or insignificant that it cannot reasonably be regarded as likely to influence you when voting or taking part in the discussion.
 - Section 6(4) allows the Auditor-General to grant a declaration enabling a member to participate if we are satisfied that:
 - the application of the participation rule would impede the transaction of business by the authority; or
 - it would be in the interests of the electors or inhabitants of that district that the rule should not apply.

The procedure

- 3.37 An application for an exemption or a declaration must be made before you participate. We cannot grant a retrospective exemption or declaration.
- 3.38 The application must be in writing, and can be made by you or by the authority on your behalf.
- 3.39 To be able to consider an application for an exemption or declaration, we need to be provided with detailed information about:
- the nature of the decision that is to come before the authority; and
 - the nature and extent of your pecuniary interest in the decision, and how that interest may be affected by the decision.
- 3.40 That information is important to enable us to assess whether there is a financial interest in the particular decision that is covered by the Act. We also need this information to assess how significant the decision and the pecuniary interest are. In practice, it is often helpful if the authority is able to provide us with a draft copy of the paper that is to be considered.
- 3.41 We also need to be provided with detailed information setting out the reasons why the necessary grounds for an exemption or declaration may exist (see paragraphs 3.42-3.53).

Exemptions

- 3.42 We can grant an exemption under section 6(3)(f) of the Act if your interest is, in our opinion, so remote or insignificant that it cannot reasonably be regarded as likely to influence you when voting or taking part in discussion on the matter.
- 3.43 When determining whether an exemption is appropriate, we consider the relationship between your pecuniary interest and the matter under consideration and the significance (that is, the size, weight, and importance) of the pecuniary interest in terms of its possible influence on you when discussing or voting.
- 3.44 When we are considering an application under section 6(3)(f), we need to understand how directly the proposed decision is connected to your pecuniary interest (the remoteness ground). We also need to understand how large or important the pecuniary interest is. That means we need reasonably precise information (if it is available) on the value of the cost or benefit to you that will result from the decision. It is also useful to be able to assess any cost or benefit to you in the context of your overall financial situation or that of your business. A cost that might be significant at an individual level may not be so important if it is borne by a large business.
- 3.45 The test in the Act is an objective one. Although your views about how significant the interest is and whether it is shaping your position on the issue are relevant, they are not determinative. Ultimately, we must assess how significant the interest looks to an observer.

Declarations

- 3.46 We can grant a declaration under section 6(4) of the Act if we are satisfied that either:
- the application of the participation rule would impede the transaction of business by the authority; or
 - it would be in the interests of the electors or inhabitants of the district that the rule should not apply.

“Impede the transaction of business” ground

- 3.47 For a declaration based on the “impede the transaction of business” ground, we consider such factors as whether:
- the participation rule would preclude a majority of the members of the authority or committee from participating in the matter;
 - the declaration sought is for only a minor or procedural decision; or
 - the application of the rule could unduly distort the way in which the authority deals with the matter.

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- 3.48 To assess an application for a declaration based on the “impede the transaction of business” ground, it is useful for us to receive information on how many members might be prevented from participating, how significant the decision is for the area and the authority, and any other information that can help explain to us why it might be problematic if a member was not allowed to participate. For example, we have at times granted declarations on this ground when a number of members might otherwise have been prevented from participating in a decision on the future of an authority’s significant shareholding in a listed company.
- “Interests of the electors or inhabitants” ground**
- 3.49 For a declaration based on the “interests of the electors or inhabitants” ground, we must weigh the benefits of allowing you to participate against the risk that your pecuniary interest could be seen to unduly influence the outcome. Relevant factors could include such factors as whether:
- you have any particular expertise in the matter under consideration;
 - the views of the people in the area would be inadequately represented if you were not able to participate; or
 - the matter justifies the involvement of all elected members because of its significance to the community as a whole.
- 3.50 We may also take into account the extent to which:
- your pecuniary interest is quantifiable; or
 - the matter involves decisions focused on the rights, interests, and obligations of individuals – as opposed to matters of high-level policy or matters where the authority has only advocacy or recommendatory powers.
- 3.51 To assess whether it would be “in the interests of electors or inhabitants” for a member to be able to participate, we need to assess the benefits of allowing that member to participate against the risk that their participation could be regarded as distorting or tainting the decision. Therefore, we need information on why that member’s participation is important. It may be because they have particular expertise or knowledge, or provide an important link with another organisation or community group. It may be that the issue is so significant for the community that the participation of all elected members is seen as more important than any individual interests. There may be a strong representation argument that the views of a particular group or community would not otherwise be able to be represented at the authority table.
- 3.52 For example, we have granted a declaration on this ground when the decision related to a council position in a submission on a long-term plan being prepared by another organisation, and the relevant councillor provided an important link

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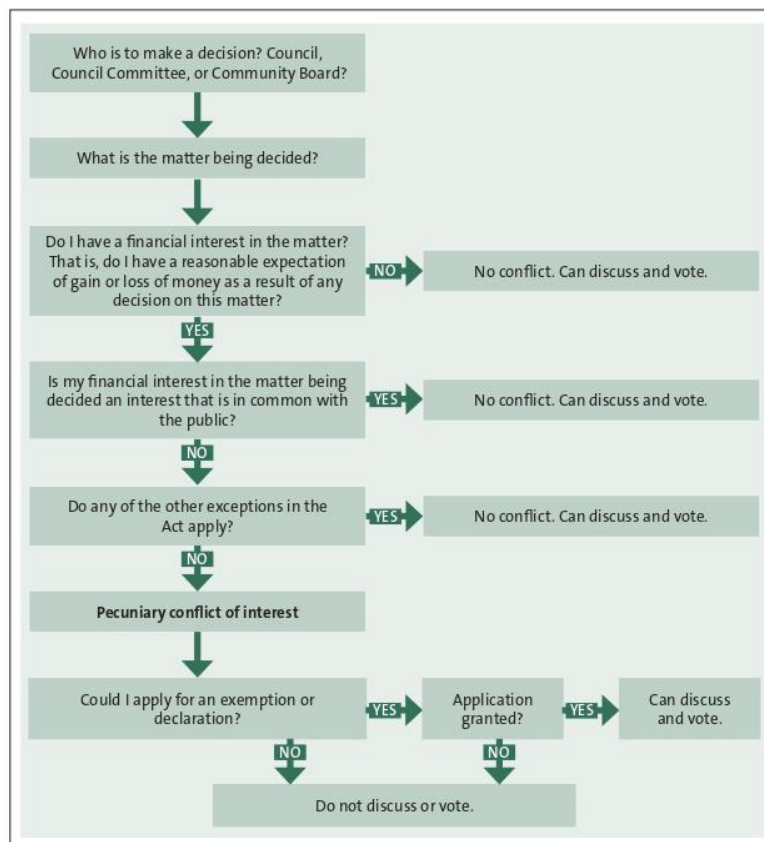
with, and voice for, the most affected section of the community. The council saw it as an important part of its role in the consultation process to give voice to that community and saw the particular councillor as critical to that process, even though the councillor was also potentially directly affected.

- 3.53 In general, we are happy to receive applications and to then ask the authority staff or affected member for any further information that we need. We recognise that, sometimes, these issues arise with some urgency because the potential conflict may be identified only shortly before the meeting in question. When a decision on a declaration is needed within a few days, it is helpful to our consideration if the initial application is as comprehensive as possible.

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- 3.54 This flow diagram is provided to help you assess whether the participation rule applies to you.



Part 4

Investigation and prosecution

- 4.1 The Act is enforced by prosecution. The Auditor-General is the sole prosecuting authority.

Offences

- 4.2 There are two offences under the Act, as shown in Figure 1.

Figure 1
Offences under the Local Authorities (Members' Interests) Act 1968

Section	Offence	Penalty on conviction
5	Continuing to act as a member after becoming disqualified from office, by reason of a breach of the contracting limit under section 3(1).	A fine not exceeding \$200.
7	Failing to observe the prohibition in section 6(1) against discussing or voting on a matter in which the member has a pecuniary interest.	A fine not exceeding \$100 and, if the conviction is not successfully appealed, automatic disqualification from office.

- 4.3 Proceedings must begin within two years of the offence being committed.

Deciding whether to investigate

- 4.4 We may investigate a possible breach of the Act or related offence either on receipt of a complaint or at our own discretion.
- 4.5 To investigate a complaint, we must first be satisfied that there is enough evidence to justify an investigation. A bare allegation or simple assertion that there has been a breach is not enough.
- 4.6 A complaint should be supported with enough evidence to demonstrate that the complaint warrants further investigation, such as:
- details about the alleged pecuniary interest;
 - information about the decision taken by the relevant local authority and the member's participation in that decision; and
 - documentary evidence, such as minutes of the local authority's meeting where the decision was taken, and any supporting council reports.

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Investigating possible breaches

- 4.7 Any member of the public may complain or raise questions about your compliance with the Act. However, both the investigation and the final resolution of the matter are primarily between you and us.
- 4.8 Where a complaint is made to us that you may have breached the Act, and we decide that it warrants further investigation, we will give you full details of the complaint and an opportunity to respond to it. However, we do not disclose the identity of a person who makes a complaint. This is consistent with the approach taken by all prosecuting agencies. It is important that members of the public feel free to provide information about possible offences, without fear of their identity being disclosed.
- 4.9 We will investigate the complaint carefully to ascertain the relevant facts and to evaluate whether there has been a breach of the Act. This involves considering whether the factual circumstances disclose a breach, and whether any of the exclusions or defences can be relied on.
- 4.10 We will also seek information about the broader context of the complaint, including your reasons for acting as you did, your understanding of the nature of your interest in the matter and the general context, and the other matters you took into account.
- 4.11 Although we will give you full details of the complaint and an opportunity to respond to it, you do not have a formal right to be consulted about whether criminal charges are laid or not. However, we carefully consider whether to prosecute (see paragraphs 4.17-4.21) and take external advice from the Crown Law Office or a Crown Solicitor before beginning any prosecution.
- 4.12 If an investigation does not result in a decision to prosecute, our usual practice is to:
- inform the complainant (if there is one) that we have completed our enquiries; and
 - convey our findings in writing to you.
- 4.13 We may also inform the authority of our findings.
- 4.14 We have a discretion as to how much of our investigation we publicly report, and we carefully consider this in each case. We consider the balance between effects on a member's reputation, effects of disclosing personal financial information of the member, public accountability, and the public interest. Because the balance of these factors will differ in each case, we decide on a case-by-case basis how much of our investigation we will publicly report.

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- 4.15 We note that in some cases it better serves the public interest for us to report more fully on our investigations and conclusions.¹¹ This is particularly so where we have investigated publicly made allegations of breaches of the Act that have attracted considerable local public interest.
- 4.16 In such cases, therefore, as well as reporting our findings to you and your authority, we may also make a brief public statement about our investigation and findings. You are then accountable to the public for your conduct.

Deciding whether to prosecute

- 4.17 If we consider the circumstances warrant it, we may begin proceedings. This involves the exercise of discretion. The need to even consider prosecution is a matter of serious concern. However, in any particular situation, we may form the view that, although an offence appears to have been committed, the circumstances do not warrant prosecution.
- 4.18 In exercising our discretion, we take account of the Solicitor-General's *Prosecution Guidelines* issued by the Crown Law Office.¹² These guidelines are the accepted and authoritative description of how any prosecuting agency should exercise its discretion.
- 4.19 These guidelines require both that the facts provide evidence of a breach of the Act and that it is in the public interest to bring a prosecution.
- 4.20 There must be a reasonable prospect of obtaining a conviction – there must be credible evidence that can be relied on in court to reasonably expect that a judge will convict. The burden of proof for criminal prosecutions is stricter than the test required to invalidate an authority's decision in judicial review proceedings for bias. As well as needing to establish that there has been a breach, it must be clear that none of the exclusions or defences in the Act apply.
- 4.21 Even if there is evidence that can establish a breach, the public interest in any prosecution must also be considered. Factors relevant to that assessment include:
- whether it is more likely than not that a prosecution will result in conviction;
 - the size and immediacy of any pecuniary interest, the damage caused, the level of public concern, and the extent to which the member's participation influenced the outcome;
 - mitigating and aggravating factors, including any previous misconduct, willingness to co-operate with an investigation, evidence of recklessness or irresponsibility, and previous breaches, cautions, and warnings;

¹¹ See, for example, our *Investigation into conflicts of interest of four councillors at Environment Canterbury* (December 2009), which is available on our website, www.oag.govt.nz.

¹² *Crown Law Prosecution Guidelines* (January 2010), available at www.crownlaw.govt.nz.

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- the effect of a decision not to prosecute on public opinion;
- the availability of proper alternatives to prosecution, such as reporting publicly to the council or the public;
- the prevalence of the offending and need for deterrence;
- whether the consequences of a conviction would be unduly harsh or oppressive; and
- the likely length and expense of the trial.

4.22 This list is illustrative only and is not exhaustive.

Part 5

Other conflict of interest issues

- 5.1 Having a pecuniary interest in a matter before the local authority, as discussed in Part 3, is one type of conflict of interest. However, quite apart from the Act, there are legal rules about conflicts of interest more generally, which apply to both pecuniary and non-pecuniary conflicts of interest.
- 5.2 In this Part, we comment on other types of conflicts of interest that may be relevant to local authority members. In particular, we discuss the common law rule about bias as it relates to non-pecuniary conflicts of interest. However, this is not a formal or definitive statement of the law. Nor is it to be treated as legal advice for specific situations.
- 5.3 Although we have a specific formal role with pecuniary conflicts of interest in relation to local authorities under the Local Authorities (Members' Interests) Act, we do not have any special role with conflicts of interest generally. In particular, we have no enforcement role and cannot give formal rulings.
- 5.4 In our experience, most local authority staff are able to provide informed and practical advice to members on these issues. If staff have major concerns about a particular current or potential issue, we encourage the organisation to get specific legal advice rather than to seek general guidance from us. Alternatively, you can consult your own lawyer.

Conflicts of interest generally

- 5.5 A conflict of interest exists where two different interests intersect – in other words, where your responsibilities as a member of the local authority could be affected by some other separate interest or duty that you may have in relation to a particular matter. That other interest or duty might exist because of:
- your own financial affairs;
 - a relationship or role that you have; or
 - something you have said or done.
- 5.6 The common law requires that public decision-making be procedurally fair. In particular, conflicts of interest are usually dealt with under the rule about bias. The law about bias exists to ensure that people with the power to make decisions affecting the rights and obligations of others carry out their duties fairly and free from bias. It is summed up in the saying “no one may be judge in their own cause”.

Part 5

Other conflict of interest issues

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Bias

- 5.7 The law about bias has been developed to achieve two main goals. First, it ensures that the best decision is made based on relevant information and arguments, not ulterior motives or prejudices. Secondly, it ensures that people affected by, or interested in, a decision have trust and confidence in the process – meaning they are more likely to accept a decision once it is made.
- 5.8 This means the rules about bias operate not only to ensure that there is no actual bias, but also so there is no appearance or possibility of bias. The principle is that justice should not only be done, but it should be seen to be done.
- 5.9 If a person challenges a local authority's decision by taking judicial review proceedings, the courts could invalidate the decision because of bias on the part of a member of the decision-making body. The question you need to consider, drawn from case law, is:¹³
- Would a fair-minded observer reasonably think that a member of the decision-making body might not bring an impartial mind to the decision, in the sense that he or she might unfairly regard with favour (or disfavour) the case of a party.*
- 5.10 The law about bias does not put you at risk of personal liability. Instead, the validity of the authority's decision could be at risk.
- 5.11 Your focus should be on the nature of the conflicting interest or relationship, and the risk it could pose for the decision-making process.
- 5.12 The need for public confidence in the process is paramount. Perception can be an important factor. Each case must be decided on its own circumstances.

How does the law about bias apply to local authorities?

- 5.13 The courts recognise that local authorities are different in nature from other decision-making bodies. As one judge has said, the fairness of a local authority decision-making process must be assessed “without too quickly importing concepts of administrative law grown from the soil of quite different contexts”.¹⁴ In particular, the democratic status of a local authority, the representative nature of the members of a local authority's governing body, and the practice where decisions are often made by a committee of members by majority vote must be recognised when applying general principles of administrative law about bias and fairness in the decision-making process. Some care must be taken when drawing principles from cases involving courts and judges, or other public bodies and officials that are required to adopt a court-like procedure.

¹³ *Saxmere Company Ltd v Wool Board Disestablishment Company Ltd* [2010] 1 NZLR 35; [2010] 1 NZLR 76.

¹⁴ *Goulden v Wellington City Council* [2006] 3 NZLR 244 at [50]. See also *Friends of Tūritea Reserve Society Inc v Palmerston North City Council* [2008] 2 NZLR 661 at [105] and *Wakatu Incorporation v Tasman District Council* [2008] NZRMA 187 at [22]-[25].

Part 5

Other conflict of interest issues

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- 5.14 The courts acknowledge that, where Parliament entrusts a function to an elected or political body (instead of to a tribunal or a court), it is natural to expect that:
- the members of the authority will bring their own experience and knowledge to the decision-making process;
 - the members may already have views – even strong or publicly stated views – about the matter; and
 - political considerations may play a part in the decision.
- 5.15 As usual, the nature and context of the particular decision will be important too. The courts are likely to take a stricter approach with decisions that directly affect the legal rights, interests, and obligations of an individual or small group of individuals (as opposed to decisions with a large policy or political element).
- 5.16 For instance, the sorts of decisions where a stricter approach may be taken include:
- licensing applications;
 - decisions under the Resource Management Act 1991;
 - decisions requiring a formal statutory process and hearing (such as road-stopping proposals);
 - dealings in land; or
 - other decisions that have a regulatory or coercive effect.
- 5.17 By contrast, the courts may take a less strict approach to decisions about:
- high-level policy-making;
 - issues in which the authority has only advocacy or recommendatory powers; or
 - operational or service functions.

Situations where a risk of bias may exist

- 5.18 The most common risks of non-pecuniary bias are where:
- your statements or conduct indicate that you have predetermined the matter before hearing all relevant information (that is, you have a “closed” mind); or
 - you have a close relationship or involvement with an individual or organisation affected by the matter.
- 5.19 Paragraphs 5.20-5.53 discuss these two types of non-pecuniary bias, and offer our comments on some common scenarios. The examples are a general guide, but each situation needs to be assessed on its own merits. Our suggestions are neither authoritative nor comprehensive.

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Other conflict of interest issues

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Predetermination

- 5.20 A claim of bias may be made on the basis of predetermination. An allegation of predetermination is generally based on the expression of a view or conduct that suggests a member might have approached the issue with a closed mind. Accordingly, it is an issue within your control. By exercising care over your statements and behaviour, you should be able to prevent this issue creating problems for you.
- 5.21 For example, predetermination might occur if your public statements indicate that you made up your mind about the matter before it came to be heard and deliberated on. In other words, that you, as decision-maker, had a closed mind and were not prepared to listen fairly to all the arguments.
- 5.22 You are not expected to approach matters without any existing opinions at all. Elected members take office with publicly stated views on a wide variety of policy issues. In local authority decision-making, the courts therefore acknowledge that a degree of local knowledge and pre-existing views – especially where a matter involves wide public policy issues – is both inevitable and desirable.
- 5.23 The critical factor is that you remain, and are seen to remain, open to persuasion. That is, that you do not express views in a way that implies an unwillingness to listen fairly to new arguments or to give the matter further consideration when it comes before the authority.

What is predetermination?

- 5.24 You could create a legal risk for the decision that the local authority is making if you participate in the authority's consideration of a matter and you:
- make statements that suggest your mind is made up about the particular matter before having heard all views, that your position is so fixed that you are unwilling to fairly consider the views of others, or that you are not prepared to be persuaded by further evidence or argument; or
 - refuse to read or listen to reports or submissions presented to the authority about the matter.
- 5.25 As noted earlier, the nature of the decision is important. There is unlikely to be any legal risk in you commenting about broad policy issues, particularly where your remarks are expressed in general terms. However, the legal risk is likely to be much higher if you comment about specific decisions that are focused on the rights and interests of one individual or a few individuals, and where other people have the right to make a submission to a formal hearing about the matter.

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- 5.26 You could also create a legal risk to the authority's decision if you participate in the authority's consideration of a matter and you have made a formal submission to the authority in your personal capacity to support or oppose a particular proposal as part of a public submissions process. There may be rare situations where you may still be able to consider such matters. However, as a potential decision-maker, to avoid creating legal risk for the authority's decision, it is advisable to avoid making submissions on matters that will come before your authority for decision – doing so will usually compromise your ability to participate in the decision-making process.
- 5.27 The level of legal risk will always depend on the facts of the situation. For example, the legal risks may not be great if you make a submission before being elected as a councillor or if some years separate the submission and the decision. The key question is whether you have an open mind at the time you are making the decision.
- 5.28 It seems generally accepted that the common law does not prevent you from:
- discussing issues and exchanging ideas with members of the public;
 - promoting a particular view during debate around the meeting table; or
 - advocating opinions or policies in public – or campaigning for election – about issues of public interest;
- so long as you do not indicate that you have already closed your mind to further consideration of a particular matter.
- 5.29 General personal factors, such as your ethnicity, religion, national origin, age, political or philosophical leanings, wealth, or professional background, will, of themselves, not often constitute predetermination.

Presence at hearings

- 5.30 As noted above, predetermination can also be shown to exist through a member's conduct. For example, lengthy periods of non-attendance at a hearing could suggest that you have predetermined the matter and that your decision is not based on the evidence and submissions presented. Therefore, to avoid the risk of the decision being challenged on this basis, where evidence and submissions are being heard on a particular matter, you should be present for the whole hearing to show a willingness to consider all points of view. Very short absences might be acceptable, but lengthy periods of non-attendance at a hearing create risks.

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Other conflict of interest issues

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Relationship with other persons or organisations

- 5.31 A conflict of interest may exist if you have a close relationship with a person or organisation involved in, or affected by, the matter before the local authority – for example, if the matter involves or affects a family member, or an organisation to which you belong, or a business of which you are an employee. Such a connection could affect how other people view your impartiality.
- 5.32 This sort of conflict of interest arises not from something you have said or done, but from a pre-existing state of affairs. Accordingly, no matter how careful you are, this type of conflict sometimes cannot be prevented.
- 5.33 In deciding whether to participate, you should consider:
- the extent of your personal links or involvement with the other person or group; and
 - the degree to which the matter under discussion directly affects that person or group.
- 5.34 However, it is important to bear in mind that, in politics, the merest perception of impropriety can be extremely damaging, whether or not a court would find your actions to be lawful. To avoid risks to the authority's decision, if you have any relationship with a person or organisation involved in a matter, you should seriously consider the wisdom of whether to participate at all. The safest advice is always "If in doubt, stay out".

Personal relationships

- 5.35 You could create legal risk for the authority's decision if you participate in the authority's consideration of a matter when:
- the decision directly affects a member of your immediate family or a close friend; or
 - a member of your immediate family has made a submission about the matter.
- 5.36 People can have different views on who is regarded as an immediate family member or close relative. This can make it difficult to assess whether a conflict of interest exists. However, we do not think that a person needs to be regarded as part of your immediate family for these purposes just because they are part of your wider kin group descended from a common ancestor (such as an iwi or hapū).

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Other conflict of interest issues

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- 5.37 You may want to consider carefully whether to participate where the matter involves or affects:

- a personal or professional acquaintance;
- someone who funded your election campaign; or
- a more distant relative.

- 5.38 The particular facts will always be important for assessing the legal risks.

Membership of other organisations

- 5.39 There may be increased legal risks to the authority decision if you participate in consideration of a matter before the authority involving or affecting a club or similar organisation that you are involved in if:

- you are an executive officeholder or trustee, or are otherwise strongly publicly identified with the club; or
- the matter specifically and significantly involves or affects the club – such as a proposed grant of money to the club, or something else directly affecting the club's finances or property.

- 5.40 On the other hand, the possibility of the decision being challenged is likely to be very low if you participate and:

- you are a passive or ordinary member of the club, and the organisation is relatively large; or
- the matter affects the club only indirectly – such as a broad public policy issue in which the club has chosen to take an interest.

- 5.41 Similarly, the legal risks are likely to be low if you participate and you have only a past involvement with the club, or merely have friends who are involved in the club.

Employment with other organisations

- 5.42 If the matter concerns your employer, the legal risks to the decision are likely to be high if you participate in the decision and:

- you are a senior executive (particularly where the matter directly concerns the organisation); or
- you are personally involved in the issue as part of your employment.

- 5.43 However, the legal risks to the decision are likely to be lower if you participate in the decision and you are a junior staff member (particularly in a large organisation), and have had no personal involvement in the issue through your employment. However, you will always need to exercise your judgement carefully.

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Other conflict of interest issues

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- 5.44 See also paragraph 6.11 for discussion of whether your employment might raise a question of a pecuniary interest.

Membership of committees and community boards

- 5.45 It is common for members of a local authority to also be on committees or subcommittees of the authority, or on a community board. There is normally no legal risk in your participating in the decision at one of these levels and then again when the decision reaches the governing body of the local authority.
- 5.46 However, the legal risks may be greater if your participation at the other level could raise a risk of predetermination to the decision of the governing body. An example is where you are a councillor and also a member of a community board, and the board decides to make a formal submission to the council about a review of representation arrangements for elections. In this situation, you need to decide at which level you can best participate. For example, you might choose to refrain from participating in the board's decision if you want to preserve your ability to participate later at the council level.

Appointment as the local authority's representative on another organisation

- 5.47 You may have been appointed as the authority's representative on the governing body of a council-controlled organisation or another body (for example, a community-based trust).
- 5.48 That role will not usually prevent you from participating in authority matters concerning the other organisation – especially if the role gives you specialised knowledge that it would be valuable to contribute.
- 5.49 However, you could create legal risks to the decision if your participation in that decision raises a conflict between your duty as a member of the local authority and any duty to act in the interests of the other organisation. These situations are not clear cut and will often require careful consideration and specific legal advice.
- 5.50 Similarly, if your involvement with the other organisation raises a risk of predetermination, the legal risks to the decision of the authority as a result of your participation may be higher – for example, if the other organisation has made a formal submission to the authority as part of a public submissions process.

Membership of some other public body

- 5.51 If you have been appointed or elected to the governing body of some other public entity unconnected with your position on the local authority (such as a district health board), we recommend that you consider potential conflicts of interest on a case-by-case basis. You should consider whether your ability to consider a matter before the local authority with an open mind could be affected by:
- your legal duty to act in the interests of the other body;
 - any involvement you may have had in the matter through the other body; or
 - the degree to which the other body is affected by, or interested in, the local authority's decision on the matter.
- 5.52 It may be wise to seek some specific legal advice on when it will or will not be appropriate to participate.

Other personal involvement with an organisation

- 5.53 Even if you are not formally associated with an organisation affected by a matter before the local authority, if you have a close personal involvement with the organisation, your participation may create legal risks for the decision – for example, if you have helped the organisation prepare its application to the authority, or have been paid to do so in a professional capacity.

What to do?

- 5.54 If you decide you have a non-pecuniary conflict of interest in a matter before the authority, we recommend that you follow the same procedures that you are required to follow in cases of a pecuniary interest – that is:
- declare that you have a conflict of interest when the matter comes up at the meeting;
 - refrain from discussing or voting on the matter; and
 - ensure that your declaration and abstention is recorded in the minutes.
- 5.55 We consider that it is good practice to also leave the meeting table while discussion and voting on the matter take place.
- 5.56 Non-pecuniary conflicts of interest always involve questions of judgement and degree. In the interests of openness and fairness, we encourage members to take a cautious approach. Authority staff can provide advice, and it can also be useful for you or the authority to seek legal advice. However, if in doubt, it is always safer to declare an interest and abstain from discussing or voting on the matter.
- 5.57 Appendix 3 contains summaries of a number of cases in which the courts have considered non-pecuniary conflicts of interest.

Part 6

Frequently asked questions

- 6.1 This Part sets out some frequently asked questions about conflicts of interest, and our answers.
- 6.2 **I think I might have an interest in a matter. How do I tell if it's pecuniary or non-pecuniary?**
Ask yourself whether the matter could reasonably give rise to an expectation of a gain or loss of money for you personally (or, in the case of a deemed interest,¹⁵ for your spouse or partner or a company).
- 6.3 **Are pecuniary interests treated more strictly than non-pecuniary interests?**
Generally, yes. Under the common law, a pecuniary interest of any size gives rise to an automatic disqualification – in effect, a presumption of bias. This rule is reflected in the Act, which governs pecuniary interests for members of local authorities (subject to the powers of exemption and declaration set out in paragraphs 3.42-3.53). On the other hand, non-pecuniary conflicts of interest involve a more discretionary judgement – you can consider all the circumstances of the situation to determine whether or not a reasonable observer would consider that a real danger of bias exists.
- 6.4 **Do the legal consequences of not declaring a pecuniary or non-pecuniary conflict of interest differ?**
Yes. A breach of section 6 of the Act – which relates to a pecuniary interest – can result in you being prosecuted for an offence. If convicted, your office as a member is vacated (that is, you will no longer be a member of the authority) and you could be fined up to \$100.

Failing to declare a non-pecuniary conflict of interest is not an offence. But it could result in legal proceedings that challenge the validity of the authority's decision. Those proceedings would not directly affect you personally, but you could face condemnation from your colleagues and the public if your actions resulted in the authority's decision being overturned by the courts.
- 6.5 **Can the common law rule about bias apply to pecuniary interests too?**
Yes. Pecuniary interests of members of local authorities are mainly governed by the Act. But the common law rule about bias could also be used to overturn a local authority's decision on the ground of a member's pecuniary interest.

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6.6 Can anything else happen to me if I don't follow the rules?

Your actions might constitute a breach of the authority's code of conduct.¹⁶ The authority might also take some form of action against you – for example, a censure motion or removing you from a council committee.

For members of city councils, district councils, and regional councils, your actions could also result in personal financial liability under section 46 of the Local Government Act 2002. This might arise if your conduct contributed to the local authority incurring a loss.

6.7 Can the local authority or chairperson order me not to participate on the ground of a conflict of interest?

No. The decision about whether to participate is yours (although the authority might be able to resolve to remove you from a committee considering the matter). You should carefully consider any advice offered to you by senior members, the chief executive, or other staff. You should also consider seeking your own legal advice.

6.8 The authority has resolved that I do not have a pecuniary interest in a particular matter. Does this mean that I can participate?

No. A resolution of an authority that you do not have a pecuniary interest in a particular matter is not an authoritative statement of the law. If, in fact, you do have a pecuniary interest in the matter and you participate in discussion and voting on it, you will have committed an offence under the Act.

However, if the authority resolves that you should be able to participate, subject to our approval being obtained, we would take the resolution into account when deciding whether to grant an exemption or declaration enabling you to participate.

6.9 I'm fairly sure that I have a non-pecuniary conflict of interest in a matter, but I still think it is important for me to participate. Can the Auditor-General grant me an official exemption?

No. We have no power to grant exemptions or declarations for non-pecuniary conflicts of interest. Nor can we provide you with a formal ruling about whether a legal conflict of interest exists – only the courts can determine that. You should approach a lawyer if you want definitive advice.

¹⁶ See our 2006 publication *Local authority codes of conduct*, which is available on our website, www.oag.govt.nz.
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6.10 I belong to various clubs throughout my district, as well as being a member of the district council. Do I have a pecuniary interest in every matter that comes before the council that relates to those clubs?

Usually, no. Membership of community organisations such as sporting or cultural or charitable associations is unlikely to give rise to a pecuniary interest in matters involving those organisations because of their “not for profit” nature. However, it is possible that your membership of an organisation may entitle you to a share of the organisation’s assets if the organisation is wound up. You should check the rules of the organisations you belong to, to see whether you may have a pecuniary interest of this type.

A pecuniary interest may also arise in the case of, for example, a golf club occupying land leased from the authority where the lease rental has a significant bearing on the members’ subscription or other fees.

See paragraphs 5.39-5.41 for discussion of whether membership of a club might give rise to a non-pecuniary conflict of interest.

6.11 I am an employee of a company/organisation that has dealings with the authority of which I am a member. Do I have a pecuniary interest in any dealings that my company/organisation has with the authority?

The existence of an employment relationship, where you receive a fixed level of remuneration, does not, on its own, give rise to a pecuniary interest.

If there is any link between the authority’s decision and the level of remuneration paid to you as an employee of the company/organisation, then a pecuniary interest exists. For example, if you were employed by an organisation that received funding from the authority and the authority was deciding whether to stop funding that organisation, possibly resulting in the loss of your job, you would have a pecuniary interest in that decision.

See paragraphs 5.42-5.44 for discussion of whether your employment might give rise to a non-pecuniary conflict of interest.

6.12 I’m also a member of the board of another organisation. Is it relevant to the question of conflict of interest if I’ve been appointed to that organisation specifically as a representative of the local authority?

Yes. In that situation, it will often be acceptable to participate in the authority’s decisions about matters concerning that organisation. However, a conflict of interest might sometimes arise. See our discussion in paragraphs 5.47-5.50.

Appendix 1

Organisations whose members are subject to the Act

Classes of organisations

- Administering bodies under the Reserves Act 1977
- Cemetery trustees
- City councils
- College of education councils
- Community boards
- Community trusts established under the Sale of Liquor Act 1989
- District councils
- Licensing trusts
- Local boards (in Auckland)
- Polytechnic councils
- Provincial patriotic councils
- Regional councils
- University councils

Specific organisations

- Auckland Museum Trust Board
- Canterbury Museum Trust Board
- Chatham Islands Council
- Masterton Trust Lands Trust
- Museum of Transport and Technology Board
- New Zealand Council for Educational Research
- New Zealand Horticultural Export Authority
- New Zealand Māori Arts and Crafts Institute
- Ngārimu V.C. and 28th (Māori) Battalion Memorial Scholarship Fund Board
- Otago Museum Trust Board
- Pacific Islands Polynesian Education Foundation Board of Trustees
- Plumbers, Gasfitters, and Drainlayers Board
- Queen Elizabeth the Second National Trust Board of Directors
- Riccarton Bush Trustees
- Taratahi Agricultural Training Centre (Wairarapa) Trust Board
- Winston Churchill Memorial Trust Board

Appendix 2

Leading cases on pecuniary interest

The Act does not define the term “pecuniary interest”. Its meaning is a matter for legal interpretation according to the circumstances of the particular situation. However, there is a significant body of relevant case law that offers some guidance. The most significant cases are summarised in this appendix.

***Brown v Director of Public Prosecutions* [1956] 2 All ER 189; [1956] 2 QB 369**

This case involved members of an English local authority who were tenants in houses owned by the local authority. The councillors declared their interest in a matter concerning the level of rents for council houses where there were subtenants or lodgers, but nevertheless voted on the matter albeit apparently to their disadvantage.

The judgment declared that all councillors who were tenants of the council had a pecuniary interest in that matter. This included councillors who did not at that time have subtenants or lodgers, because the houses were potential income-producing assets and the possibility existed of sub-letting or taking in lodgers in the future. In explaining the basis of the statutory prohibition, this case also indicated that it does not matter whether the result of the vote would be to the pecuniary advantage or disadvantage of the person voting:

The object of s.76(1) is clearly to prevent councillors from voting on a matter which may affect their own pockets and, therefore, may affect their judgement, and a councillor's judgement may be affected by a proposal to preserve his liability just as much as by a proposal to terminate it, particularly where other persons in a like situation are being relieved from the same liability. In those circumstances, no narrow construction ought to be put on the words “pecuniary interest” in their context in s.76(1); in particular they ought not to be construed and the contrary has not been suggested as meaning pecuniary advantage.

***Rands v Oldroyd* [1958] 3 All ER 344; [1959] 1 QB 204**

This case concerned a member of an English borough council who spoke to a motion about the letting of contracts for building council housing. The councillor was managing director and majority shareholder of a building company that had a history of building for the council.

On his appointment as vice-chairman of the housing and town planning committee of the council, the member had decided that his company would not tender in future for any building contracts with the council. However, the Court noted that the company was at all times in a position to be invited to tender for

building work for the council and to tender for such work in the future if it desired, and therefore held that the member had an indirect pecuniary interest in the matter under discussion.

Re Wanamaker and Patterson (1973) 37 DLR (3d) 575

This case involved the mayor of a town council in Alberta, Canada, who was owner and operator of a coin laundry business in premises located in the town's shopping centre. In his capacity as a member of the council, he proposed and voted on resolutions designed to secure the approval of the Minister of Highways for a project to make a cut in the median strip of a provincial highway in order to provide access for traffic on the highway to the shopping centre.

Since the effect of the improvement of access to the shopping centre would be to increase the number of customers availing themselves of the services in the shopping centre, which would be reflected in increased use of the coin laundry, the mayor would financially benefit, and consequently the question was one in which he had an indirect pecuniary interest. It did not matter that he may have been acting in good faith and in the interests of the municipality.

Downward v Babington [1975] VR 872

This case concerned a councillor of a shire in Victoria, Australia, who owned and leased certain shops. At different times, the council or its committees had before them:

- a project to allow the establishment of a supermarket in the immediate vicinity of the councillor's shops;
- a proposal to compulsorily acquire land adjoining those shops and the supermarket site for off-street parking;
- a proposal to permit development of vacant land adjoining the councillor's shops as a retail shop; and
- a proposal to buy land in the immediate vicinity for off-street parking.

The case did not involve any finding of fact as to whether the member had a pecuniary interest in those matters, but did produce a useful definition of the term "pecuniary interest":

... a councillor should be held to have a pecuniary interest in a matter before the council if the matter would, if dealt with in a particular way, give rise to an expectation which is not too remote of a gain or loss of money by him.

We have chosen to adopt this definition as appropriate in the New Zealand context, although acknowledging that our Act deals separately with the element of remoteness in section 6(3)(f).

Loveridge & Henry v Eltham County Council (1985) 5 NZAR 257

The council's chairman and deputy chairman both owned land within an area where the council proposed to establish a rural water supply scheme. As with the *Downward v Babington* case, the nature of the proceedings was such that the Court was not required to make a finding as to whether the members had a pecuniary interest in the matter. The Court did, however, observe that:

The situation contemplated by the Local Authorities (Members' Interests) Act is a particular formalised illustration of the rule that persons charged with an obligation to make decisions should not be affected by a personal motive.

The Court rejected an argument that the relevant "public" with which to compare the members' interests was the group of landowners affected by the scheme.

With rather limited reference to prior cases, the judgment used the general rules of natural justice as the base on which to state a test for compliance with section 6(1):

... would an informed objective bystander form an opinion that there was a likelihood that bias existed?

Calvert & Co v Dunedin City Council [1993] 2 NZLR 460

This case centred on procedures adopted at meetings in 1990 for determining directors' fees to be paid in relation to four local authority trading enterprises (LATEs), the directors of which had previously been appointed and included various members of the council. The council considered reports on the setting of directors' fees generally and a motion that, if passed, would have required councillor directors to remit their directors' fees to the council, receiving instead from the council sums based on the usual allowances paid in connection with local authority meetings.

That motion was dealt with by debating it separately in relation to each LATE. Councillor directors withdrew when that part of the motion which concerned the LATE of which they were directors was debated and voted on, but took part in debate and voted on those parts of the motion that concerned LATEs of which they were not directors.

The Court held that section 6 was breached when councillor directors discussed and voted on:

- a report containing opinions and recommendations about the range of directors' fees that should be payable – a direct pecuniary interest; and
- motions affecting directors' fees for LATEs to which they were not appointed – an indirect pecuniary interest.

The vote of a particular councillor in effect put their stamp of approval on the method by which the directors' fees had been calculated. That stamp of approval called for a consistent approach and vote by other councillor director members. The length of some meetings, and the memoranda and resolutions, tended to confirm that the councillor directors were in effect acting in harmony in the approach taken by the council towards directors' fees. Certainly the interest of those councillor directors was greater than that of the public at large.

The judgment is notable for the expression of certain propositions based on a review of earlier judgments:

- An indirect pecuniary interest under section 6 of the Local Authorities (Members' Interests) Act 1968 may cover a wide variety of factual situations.
- The indirect pecuniary interest may involve an interest arising from a relationship and not from any specific contract or monetary connection.
- An indirect pecuniary interest may include a potential benefit or potential liability.
- A decision as to whether a particular factual situation amounts to an indirect pecuniary benefit is assisted by considering whether an informed objective bystander would conclude that there was a likelihood or reasonable apprehension of bias.
- The motives and good faith of councillors are irrelevant to whether or not they had an indirect pecuniary interest.

***R v Secretary of State for the Environment, ex parte Kirkstall Valley Campaign* [1996] 3 All ER 304**

A rugby club wished to sell its main sports field and move to another location nearby. However, it could only realistically do so if it obtained a commercial site value for its existing site. Planning permission was therefore sought from the local urban development authority to allow the large-scale commercial development of the land.

At the same time, the club had also identified the desired location for its proposed new facilities. This happened to be a piece of open land adjacent to a large private property owned by the chairman of the urban development authority. The chairman's land was "green belt" land, and it was well known that the chairman believed his land ought to be rezoned for housing development (but any rezoning decision would be the responsibility of another council).

The Court found that the chairman had an undisguised interest, worth a great deal of money to him and his family, in getting his private land rezoned. It

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also found that a powerful argument in favour of this would have been if the neighbouring site was developed into a rugby stadium. Because it was common knowledge that that was unlikely to occur unless the club was able to secure a commercial sale price for its existing site, the Court held that this meant the chairman had – at that time – a pecuniary interest in the planning application about the club's existing site. The Court implicitly rejected an argument that his interest was too remote or insignificant.

However, the club later abandoned its proposed new location near the chairman's land. Furthermore, a fresh development proposal was submitted in respect of the club's existing site. The Court held that the chairman did not have a pecuniary interest in the authority's later decisions about the existing site. His former interest did not taint the authority's subsequent decisions.

Appendix 3

Examples of cases on non-pecuniary conflicts of interest

Cases where predetermination was found

These cases illustrate some situations where courts found members to have predetermined the matter.

English v Bay of Islands Licensing Committee [1921] NZLR 127 involved an application for renewal of an on-licence. Members of the licensing committee had previously made public statements that the application would be refused unless a new hotel was built. For instance, one member had told the applicant that it did not matter what he said in his application, because “the committee have their minds made up”. The Court held that the members’ public statements went far beyond reasonable expressions of opinion, and amounted to pledging themselves to refuse the licence. This meant they were biased, and had predetermined the application.

In an English case also involving a liquor licence, *R v Halifax Justices, ex parte Robinson* (1912) 76 JP 233, a member of the licensing authority was associated with a temperance society. That fact alone would not have constituted bias, but the Court found that the member had shown himself to have a closed mind by announcing that he would have been a “traitor” to his position if he had voted in favour of granting the licence.

In *Meadowvale Stud Farm v Stratford County Council* [1979] 1 NZLR 342, several councillors who sat on a committee considering an application for an offensive trades licence for a pig farm were also directors or shareholders of a company that occupied land next door. The councillor who was a director had insisted on the farm applying for the licence, and then the company had formally objected to the application and had been represented at the hearing in support of its objection. The Court held that the interested councillors should have been excluded from hearing the application – not only because they had a pecuniary interest in a company potentially affected by the matter, but also because of the active role the company had taken as a submitter.

In *Frome United Breweries v Bath Justices* [1926] AC 586, several members of a licensing authority had instructed a solicitor to appear before the authority on their behalf and oppose a licence application. They were held to be biased.

East Pier Developments v Napier City Council (High Court, Napier, CP26/98, 14 December 1998, Wild J) related to a lease, where the council was lessor. The lessee wished to use the land for a different purpose, and the lease agreement required it to seek the council’s approval. The Court found two members of the council to be biased. One had been closely involved in negotiations and meetings about the

matter from an early stage, and the Court held that his overall conduct indicated that from beginning to end he was determined that the council should reject the application. He was never prepared to consider it in an open-minded and impartial manner. Another member, the Court held, was single-minded in his opposition to the application, and so was also not properly open to persuasion.

In *Otago University Students Association v University of Otago* [2009] 2 NZLR 381 (HC), the High Court ruled that the University had properly excluded student Council representatives from sitting on an Appeals Board hearing code of conduct charges against two students, on the basis that the student representatives would not be able to consider the charges with an open mind. The two possible student representatives had previously been involved in submissions against the code and had served on the Student Association Executive that had publicly denounced the code.

Cases where predetermination was not found

By contrast with the above cases, the courts have often held an expression of a provisional view or broad policy stance about the matter before or during the hearing to be acceptable. The critical factor in these cases is that the views were not expressed in such a categorical way that they implied an unwillingness to listen fairly to new arguments or to give the matter genuine further consideration at the formal hearing. The courts were satisfied that the members, despite their provisional views about the general issues, remained open to persuasion about the particular decision before them.

In *Whakatane District Council v Bay of Plenty Regional Council* [2009] 3 NZLR 799 (HC), the High Court ruled that prior comments, including letters to the editor, made in support of a proposal to relocate the Regional Council offices did not mean some councillors had “irretrievably committed” to the proposal. Nor did the fact that some councillors were not able to attend all consultation meetings mean they had predetermined the issue – their absences were not significant and the councillors had taken steps to acquaint themselves with the proceedings of the consultation meetings. (The High Court’s decision was subsequently overturned on other grounds by the Court of Appeal (*Whakatane District Council v Bay of Plenty Regional Council* [2010] NZCA 346); the Court did not comment on the High Court’s findings on predetermination and councillor absence.)

In *Friends of Turitea Reserve Society Inc v Palmerston North City Council* [2008] 2 NZLR 661 (HC), the High Court ruled that the fact that the local authority, as land-owner of a reserve, would financially benefit from a decision to change the status of a reserve did not amount to predetermination or bias. Even though the local authority would receive a financial payment from an electricity generator to

install turbines on the reserve once the status was changed, the Court considered that the local authority members still approached the decision with an open mind, and noted that the purpose of the payment, when viewed in context, was legitimate.

In *Goulden v Wellington City Council* [2006] 3 NZLR 244 (HC), the High Court ruled that members of a local authority had not predetermined a code of conduct complaint against a fellow councillor. By themselves, there was nothing objectionable in the framing of a proposed motion of censure in positive terms, the mayor presiding over the meeting even though she had witnessed and been party to previous incidents, and the fact that councillors had discussed their voting intentions with each other before the meeting.

In *Wakatu Incorporation v Tasman District Council* [2008] NZRMA 187 (HC), the Court emphasised the administrative nature of the assessment about whether there was sufficient information for an application for a resource consent to be publicly notified. Even though the local authority was responsible for processing a resource consent lodged by itself, there was no evidence in the way it processed the application or assessed whether it was ready for public notification that suggested that the matter had been predetermined.

In *Riverside Casino v Moxon* [2001] 2 NZLR 78 (CA), a member of a casino licensing authority had made a number of comments during the oral hearings that were strongly critical of opponents of the application, but the Court held that they did not display a consistent pattern pointing to a closed mind. The Court also recognised that, by the time of the oral hearings, the member could be expected to have legitimately formed some preliminary views from the substantial written submissions already provided. There was no evidence that he had entered upon the process with a closed mind.

In *R v Reading Borough Council ex parte Quietlynn* (1986) 85 LGR 387, a councillor had previously written to a newspaper saying that sex shops should be banned. Some time later, he sat on a committee considering an application for a licence as a sex establishment. In that case, the Court accepted that, despite his general views, he had nevertheless acted fairly when he came to consider the application. The Court suggested that this was a field where local representatives could be expected to have views, perhaps even strong views, about whether or not, in general, licences ought to be granted.

In *R v Amber Valley District Council, ex parte Jackson* [1984] 3 All ER 501, a general declaration of policy by a party caucus within a council was held not to disqualify them from later adjudicating on a planning application, so long as they were able to consider the application on its merits.

Appendix 3 Examples of cases on non-pecuniary conflicts of interest

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In *McGovern v Ku-Ring-Gai Council* (2008) 251 ALR 58 (NSWCA), it was held that, for multi-member elected decision-making bodies, not all members need to maintain an open mind until all other members were prepared to make a decision. It is legitimate for a member of a collegial body to form a conclusion based on the evidence and then to attempt to persuade other decision-makers to agree with their conclusion.

In *R (Island Farm Development Ltd) v Bridgend County Borough Council* [2006] EWHC 2189 (Admin); [2007] LLR 230, strongly expressed views and former membership of a pressure group against a development did not prevent members from considering a development application. Even though the development had been a major political issue in the election and the members were elected on the back of opposition to the development, they had approached the issue with an open mind, with a willingness to consider relevant arguments and to change their mind if the material persuaded them to do so.

Relationship with other persons or organisations

The following cases discuss non-pecuniary conflicts of interest that may arise if a person has a close relationship with an affected person or organisation.

In *Saxmere Company Ltd v Wool Board Disestablishment Company Ltd* [2010] 1 NZLR 35 (SC), the Supreme Court ruled that a judge was not prevented from sitting on a case where the lawyer was his long-standing friend, with whom he shared a number of horse-breeding interests. However, in *Saxmere Company Ltd v Wool Board Disestablishment Company Ltd* (No 2) [2010] 1 NZLR 76 (SC), the Court later changed its mind after becoming aware of more details of the relationship, and ruled that the fact that the judge was beholden or significantly indirectly indebted to the lawyer amounted to a disqualifying conflict of interest.

In *Man O'War Station v Auckland City Council* (No 1) [2002] 3 NZLR 577 (PC), a case concerning a judge, the fact that a witness in the case was the son of a former colleague of the judge was not enough to constitute bias.

In *R v Bow Street Metropolitan Stipendiary Magistrate, ex parte Pinochet Ugarte* (No 2) [1999] 2 WLR 272 (HL), a judge was held to be biased where he was an active director of a charity closely associated with one of the parties to the litigation.

In a case involving an urban development body, *R v Secretary of State for the Environment, ex parte Kirkstall Valley Campaign* [1996] 3 All ER 304, a member who held an honorary position in a rugby club was held to be not biased in relation to a planning application affecting the club. However, a member who was involved in preparing the club's development plans, and whose firm acted for the club, was biased.

Appendix 3 Examples of cases on non-pecuniary conflicts of interest

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If a number of members of the authority become too integrally associated with the proponent of an issue, then the whole authority could be found to be biased. This occurred in *Anderton v Auckland City Council* [1978] 1 NZLR 657, where the level of the council's involvement with a developer was so great that it was held to have determined in advance to allow planning applications for the developer's project. The council had completely surrendered its powers of independent judgement.

Appendix 4

Checklist for section 3(3)(a) application

Applications for prior approval for a member of an authority to be concerned or interested in a contract needs to be made by the authority on behalf of the member. We need the following information to process an application:

- the name of the member;
- the names of the parties to the contract – if the member is not a party to the contract, their relationship to the person/company who is the party to the contract;
- the payments to be made under the contract for which approval is sought;
- the duration and nature of the contract;
- the reasons the authority wishes to use the proposed contractor for this work (for instance, how the authority justifies its choice on the basis of, for example, cost, performance, quality, expertise, or experience);
- the process the authority has followed in selecting the proposed contractor (including, for example, whether other potential contractors were considered or had the opportunity to quote or tender, whether the authority followed its standard procedures for contracts of this type or value, how the proposal was evaluated, and who was involved in making the relevant recommendation or decision);
- whether this is a subcontracting situation where the Council cannot control who the head contractor chooses to use;
- whether the member concerned has had any involvement in any authority decisions about the contract; and
- whether the member declared an interest and abstained where necessary.

The application must be made in writing and addressed to:

Assistant Auditor-General – Legal
Office of the Auditor-General
Private Box 3928
Wellington 6140
Telephone: 04 917 1500
Facsimile: 04 917 1549
Email: LAMIA@oag.govt.nz

Publications by the Auditor-General

Other publications issued by the Auditor-General recently have been:

- Annual Report 2009/10
- Effectiveness of the Get Checked diabetes programme
- Spending on supplies and services by district health boards: Learning from examples
- New Zealand Transport Agency: Information and planning for maintaining and renewing the state highway network
- District health boards: Availability and accessibility of after-hours services
- Matters arising from the 2009-19 long-term council community plans
- Inquiry into the Plumbers, Gasfitters, and Drainlayers Board
- Inland Revenue Department: Managing child support debt
- Inquiry into New Zealand Defence Force payments to officers seconded to the United Nations
- The Civil Aviation Authority's progress with improving certification and surveillance
- Annual Plan 2010/11
- Response of the New Zealand Police to the Commission of Inquiry into Police Conduct: Second monitoring report
- Local government: Examples of better practice in setting local authorities' performance measures
- Local government: Results of the 2008/09 audits
- Statement of Intent 2010-13
- Performance audits from 2008: Follow-up report
- Effectiveness of arrangements for co-ordinating civilian maritime patrols
- Auditor-General's inquiry into certain types of expenditure in Vote Ministerial Services – Part 1

Website

All these reports are available in HTML and PDF format on our website – www.oag.govt.nz. Most of them can also be obtained in hard copy on request – reports@oag.govt.nz.

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We offer a facility for people to be notified by email when new reports and public statements are added to our website. The link to this service is in the Publications section of the website.

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A General Guide Through The Laws Affecting Elected Members

Introduction

Congratulations on your election to the Far North District Council for the 2019-2022 triennium and your governance role over the next three years.

Some of you have been involved with Council for some time and for others this may be your first experience as a Councillor and you will be new to the process and procedures as to how Council conducts its business.

Council is created by a Statute of Parliament and therefore some understanding of the law and legal issues plays an important role in your decision making and this paper hopes to assist with that in providing a general explanation of some of the laws that regulate the conduct of elected members.

Generally the role and function of the Council and councillors, as well as the conduct of meetings are dealt with in the Local Government Act 2002 (LGA 02) and Local Government Official Information and Meetings Act 1987 (LGOIMA).

Clause 21(5)(c) of Schedule 7 of the LGA 02 requires that, at the first meeting of the Council following a triennial general election, the chief executive must give or arrange for a general explanation of certain laws affecting members, including:

1. Local Government Official Information and Meetings Act 1987;
2. Local Authorities (Members' Interests) Act 1968;
3. Sections 99, 105 and 105A of the Crimes Act 1961;
4. Secret Commissions Act 1910; and
5. Financial Markets Conduct Act 2013.

In particular your attention is drawn to certain legal provisions within the following Acts;

- Secret Commissions Act 1910
- Crimes Act 1961
- Local Authorities (Members' Interests) Act 1968;

Contravention of these provisions may result in the loss of office.

This paper is prepared to firstly meet the above mentioned statutory obligation and also to provide a resource to which members may refer in the performance of their functions. It addresses principles rather than detail, but should nevertheless be of assistance when applied to real problems.

There is a caveat to the above, as this paper does not in any way deal with all the legislation you will come into contact with that affects your role as elected members such as the Rating legislation and a plethora of other Acts that impact on how you will decide matters. The relevant sections of law should be set out in any paper that comes to you for consideration.

This paper has five parts:

- Council Structure and Governance
- Meetings
- Confidentiality
- Conflicts of Interest
- Administrative Law Principles.



Council Structure and Governance

So what is Council?

Section 12 of the LGA states that a local authority is a body corporate with perpetual succession (s12(1)). It has full capacity to carry on or undertake any activity or business, do any act, or enter into any transaction. The only restrictions on the above is that it must exercise those powers wholly or principally for the benefit of its district. There are some exclusions and you are encouraged to read section 12.

Structure of Council

The Far North District Council is comprised of the Mayor and 9 Councillors (Governance).

The purpose of Governance is to enable local decision-making and action by and on behalf of communities and to promote the social, economic, environmental, and cultural well-being of communities in the present and for the future (s10 of LGA).

The Council aims to achieve this by;

- defining the overall vision for the Far North District
- determining local policy and bylaws
- engaging and encouraging community participation in decision-making
- considering the needs and future needs of our district
- monitoring the performance of the organisation against the objectives set in the Long Term Plan
- employing the Chief Executive and monitoring their performance against agreed key performance indicators.

Role of the Mayor

The role of the Mayor is to provide leadership to Elected Members and the people of the Far North District. The Mayor performs civic duties and leads the development of Council's plans (long term and annual plans), policies and budgets for consideration by Elected Members.

The Mayor at Council meetings has one vote and in the event of a deadlock has a casting vote.

Post-election the Mayor may appoint a Councillor as Deputy Mayor and will establish committees and appoint the committee chairpersons, if he chooses to exercise this power under (s41A). Alternatively, it can be a decision of the Council.

Role of Councillor

The role of a councillor is governance - this should be open and transparent and clear. Resolutions passed at council meetings setting the strategic direction and tasking the Chief Executive to implement them should be precise and clear.

Councillors are responsible for decision-making on behalf of the ratepayer and must commit to the large amount of reading required and attend workshops to ensure they make sound decisions.

If good government is to be delivered, then the standard of integrity of the members must be the foundation of good decisions.



Role of the Chief Executive Officer

The Chief Executive Officer (CEO) has overall responsibility for the Far North District Council's operational management and is expected to be apolitical and not to make political or policy decisions. That is the role of the Elected Members.

He is responsible for employing staff, providing leadership to them and implementing and managing Council's decisions. These responsibilities are performed by him delegating tasks to his Strategic Leadership Team and then tasking the work to their staff.

A key part of the role of council staff is to provide Elected Members with comprehensive advice to enable them to make informed and effective decisions. Therefore, a high level of cooperation and mutual respect between Elected Members and staff is essential for the council to perform effectively.

To ensure such cooperation and trust is maintained, Elected Members are expected to:

- recognise the Chief Executive's role as the employer of council staff
- make themselves aware of the obligations the Far North District Council and Chief Executive have as an employer and observe those requirements at all times
- treat all council staff with courtesy and respect
- observe any guidelines the Chief Executive puts in place regarding contact with employees
- not do anything which compromises, or could be seen as compromising, a staff member's impartiality
- avoid publicly criticising council staff, especially in ways that reflect on the staff member's competence and integrity
- raise concerns about council staff directly with the Chief Executive
- raise concerns about the Chief Executive with the Mayor or the Chief Executive
- not seek to improperly influence staff in the normal undertaking of their duties

Governance versus Management

As an Elected Member your job is oversight, not operations.

Elected Members and the Chief Executive must have a clear understanding of their different roles and responsibilities. One issue that may confront Members is finding the boundary between their role and the role of Management.

In the simplest terms, Members are responsible for oversight and planning, while the Chief Executive, his general managers and staff are responsible for the day to day operational activities.

Members are not permitted to contact staff directly. Communication should be through the Chief Executive, or the relevant General Manager.

Community Boards

The Far North District has three community boards namely;

- Te Hiku in the north;
- Bay of Islands-Whangaroa in the East; and
- Kaikohe-Hokianga in the west.

The legal status of a community board is defined to constitute an unincorporated body. It is not a local authority nor is it a committee of the local authority. The local authority is therefore not entitled to censure or dismiss its members. The control and conduct of its members remains the sole jurisdiction of the board and it is for the board to adopt its own code of conduct.



The community board and can be joined into legal proceedings and the indemnities in the LGA 02 will apply to the community board members

Role of the Community Board

The Local Government Act 2002 at s52 states the role of a community board is to:

- represent, and act as an advocate for the interests of its community;
- consider and report on all matters referred to it by the territorial authority, or any matter of interest or concern to the community board;
- maintain an overview of services provided by the territorial authority within the community;
- prepare an annual submission to the territorial authority for expenditure within the community;
- communicate with community organisations and special interest groups within the community; and
- undertake any other responsibilities that are delegated to it by the territorial authority.

The Far North District Council further delegates a number of responsibilities to community boards. *From time to time Council may consider some activities and assets as having district wide significance and these will remain the responsibility of Council. This information is set out in full on the Council website.*

Powers of the Community Board

Its powers are solely those delegated to it by the local authority but it cannot hold property or hire staff. The provisions of Schedule 7 of the LGA02 apply apart from cls 15, 33 and 36.

Official Information

As an Elected Member you may be subject to information requests under the Local Government Official Information and Meetings Act 1987 (LGOIMA).

Official information is not just documents or papers. It includes information held in any format, such as emails, phone calls, text messages, videos and photos.

Care should be taken with any information you generate or gain access to as part of your role. This information can be discoverable through the LGOIMA request process. This includes information on your personal email account or home computer, if it relates to Council business.

Personal liability of elected members

Generally Elected Members of a local authority, which extends to a member of a committee, community board, or other subordinate decision-making body, are indemnified by the local authority for the costs and damages of a civil claim where acting in good faith on council business (s 43 of the LGA 02).

Further, Members are indemnified for the costs of a successfully defended criminal action relating to the member's functions.

A director of a council-controlled organisation is not indemnified by the local authority for actions in that capacity.

The indemnity does not cover any loss found by the Auditor-General to have been incurred or that may be attributed to an unlawful act or omission, or to an intentional or negligent failure to enforce the collection of valid debts by the Council. This could lead to the potential liability of members found responsible to account for the loss. If the Auditor-General makes a report on a loss to a local authority, without limiting the liability of any other person, the loss is recoverable as a debt due to the Crown against the members jointly and severally (s46 of the LGA02).

A member may have a defence to a claim for the recovery of the loss by proving the act or failure resulted without the defendant's knowledge or with knowledge but against the protest or contrary to a vote of the defendant (s46 (4) of the LGA02). For the defence to be upheld the member must have taken some positive step as a failure to vote, abstention or silence on the vote may be taken as assent.



A further defence is available to a member where the legality of a matter was questioned or in doubt, and advice was obtained from a competent professional adviser.

Meetings

Most business of the Council is to be conducted before the public and generally, information held by the Council should be readily available to the public. The law requires a high standard of transparency to ensure that those governed know what has been done and why.

The fundamental principle in the LGOIMA is that information held by the Council is publicly available, unless one or more specified withholding grounds apply.

The LGOIMA deals with local authority meetings in Part VII. Briefly:

- (a) The Act states the grounds upon which the public may be excluded from meetings (section 48). That may generally only occur when good reason to withhold information exists, and there is a statutory definition of that concept in section 7 of the Act. Also, the public may be excluded where the subject matter of discussion is one in respect of which a right of appeal exists to any Court or Tribunal against the decision made by the Council.
- (b) In excluding the public, the Council must make a resolution stating the subject of each matter to be considered while the public is excluded, and the reasons must be given for excluding the public, in terms of the statutory grounds.
- (c) Chairpersons at meetings may require members of the public to leave a meeting if the behaviour of the person concerned is likely to prejudice or continue to prejudice the orderly conduct of the meeting (section 50). Councillors themselves whose conduct prevents the orderly conduct of the meeting may be asked to leave by the presiding member under the standing orders.
- (d) If a meeting is open to the public, and an agenda is supplied to a member of the public or the minutes of a meeting are produced for inspection by any member of the public after the conclusion of the meeting, any defamatory matter which is published in this way is to be treated as privileged, unless the publication was predominantly motivated by ill will (section 52). Oral statements made at meetings of the Council are also privileged, unless the statement is proved to be predominantly motivated by ill will (section 53). Ordinarily, a statement that is "privileged" cannot support a cause of action for defamation (even though that statement might be untrue or misleading).
- (e) Items which are not on an agenda for a meeting may nevertheless be dealt with if the meeting resolves to do so and the chairperson explains in open meeting why the item is not on the agenda and why consideration of it cannot be delayed to a subsequent meeting (section 46A(7)). (If the item is a minor matter relating to the general business of the Council then it may be discussed without the meeting having resolved to do so, so long as the chair explains at the beginning of the meeting, and when it is open to the public, that the item will be discussed, but in that case no resolution, decision or recommendation may be made except to refer the item to a subsequent meeting for further discussion (section 46A(7A)).)

Confidentiality

There are occasions when, for particular and limited reasons, which are specified by law, the Council must conduct its business privately and protect the privacy or confidentiality of information it holds. When the public is excluded by due resolution of the Council and when the Council holds information confidentially, then it is critical that the rules of confidentiality are observed and maintained by the members and the officers of the Council.



The Council has adopted as the rules for the conduct of its business Standing Orders. Included therein is a provision that:

No member or officer may disclose to any person other than another member, officer or person authorised by the chief executive, any information that has been presented or will be presented to any meeting from which the public is excluded or proposed to be excluded." (rule 17.4)

The obligation to comply with Standing Orders is reinforced by the LGA, which provides in clause 16(1) of Schedule 7, that:

"A member of a local authority must abide by the standing orders adopted under clause 27"

Then, section 238(1) of that Act addresses default:

"238 Offence of failing to comply with Act

(1) Every person who acts contrary to, or fails to comply with, a direction or prohibition given under this Act, or under an authority given to a local authority or to a member or officer of a local authority, commits an offence and is liable on conviction to the penalty specified in section 242(2)."

Quite simply, a breach of standing orders may be an offence that might lead to prosecution and a fine not exceeding \$5000.00.

It might be thought that the obligation of confidentiality is less than the obligation for open government. It is not. The duty in each regard is the same.

Governance must be conducted in accordance with the law. The conduct of Council must be fully open until it becomes confidential according to law. Once confidentiality is imposed, that obligation must be observed with equal assurance.

Whistle blowing can be honourable. There are times and places for doing so. They do not include "going public". That is political self-promotion and is dishonourable.

The Ombudsmen's Office and the Auditor-General may be contacted and consulted with any concerns about due standards of performance by the Council, that **will maintain the confidentiality of the Council**.

Members must keep to the law. They cannot choose when to obey and when to breach the law. The constant and consistent observance of the law is necessary for the delivery of good governance.

Conflicts of Interest

Members' Financial Interests

The following comments are not an explanatory guide as these comments are limited to a few provisions only.

The Council does not provide legal advice to its members. Each member must seek his or her own independent legal advice.

The Council itself is only indirectly affected. It has some indirect concern for a member's interest, however, because of certain consequences that can follow in the event of the breach by a member.

First, an extraordinary vacancy could result as a consequence of a breach of the Act, but more particularly the breach might be grounds, in certain circumstances, for impugning or challenging, a Council decision.

The object of the statutory provisions discussed below:



"is clearly to prevent councillors from voting on all matters which may affect their own pockets and therefore may affect their judgment".¹

The cases make it clear that it is irrelevant whether there is or is not an actual pecuniary advantage or disadvantage as a result of the vote.

The Local Authorities (Members' Interests) Act 1968

The Local Authorities Members' Interests Act 1968 (LAMIA) is one of the most important statutes governing the conduct of elected members and we strongly recommend you familiarise yourself with its provisions. (Also see the Auditor General's Guidance for Members of Local Authorities about the Local Authorities (Members Interests) Act 1968.) This has been provided to you in your induction pack.

It has two main aspects:

1. The prohibition of certain contracts between local authorities and their members.
2. The prevention of voting on or discussing questions in which a member has a pecuniary interest.

As to the first aspect, LAMIA provides that no-one may be elected or appointed or be a member of a local authority or of any committee of it, if the total payments to be made by the Council in respect of contracts made by it with that person exceeds \$25,000 (including GST) in any year. The Act covers contracts made by the Council directly with the person concerned, and also contracts made by the Council in which the Councillor is concerned or interested. Special provisions deal with companies in which a member or his or her spouse is interested either as a shareholder, or as a member of the company, or by virtue of certain management positions. There are a number of exceptions to this rule but, in case of any doubt, Councillors should refer to the Chief Executive so that proper advice is obtained.

To assist section 3 is set out in full below

3 Disqualifying contracts between local authorities and their members

- (1) *Except as provided in subsection (3), no person shall be capable of being elected as or appointed to be or of being a member of a local authority or of any committee of a local authority, if the total of all payments made or to be made by or on behalf of the local authority in respect of all contracts made by it in which that person is concerned or interested exceeds \$25,000 in any financial year.*
- (2) *For the purposes of subsection (1), a member of a local authority or of a committee thereof shall be deemed to be concerned or interested in a contract made by a local authority with an incorporated company, if—*
 - (a) *the member or his spouse or partner singly or between them own, whether directly or through a nominee, 10% or more of the issued capital of the company or of any other company controlling that company; or*
 - (b) *the member or his spouse or partner is a member of the company, and either of them is the managing director or the general manager (by whatever names they are called) of the company; or*
 - (c) *the member or his spouse or partner is a member of a company controlling the company with which the contract is made and either of them is the managing director or the general manager (by whatever names they are called) of that controlling company; or*
 - (d) *the member or his spouse or partner is the managing director or general manager (by whatever names they are called) of the company and either of them is a member of a company controlling that company;*

provided that nothing in this subsection shall apply with respect to the spouse or partner of any member where, at the time when the contract was entered into,—



- (i) *the member and his spouse or partner were living apart; or*
 - (ii) *in any case to which paragraph (a) applies, the member did not know and had no reasonable opportunity of knowing that his spouse or partner owned any part of the issued capital of the company or of any company controlling that company; or*
 - (iii) *in any case to which paragraph (b) or paragraph (c) or paragraph (d) applies, the member did not know and had no reasonable opportunity of knowing that his spouse or partner was a member of the company or of the controlling company, as the case may be, or held any of the offices specified in any of those paragraphs.*
- (2A) *For the purposes of subsection (1), a member of a local authority or of a committee thereof shall be deemed to be concerned or interested in a contract made by the local authority in which his spouse or partner is concerned or interested (not being a contract made with an incorporated company):*
- provided that nothing in this subsection shall apply with respect to the spouse or partner of any member where, at the time when the contract was entered into,—*
- (a) *the member and his spouse or partner were living apart; or*
 - (b) *the member did not know and had no reasonable opportunity of knowing that his spouse or partner was concerned or interested in the contract.*
- (3) *Notwithstanding anything in subsection (1),—*
- (a) *no person shall be disqualified under this section by virtue of his being concerned or interested in any contract made in any special case with the prior approval of the Auditor-General on the application of the local authority. In any such special case the Auditor-General may authorise the payment and receipt of such amount as it thinks fit:*
 - (aa) *a person shall be deemed not to have been disqualified by virtue of his being concerned or interested in any contract made in any special case where, on the application of the local authority, the subsequent approval of the Auditor-General is obtained; which approval shall be given only if the Auditor-General is satisfied that—*
 - (i) *there is a sufficient special reason why prior approval was not obtained under paragraph (a); and*
 - (ii) *prior approval would have been obtained under paragraph (a) if that approval had been sought:*
 - (ab) *no person shall be disqualified under this section by virtue of his being concerned or interested in any contract made on behalf of the local authority by an employee or committee of the local authority (unless the member of the local authority is a member of that committee) acting under delegated authority, where it is verified in writing to the Auditor-General, by such 1 or more persons and in such manner as the Auditor-General requires, that the member did not know and had no reasonable opportunity of knowing of that contract at the time it was made:*
 - (b) *where a person is concerned or interested in any contract solely by reason of being concerned or interested in any subcontract relating thereto, the provisions of this section shall, with the necessary modifications, apply to him as if references in this section to the amount payable by or on behalf of the local authority in respect of a contract were references to the amount payable by or on behalf of the contractor in respect of the subcontract:*



- (c) *in assessing under this section the amount of any payment made or to be made by or on behalf of the local authority in respect of any contract, no account shall be taken of any sum paid or to be paid as a refund of a deposit:*
- (d) *an interest in—*
- (i) *any loan raised by the local authority, whether on security or otherwise; or*
 - (ii) *any payments made or to be made in respect of advertisements inserted by the local authority in any newspaper; or*
 - (iii) *any lease granted or agreed to be granted to the local authority; or*
 - (iv) *any payment received by way of compensation under the [Public Works Act 1981](#) for any loss, damage, or injury suffered by reason of the exercise of any power under that Act; or*
 - (v) *any advance made by the local authority under the Rural Housing Act 1939; or*
 - (vi) *any advance made or guarantee given by the local authority under [Part 32](#) of the Local Government Act 1974; or*
 - (vii) *any contract for the supply of goods or services made during a state of emergency declared, or a transition period for which notice is given, under the [Civil Defence Emergency Management Act 2002](#), if that contract does not continue for more than 1 month after the end of that state of emergency or transition period, and if the goods or services are supplied at charges not in excess of those normally applying in the district of the local authority or in the area under its jurisdiction at the time immediately preceding the state of emergency or transition period,—*
- shall not constitute a disqualification under this section:*
- (e) *[Repealed]*
- (f) *no person shall be disqualified under this section by virtue of his being concerned or interested in any contract made before his election or appointment, if before that election or appointment his obligation in respect of the contract had been performed and the amount to be paid by or on behalf of the local authority in respect of the contract had been fixed; and any payment made thereafter by or on behalf of the local authority in respect of the contract shall not operate to disqualify that person for continuing to hold office or be taken into account for the purpose of calculating the amount that may be lawfully paid to him as a member of the local authority or, as the case may be, of a committee thereof in the same financial year in respect of any contract or contracts:*
- (g) *no person shall be disqualified under this section by virtue of his being concerned or interested in any contract, whether of a continuing nature or otherwise, made before his election or appointment and in respect of which his obligations have not been performed before that election or appointment, where the amount to be paid by or on behalf of the local authority in respect of the performance of the contract has been fixed in that contract subject to such amendments and additions as may be provided for in the contract, or, where the amount to be paid by or on behalf of the local authority in respect of the performance of the contract is not ascertainable until the contract has been performed, if—*
- (i) *the contract is for a continuous period not exceeding 12 months from the date on which the contract is made; or*



- (ii) *the contract is for a continuous period exceeding 12 months from the date on which the contract is made and that person has, with the consent of the local authority, relinquished that contract before acting as a member and within 1 month after the date of his election or appointment, as the case may be;—*

and any payment made thereafter by or on behalf of the local authority in respect of the contract shall not operate to disqualify that person for continuing to hold office or be taken into account for the purpose of calculating the amount that may be lawfully paid to him as a member of the local authority or, as the case may be, of a committee thereof in the same financial year in respect of any contract or contracts:

- (h) *no person shall be disqualified under this section by virtue of his being concerned or interested in any contract as an administrator or a trustee of any estate or trust in which he is not a beneficiary, or as the manager appointed under the [Protection of Personal and Property Rights Act 1988](#):*
- (i) *no person shall be disqualified under this section by virtue of his being concerned or interested in any agreement entered into pursuant to section 81 of the Noxious Plants Act 1978:*
- (j) *no person who is a member of a community board is disqualified under this section by virtue of that person or that person's spouse or partner being concerned or interested in any contract made by a territorial authority, if—*
- (i) *the contract, except for any preliminary work associated with it, is to be performed wholly outside the area under the jurisdiction of the community board of which that person is a member; and*
- (ii) *the contract is one in which the community board has no jurisdiction or control or which has not been reported on to the territorial authority by the community board; and*
- (iii) *neither that person nor that person's spouse or partner is also a member of the territorial authority that made the contract.*
- (3A) *Nothing in subsection (3)(j)(iii) applies with respect to the spouse or partner of a member where, at the time when the contract was entered into, the member and the member's spouse or partner were living apart.*
- (4) *For the purposes of subsection (3)(j), **territorial authority** has the same meaning as in the [Local Government Act 2002](#).*

The penalty for breach of these provisions (contained in section 3 of LAMIA) is immediate loss of office as well as the possibility of a fine being imposed (sections 4 and 5).

Section 6 of LAMIA provides that a member of a local authority or of a committee of it shall not vote on or take part in the discussion of any matter before the governing body of that local authority or before that committee in which he or she has, directly or indirectly, any pecuniary interest, other than an interest in common with the public. Once again, there are special provisions dealing with a pecuniary interest in the context of the interests of the member or his or her spouse in a company. The Office of the Auditor-General is empowered to declare that the rule will not apply with respect to any specified matter or specified class of matter on particular occasions. In doing so it must act in the interests of the electors or inhabitants of the district.

To assist section 6 is set out in full below:

Member of local authority or committee not to discuss or vote on question in which he has pecuniary interest



- (1) *A member of a local authority or of a committee thereof shall not vote on or take part in the discussion of any matter before the governing body of that local authority or before that committee in which he has, directly or indirectly, any pecuniary interest, other than an interest in common with the public.*
- (1A) *Nothing in subsection (1) shall apply in any case where a member of a local authority or a committee of the local authority has been elected by or appointed to represent any activity, industry, business, organisation, or group of persons and his pecuniary interest is not different in kind from the interests of other persons in the activity, industry, business, organisation, or group by which the member is elected or in respect of which he is appointed.*
- (2) *For the purposes of subsection (1), where an incorporated company has, directly or indirectly, a pecuniary interest in a matter before the governing body of a local authority or before a committee thereof, a member of the local authority or, as the case may be, of the committee shall be deemed to have a pecuniary interest in the matter, if—*
- (a) *the member or his spouse or partner singly or between them own, whether directly or through a nominee, 10% or more of the issued capital of the company or of any other company controlling that company; or*
 - (b) *the member or his spouse or partner is a member of the company, and either of them is the managing director or the general manager (by whatever names they are called) of the company; or*
 - (c) *the member or his spouse or partner is a member of a company controlling the company having a pecuniary interest in the matter before the governing body of the local authority or, as the case may be, before the committee, and either the member or his spouse or partner is the managing director or the general manager (by whatever names they are called) of that controlling company; or*
 - (d) *the member or his spouse or partner is the managing director or general manager (by whatever names they are called) of the company having a pecuniary interest in the matter before the governing body of the local authority or, as the case may be, before the committee, and either of them is a member of a company controlling that company.*
- (2A) *Where the spouse or partner of a member of a local authority or of any committee thereof has, directly or indirectly, a pecuniary interest in a matter before the governing body of a local authority or before a committee thereof as the owner or one of the owners (otherwise than as a member of an incorporated company) of an estate or interest in any real or personal property or of any business or as a party to any contract or proposed contract with the local authority, the member shall, for the purposes of subsection (1), be deemed to have a pecuniary interest in the matter.*
- (2B) *Nothing in subsection (2) or subsection (2A) shall apply with respect to the spouse or partner of any member where, at the time when the member took part in the discussion of or, as the case may be, voted on the matter before the local authority or committee, the member and his spouse or partner were living apart.*
- (3) *Nothing in subsection (1) shall apply with respect to any of the following matters:*
- (a) *any payment to or for the benefit of a member where it is legally payable and the amount or maximum amount or the rate or maximum rate of the payment has already been fixed; or*
 - (b) *any contract of insurance insuring members against personal accident; or*
 - (c) *an election or appointment of a member of the local authority to any office, notwithstanding that any remuneration or allowance is or may be payable in respect of that office; or*
 - (d) *any formal resolution to seal or otherwise complete any contract or document in accordance with a resolution already adopted; or*



- (e) *the preparation, recommendation, approval, or review of a district plan under the [Resource Management Act 1991](#) or any section of such a scheme, unless the matter relates to any variation or change of or departure from a district scheme or section thereof or to the conditional use of land as defined in that Act; or*
- (ea) *the preparation, recommendation, approval, or review of general schemes under the [Soil Conservation and Rivers Control Act 1941](#) for the preventing or minimising of damage by floods and by erosion; or*
- (eb) *the preparation, recommendation, approval, or review of reports as to the effect or likely effect on the environment of any public work or proposed public work within the meaning of the [Public Works Act 1981](#); or*
- (f) *any matter in which, in the opinion of the Auditor-General given before the vote or discussion and on written application to the Auditor-General for his or her opinion, the pecuniary interest of a member is so remote or insignificant that it cannot reasonably be regarded as likely to influence him in voting on or taking part in the discussion of that matter.*
- (4) *Notwithstanding anything in subsection (1), the Auditor-General may, of his or her own motion or upon written application made to him or her by the member concerned, declare that that subsection shall not apply with respect to any specified matter or specified class of matter to be considered by the local authority or committee, as the case may be, if the Auditor-General is satisfied that the application of that subsection would impede the transaction of business by the local authority or committee or that it would be in the interests of the electors or inhabitants of the district of the local authority or of the area under its jurisdiction that the subsection should not apply.*
- (5) *Any person who under subsection (1) is prohibited from voting on or taking part in the discussion of any matter at any meeting at which he is present shall, when the matter is raised before the local authority or committee of which he is a member, declare to the meeting that he has a pecuniary interest in the matter, and the fact of the disclosure of interest and of the abstention from discussion and voting shall be recorded in the minutes of the meeting. Any such record in the minutes of the meeting shall be prima facie evidence of its contents, in the event of any question arising as to whether a member made a disclosure of interest and abstained from discussion and voting.*
- (6) *Notwithstanding anything in subsection (1), a member of any of the following bodies:*
 - (a) *the University Grants Committee:*
 - (b) *the Council of Massey University:*
 - (c) *the Council of the University of Auckland:*
 - (d) *the Council of the University of Canterbury:*
 - (e) *the Council of the University of Otago:*
 - (f) *the Council of the University of Waikato:*
 - (g) *the Council of the Victoria University of Wellington:*
 - (gg) *[Repealed]*
 - (h) *the Council of Lincoln University:*
 - (i) *[Repealed]*



(j) [Repealed]

(k) [Repealed]

shall be entitled to take part in the discussion before that body, or any committee thereof, of any matter that directly or indirectly affects his salary or allowances, but shall not be entitled to vote thereon.

The penalty for discussing or voting when there is a pecuniary interest is, once again, loss of office, but only upon conviction of an offence (section 7). Related to these statutory provisions is the common law principle of natural justice, which includes obligations to listen to both sides and not to be a judge in one's own cause.



Indirect Pecuniary Interest

One question that at some stage may face an elected member is how does one deal with an indirect pecuniary interest? At what point, or in what way, is the interest to be distinct from that of the public in general? Not surprisingly, because the circumstances can be infinite in their variety, the Courts have deliberately refrained from providing fixed boundaries. Each case must be considered on its own facts.

The Courts have recognised that the constraint should not be interpreted so as to make

*"The conduct of municipal business impossible and recognised that since a contravention is made an offence punishable by a penalty the language should only be given meaning which it clearly bears"*ⁱⁱ

What is clear is that is that the member's interest is not to be one that is shared in common with the public, it has to be "special and peculiar to him/herself".

The meaning of "the public" is very vague. It will depend upon the circumstances of the case and will always be a question of degree.

An indirect pecuniary interest may involve (see section 6 of LAMIA):

- An interest arising from a relationship and not from any specific contract or monetary connection; and
- Considering whether an informed objective bystander would conclude that there was a likelihood or reasonable apprehension of bias; and
- That any motives and good faith of councillors are irrelevant to whether or not they had an indirect pecuniary interest; and
- Either a potential benefit or a potential liability. It does not matter whether a member gains or loses from his or her interest, "the situation contemplated by the legislation is a particular formalised illustration of the rule that persons charged with an obligation to make decisions should not be affected by any personal motive".

It must be emphasised that pecuniary interests are ones for members themselves to address and resolve. It is not the business of the Council to order, direct or formally advise any member what he or she should do in any particular instance.

Only the member will know sufficient detail to be able to determine his or her liability. There is no authority for the executive of the Council to provide legal advice to members as to their personal affairs.

Crimes of Bribery and Corruption - Crimes Act 1961

Councillors are within the definition of an "official" in section 99 of the Crimes Act. Section 105 of that Act provides that every official is liable to imprisonment for a term not exceeding 7 years who, whether within New Zealand or elsewhere, corruptly accepts or obtains, or agrees or offers to accept or attempts to obtain, any bribe for himself or any other person in respect of any act done or omitted, or to be done or omitted, by him or her in an official capacity.

Putting this simply, it is an offence against this section to seek or obtain a reward for performing one's official duties as a councillor.

Section 105A, further states that it is an offence, carrying a term of imprisonment of up to 7 years, for an official to use any information acquired by him or her in an official capacity to obtain, directly or indirectly, an advantage or a pecuniary gain for himself or herself, or any other person.

Secret Commissions Act 1910

The Secret Commissions Act 1910 deems every councillor to be an agent of the Council (section 16(1)(b)). It creates offences in relation to accepting inducements or rewards for doing or forbearing to do something in relation to the Council's affairs, or showing or having shown favour or disfavour to any person in relation to the Council's affairs or business (section 4(1)). It is an offence, similarly, to divert, obstruct, or interfere with the proper course of the affairs or



business of the Council, or to fail to use due diligence in the prosecution of its affairs or business, with intent to obtain any gift or other consideration from any person interested in the affairs or business of the Council (section 4(2)).

Section 5 makes it an offence for a member not to disclose to the Council his or her pecuniary interest in a contract when making a contract on behalf of the Council.

Section 9 of the Act makes it an offence to aid or abet, or to be in any way directly or indirectly concerned in, or privy to, the commission of any offence against the Act.

Conviction of an offence under the Act carries with it the possibility of imprisonment for up to 7 years. Such a conviction would also have the consequence of loss of office, in terms of clause 1 of Schedule 7 to the Local Government Act 2002.

Financial Markets Conduct Act 2013

Under the Financial Markets Conduct Act 2013, elected members are in a similar position to company directors if the Council were to issue financial products, such as equity or debt securities, under its borrowing powers. Elected members may therefore be personally liable if product disclosure statements to investors contain untrue information, and may be liable for civil action or criminal prosecution if the requirements of the Act, such as keeping an audited register of financial products issued, are not met.

Health and Safety at Work Act 2015

The Act specifically exempts Local body members at section 52 set out below.

52 Liability of certain office holders

- (1) An office holder listed in subsection (2), when acting in that capacity, does not commit an offence under [section 47](#), [48](#), or [49](#) for a failure to comply with the duty imposed by [section 44](#) (duties of officers).
- (2) The office holders are—
 - (a) a member of the governing body of a territorial authority or regional council elected in accordance with the [Local Electoral Act 2001](#);
 - (b) a member of a local board elected or appointed under the [Local Electoral Act 2001](#);
 - (c) a member of a community board elected or appointed in accordance with the [Local Electoral Act 2001](#);
 - (d) a trustee of a board of a school appointed or elected under the [Education Act 1989](#).
- (3) In this section,—

board and **trustee**, in relation to a school, have the same meanings as in [section 92\(1\)](#) of the Education Act 1989

community board means a board established under [section 49\(1\)](#) of the Local Government Act 2002

local authority and **local board** have the same meanings as in [section 5\(1\)](#) of the Local Government Act 2002.



Administrative Law Principles

This is a brief introductory overview of administrative law principles, which apply to the making of all decisions by the Council. There is an overriding obligation to make decisions fairly.

The Council is subject to the same laws as any other person or body corporate. However, The Council is not the same as a company or an individual. Its public nature, derived from the Crown and being in control of public funds creates a need for additional obligation that Council must adhere to. These additional obligations are the administrative law principles otherwise known as the rules of natural justice which apply to council's decision making.

The Council can be taken to court for both private claims and public action. An example of a private claim is seeking damages against the Council for breach of contract and an example of a public action is judicial review of a Council decision.

What then are the administrative law principles? Three major categories of grounds for judicial review have been recognised. One judge has spoken of illegality, irrationality and procedural impropriety. Another would have councils act in accordance with law, fairly and reasonably.

These are clearly broad principles and are of universal application. Narrower legal terms apply to certain kinds of behaviour, which are found within these requirements to achieve fairness.

Illegality /Procedural Impropriety

Although Council has a power of general competence, that power is given and constrained by the Local Government Act 2002, other legislation and the common law. This means it cannot do whatever it wants in whatever manner it chooses.

Whenever the Council does act, by resolution of the members themselves in Council meeting, by committee, subcommittee or delegated officer, it must act in the manner specified in the legislation or standing orders. Particular attention should be given to procedural compliance as a failure to comply with the statutory duties set out in the LGA02 can result in the decision of the Council being illegal and on judicial review overturned.

A Degree of Conflict in Council Decision Making is Allowed

Elected members will often be involved in other organisations in the community, in addition to private interests and those of their friends and families. Accordingly, having possible conflicting interests is natural and unavoidable

It however is important to note that a conflict only arises if, in a particular situation, there is an overlap between private interest and responsibilities to a public entity, or where a person's duty to one entity is in conflict with a duty to another entity (a conflict of roles/duties).

The law recognises the inevitability of a degree of conflict within councils when exercising certain functions. It is established, for example, that a council may object to its own district plan and apply to itself for resource consent.

Where there is inevitably an element of pre-consideration by the council of the issue it has to decide, the Courts have tolerated:

"a departure from the standard of even-handed justice which the law requires from those who occupy judicial office, or those who are commonly regarded as holding a quasi-judicial office..."ⁱⁱⁱ

This lesser standard of impartiality has been described in the case of councils in these terms:

"... the state of impartiality which is required in a council to preserve a freedom, notwithstanding earlier investigations and decisions, to approach their duty of inquiring into and disposing of objections without a



closed mind, so that if considerations advanced by objectors bring them to a different frame of mind they can and will go back on their proposals.”^v

However, that the necessary element of inevitability is lacking where one member of the Council chooses to make preliminary submissions to the Council or become publicly involved on behalf of one particular option, rather than argue his case in the deliberations of the Council. By taking a prior public position, he steps outside the Council and should not, subsequently, seek to rejoin the Council in its deliberations.

The Council's actions will be tested for bias against strict rules. There must be no:

“suspicion of bias reasonably and not fancifully entertained by responsible minds.”^v

Bias

The law around conflict of interest and bias is interesting but difficult to apply as it is often a matter of degree. For example in our legislation it is not just a matter of exclusion from the vote, but also exclusion from the deliberation on the particular issue. A public body must be seen to be impartial when making a decision. A prior contract, undertaking or commitment may make later considerations unlawful.

Bias and section 6 of LAMIA are similar in some respects. The test is:

“whether an informed objective bystander would conclude that there was a likelihood or reasonable apprehension of bias”.^{vi}

Bias is part of the administrative law principles of natural justice, which requires the Council to act fairly in reaching its decisions. The fairness principle has been described in these terms:

“In exercising that discretion as in exercising any other administrative function they [members] owe a constitutional duty to perform it fairly and honestly... What is a fair procedure to be adopted at a particular enquiry will depend on the nature of its subject matter.”^{vii}

More particularly, in the present context:

“presumptive bias through interest is a disqualifying factor in the judicial process not because actual bias was present, but because a reasonable man might think it was.”^{viii}

A breach, however, does not automatically invalidate a decision, nor render it void. The decision remains until it is declared by a court to be invalid and set aside.

Administrative law principles, sometimes spoken of as "natural justice", require the Council to act fairly in reaching its decisions. Among other things, that duty requires that conflicting views to be considered in any particular process are given a fair hearing and that the decision is free of predetermination or bias.

Administrative law principles are matters of public law affecting the Council, rather than private law by which a member can be subjected to sanctions. The remedy in public law, in the event of conflict giving rise to bias, is the invalidation of the Council decision, not the imposition of a penalty. It is this potential consequence of non-pecuniary conflict of interest that affects the Council.

The Council needs to consider the decision-making process. Is the process impartial? Might an informed objective bystander think that a member has a conflict of interest? To this extent, the duty of disclosure by members to the Council is vital.

Reasonableness

The test for reasonableness, known as **Wednesbury unreasonableness**^{ix} was stated like this:



"...a person entrusted with a discretion must so to speak direct to himself properly in law. He must call his own attention to the matters which he is bound to consider. He must exclude from his consideration matters which are irrelevant to what he has to consider. If he does not ... he may truly be said ... to be acting "unreasonably"."

Further, what is often quoted:

"If a decision is so unreasonable that no reasonable authority could ever have come to it then the courts can interfere."

It is on this standard that rates of McKenzie and Waimate Districts have been struck down.

The Court of Appeal has stated the test of unreasonableness in *Wellington City Council v Woolworths* in this way:

"For the ultimate decisions to be invalidated as "unreasonable" to repeat expressions used in the cases, the must be so perverse or absurd or outrageous in their defiance of logic that Parliament could not have contemplated such decisions being made by an elected council."^x

Just because a wide majority of elected representatives, often considering the matter a number of times, have come to a decision which seemed to them to be wise policy, well made, the Courts have nevertheless exercised the power to review and uphold, or reject those Council decisions.

The approach has been refined by the High Court in the recent case of *MPR v Refugee Status Appeals Authority*. Judge Duffy said at paragraph 14:

"The test for reasonableness can vary according to the context. Decisions that are entirely about money or that largely involve questions of central or local government policy are subject to the test applied in Wellington City Council v Woolworths (No 2) [1986] 2 NZLR 537 (CA) at 545.... However, it has long been recognised that a lower threshold may be applied in cases involving human rights."^{xi}

Conclusion

In decision-making, the Council must act with lawful authority in accordance with lawful procedure and produce rational results. This sounds simple, but in practice circumstances and complexity of the matters that you may have to deal with often make for difficulties in coming to a decision. When there is doubt, act carefully, ask and take advice and in need request further information so that at all times you as a Councillor can strive to make the best decisions you can for the benefit of the district.

References and Acknowledgements

- ⁱ Brown v DPP [1956] 2 All ER 189,192, Donovan J
- ⁱⁱ Downward v Babington [1975] VR 872,877
- ⁱⁱⁱ Franklin v Minister of Town & Country Planning [1948] AC 87 at 103
- ^{iv} Lower Hutt City Council v Bank [1974] 1 NZLR 545 at 550
- ^v Turner v Allison and Others [1971] NZLR 833 at 848
- ^{vi} Calvert & Co v Dunedin City Council [1993] 2 NZLR 460
- ^{vii} Bushell v Secretary of State for the Environment [1981] AC 75, 95
- ^{viii} Meadowvale Stud Farms Limited v Stratford County Council [1979] 1 NZLR 342
- ^{ix} Associated Provincial Housing Ltd v Wednesbury Corporation [1948] 1KB 2
- ^x Wellington City Council v Woolworths New Zealand Limited [1996] NZLR 537
- ^{xi} MPR v Refugee Status Appeals Authority [2012] NZHC 567

I further wish to acknowledge Brookfields Lawyers and the ongoing guidance in the matters.

5.6 KAIKOHE-HOKIANGA COMMUNITY BOARD FIRST MEETING**File Number: A2715928****Author: Marlema Baker, Meetings Administrator****Authoriser: William J Taylor MBE, General Manager - Corporate Services****PURPOSE OF THE REPORT**

To note the date and time of the first meeting of the Kaikohe-Hokianga Community Board.

RECOMMENDATION

That the Kaikohe-Hokianga Community Board receive the report “Kaikohe-Hokianga Community Board First Meeting”.

BACKGROUND

The Local Government Act (2002) cl. 21(5), Schedule 7, sets out a number of requirements of business that must be conducted at the Inaugural Meeting. This includes:

- (d) The fixing of the date and time of the first meeting of the local authority, or the adoption of a schedule of meetings.

The Kaikohe-Hokianga Community Board's first meeting has been scheduled for Wednesday 11 December 2019.

DISCUSSION AND NEXT STEPS

The schedule of formal meetings will be tabled to Council and the Community Boards at their meetings in December.

FINANCIAL IMPLICATIONS AND BUDGETARY PROVISION

There are no financial implications or budgetary provisions required as a result of this report.

ATTACHMENTS

Nil

5.7 KAIKOHE-HOKIANGA STATEMENT OF FINANCIAL PERFORMANCE ACTIVITIES BY WARD FOR THE PERIOD ENDING 30 SEPTEMBER 2019

File Number: A2715929

Author: Sam Chapman, Accounting Support Officer

Authoriser: Janice Smith, Chief Financial Officer

PURPOSE OF THE REPORT

The purpose of the report is to provide the Kaikohe-Hokianga Community Board with financial statements for the period ended 30 September 2019.

EXECUTIVE SUMMARY

The financial report is ward-specific, covering the activities in the Kaikohe-Hokianga ward only.

Understanding the report

Variances in excess of \$100k and significant “%” variances will be commented on.

The financial year runs from 01 July 2019 to 30 June 2020.

The “Year to date” columns reflect income and expenses for the period 01 July 2019 to 30 September 2019.

The variances column highlights the difference between the budget set in the 2019/20 Annual Plan and actual income and expenses as at 30 September 2019.

The full year columns show the budgeted income and expenses for the full 12 months from 01 July 2019 to 30 June 2020.

The full year forecast column shows the best estimate for the actual year end position as advised by Managers.

Unfavourable variances will represent expenses higher than budget or income less than budget.

RECOMMENDATION

That the Kaikohe-Hokianga Community Board receives the report Kaikohe-Hokianga Statement of Financial Performance Activities by Ward for the period ending 30 September 2019.

BACKGROUND

This is the first quarterly financial report for 2019-2020 detailing the financial performance of community activities to be provided to the Kaikohe-Hokianga Community Board.


DISCUSSION AND NEXT STEPS

Refer to commentary in the attached statement.

FINANCIAL IMPLICATIONS AND BUDGETARY PROVISION

There are no specific financial implications for this report.

ATTACHMENTS

1. **2019-11-06 KHCB Statement of Financial Performance Activities by Ward for the period ending 30 September 19 - A2715916**  

Statement of Financial Performance
Community Activities by Ward
for the period ending
30-September-2019
Kaikohe - Hokianga

	Year to date		Year to date		Full year			Full year
	Actual	Annual Plan Budget	Variance		Annual Plan Budget	Carry Forward Budgets	Total Annual Budget	Forecast
Operations								
Operational income								
Rates - general (excl water supply rates)	578	587	(10)	-2%	2,350	0	2,350	2,350
Rates - penalties	0	14	(14)	-100%	55	0	55	55
Fees & charges (inc water supply rates)	20	14	6	47%	55	0	55	55
Central govt subsidies - operational	0	5	(5)	-96%	20	0	20	20
Other income	2	0	1	363%	1	0	1	1
Capital income								
Central govt subsidies - new works	246	0	246	100%	0	0	0	1
Central govt subsidies - renewals	1	0	1	100%	0	0	0	30
Total operating income	847	620	227	37%	2,480	0	2,480	2,511
Expenditure								
Amenity Lighting	7	9	1	17%	35	0	35	35
Carparks	15	18	4	19%	79	0	79	79
Cemeteries	16	17	1	7%	66	0	66	66
Community Centres	7	21	15	69%	109	0	109	109
Footpaths	6	48	42	87%	193	0	193	193
Halls	39	108	70	64%	432	0	432	432
Museums	33	34	1	3%	46	0	46	46
Parks & Reserves	95	166	71	42%	662	0	662	662
Public Toilets	64	91	27	30%	370	0	370	370
Swimming Pools	9	10	0	5%	133	0	133	133
Town Maintenance	80	65	(15)	-24%	258	0	258	258
Total operating expenditure	371	587	217	37%	2,382	0	2,382	2,382
Net operating surplus/(deficit)	476	33	443		99	0	99	129

Commentary - Kaikohe - Hokianga

Operational Income
There is no significant variance.

Capital Income
Central Government Subsidies New Works - TIFF grant for public toilets at Opononi and Mitimiti are unbudgeted.

Expenditure
Footpaths, Halls and Parks and Reserves - Depreciation not finalised until October after signing off last year's audit.

5.8 KAIKOHE-HOKIANGA STATEMENT OF COMMUNITY FUND ACCOUNT AS AT 30 SEPTEMBER 2019

File Number: A2707869

Author: Sam Chapman, Accounting Support Officer

Authoriser: Janice Smith, Chief Financial Officer

PURPOSE OF THE REPORT

The Community Fund account provides information on financial matters relating to the Kaikohe-Hokianga Community Board's Community Fund which is allocated in accordance with the Community Grant Fund Policy.

RECOMMENDATION

That the Kaikohe-Hokianga Community Board receives the report Kaikohe-Hokianga Statement of Community Fund Account as at 30 September 2019.

BACKGROUND

The statement is attached for the Board's information and to provide sufficient information to enable the Board to allocate funds in accordance with the funds available. In accordance with the Community Grant Policy, section 10, *"applications in excess of \$3,000 may require the applicant to attend a Board meeting, subject to the Chairperson's discretion"*.

Community Fund Account balance as at 1 July 2019	\$115,902.00
• Less funds granted and uplifted to 30 September 2019	\$12,485.00
• Less funds not uplifted from 4 September 2019 for Te Pokapu Tiaki Taiao o Te Tai Tokerau	\$2,880.00
• Less funds not uplifted from 2 October 2019 for Waimamaku Community Garden Group, Opononi Area School, Wekaweka Valley Community Trust and Dynamo Cycling and Sports Club Inc	\$12,179.00
Community Fund Account balance as at 30 September 2019	\$88,358.00

DISCUSSION AND NEXT STEPS

Board members will consider the applications on the agenda and make a decision on what level of funding to allocate. The uncommitted balance in the Community Fund account as at 30 September 2019 is \$88,358.00.

Recent amendments to the Community Grant Fund Policy allow the Community Board to allocate, by resolution, funding directly to key projects identified in their strategic plan to the maximum amount of \$20,000 in any financial year.

FINANCIAL IMPLICATIONS AND BUDGETARY PROVISION

The Far North District Council has delegated the allocation of funds from the Kaikohe-Hokianga Community Fund account to the Kaikohe-Hokianga Community Board. The statement of the Community Fund account as at 30 September 2019 is attached.

ATTACHMENTS

1. **Statement of Kaikohe-Hokianga Community Board Fund Account as at 30 September 2019 - A2707725** [↓](#) 

Far North District Council
Kaikohe - Hokianga Community Board
Statement of the Community Fund Account as at 30 September 2019

Allocation Grants & Donations Annual Budget 2018/19	82,569.00	
Community Board Placemaking Fund	<u>33,333.00</u>	115,902.00
Less Expenditure 2019/20 (Funds Uplifted)		
July 19		
Youthline Auckland for telecommunications costs	1,800.00	
Carbon Neutral New Zealand work with FNDC Youth Council	2,500.00	
August 19		
Francher Ltd for the Rawene Good Vibes Event for advertising, administration, equipment hire, travel and accommodation	1,400.00	
September 19		
Hokianga Country Music club Inc costs towards ferries for bands and performers for the 2019 Hokianga Country Music Festival	2,785.00	
Learn New Zealand Sign Language with Eddie Trust for costs towards venue hire, advertising and promotion, facilitator fees, administration, consumable materials and travel	2,000.00	
Kaikohe Business Association for the Te Wairua o Kaikohe Dinner Event	<u>2,000.00</u>	12,485.00
Balance as at 30 September 2019		<u>\$103,417.00</u>
Less Commitments 2019/20 (Funds not yet up lifted)		
Meeting 02.10.19		
Waimamaku Community Garden Group costs for purchasing Broad fork, First Aid Kit, Greenhouse, Compost bins and safety gear and Water tank	3,129.00	
Opononi Area School (OAS) costs for replacement of shade-sail at Opononi Area School	5,727.00	
Wekaweka Valley Community Trust for 2020 operational costs for the Waimamaku Resource Centre; Telephone and internet, Repairs and maintenance, Rent, Printing, postage and stationery and Power and gas	1,000.00	
Dynamo Cycling and Sports Club Inc costs towards purchasing finishers medals and trophies	500.00	
Kohukohu Community Trust to assist the Herald Building Group with costs towards equipment and printing newsletter	1,823.00	
Meeting 04.09.19		
Te Pokapu Tiaki Taiao o Te Tai Tokerau for costs towards a Timebank Coordinator	<u>2,880.00</u>	15,059.00
Balance 30 September 2019 Uncommitted/(Overcommitted)		<u>\$88,358.00</u>
Prior Year Commitments (Funds not yet Uplifted)		
2018/19		
Meeting 04.09.19		
Te Pokapu Tiaki Taiao o Te Tai Tokerau for costs towards a Timebank Coordinator	2,880.00	
Meeting 05.06.19		
Kaikohe Basketball Court Project on Memorial Park Reserve to assist with beautification of basketball court area	7,714.01	
Rural travel grant to Matihetihe School	515.00	
Matihetihe School support children participating in regular sporting activity during 2019 winter season	85.00	
Meeting 13.02.19		
Rawene Golf Club Inc. to assist with the cost of The Hokianga Golf Fun Day 2019	<u>115.79</u>	
Balance commitments 2018/19	11,309.80	

6 STRATEGIC PLANNING AND POLICY GROUP

6.1 APPLICATION FOR FUNDING - KAIKOHE BUSINESS ASSOCIATION INC

File Number: A2712251

Author: Kathryn Trewin, Funding Advisor

Authoriser: Sheryl Gavin, Manager Corporate Planning and Community Development

PURPOSE OF THE REPORT

To present the Community Board with information received from the Kaikohe Business Association Inc, for the costs associated with the Christmas in the Village, and to assist members in determining whether to approve or decline the application.

EXECUTIVE SUMMARY

- The Kaikohe-Hokianga Community board has \$88,358 unallocated funding available for the 2019/20 financial year as at 30 September 2019. This does not take into account funding allocated in October.
- One application has been received for funding, requesting a total of \$4,010

RECOMMENDATION

That the Kaikohe-Hokianga Community Board approve the sum of \$4,010 (plus GST if applicable) to be paid from the Board's Community Fund account to Kaikohe Business Association Inc for the Christmas in the Village to support the following Community Outcome:

- Proud, vibrant communities**

1) BACKGROUND

Kaikohe Business Association Inc purpose is to develop a dynamic positive role. Contributing towards a better community and promoting the town of Kaikohe.

The Kaikohe Business Association Inc has not secured any funding to date. Kaikohe Business Association Inc has previously received the following funding from the Bay of Islands-Whangaroa Community Board:

Year	Amount allocated	Project	Project received	report
2019	\$ 2,000.00	Te Wairua o Kaikohe	No	

2) DISCUSSION AND OPTIONS

The applicant was required to complete a standard application form and provide supporting information.

For each application, the Board has three options.

Option 1 Authorise funding for the full amount requested

This application is for \$4,010. Volunteer hours (approximately 150 hours @ \$20/hour) were not included on the original application form, and increase the total cost to \$8771. The application is for 46% of the total cost.

Option 2 Authorise partial funding

Option 3 Decline funding

Option 1 is recommended by staff as it complies with the Community Grant Policy.

Reason for the recommendation

This application has been checked by staff for completeness and complies with all conditions of the Community Grant Policy, Community Outcomes as stated in the 2018-28 LTP, and all provisions listed on the application form.

3) FINANCIAL IMPLICATIONS AND BUDGETARY PROVISION

Budgetary provision has been made and the grant is allocated in accordance with the Community Grant Policy.

ATTACHMENTS

1. **Funding Application - Kaikohe Business Association Inc - Xmas in the Village KBA - A2712201** [!\[\]\(e548a391c65118ac2476924cdb5db38c_img.jpg\)](#) [!\[\]\(6fc1fda334fce799e3b50f6cf68d70a8_img.jpg\)](#)
2. **Schedule of Supporting Documents - Kaikohe Business Association - A2718301** [!\[\]\(a85cf8a5f7692437e8653d157b475e72_img.jpg\)](#) [!\[\]\(1ed54328d83d1d02ca08b870ce12dc0d_img.jpg\)](#)

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.

Compliance requirement	Staff assessment
State the level of significance (high or low) of the issue or proposal as determined by the Council's Significance and Engagement Policy	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.	Community Grant Policy
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.	It is the responsibility of each Community Board to confirm the funding they allocate for the financial year
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.	Any implications on Māori arising from matters included in the funding application should be considered as part of the relevant report.
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 (for example – youth, the aged and those with disabilities).	Consideration has been taken into account as outlined in the application as part of funding request.
State the financial implications and where budgetary provisions have been made to support this decision.	Budgetary Provision has been made and the grant is allocated in accordance with the Community Grant Policy.
Chief Financial Officer review.	The Chief Financial Officer has not reviewed this report.

Local Grant Application Form

No

Instructions

Please read carefully:

- ☐ Read this application form in full before you start filling it in. It is easier to complete an application if you have the information you need at your fingertips.
- ☐ Please see Section 1 of the Community Grant Policy to ensure you are eligible.
- ☐ All applications are to be submitted 15 clear working days prior to the Community Board meeting where the application will be considered. Deadlines dates are on Council's website www.fndc.govt.nz
- ☐ **Incomplete, late, or non-complying** applications will not be accepted.
- ☐ Applicants who have failed to complete a Project Report for previous funding granted within the last five years are not eligible for funding.
- ☐ **If there's anything on this form you're not sure of**, please contact the Governance team at DDI (09) 401 5231, freephone 0800 920 029, or governance@fndc.govt.nz – we're happy to help.
- ☐ **Send your completed form** to governance@fndc.govt.nz or to any Council service centre

The following **must** be submitted along with this application form:

- ☐ Quotes (or evidence of costs) for all items listed as total costs on pg 3
- ☐ Most recent bank statements and (signed) annual financial statements
- ☐ Programme/event/project outline
- ☐ A health and safety plan
- ☐ Your organisation's business plan (if applicable)
- ☐ If your event is taking place on Council land or road/s, evidence of permission to do so
- ☐ Signed declarations on pgs 5-6 of this form

Applicant details

Organisation	<input type="text" value="Kaikohe Business Association Inc"/>	Number of Members	<input type="text" value="20+"/>
Postal Address	<input type="text" value="P O Box 497"/>	Post Code	<input type="text" value="0440"/>
Physical Address	<input type="text" value="Kaikohe"/>	Post Code	<input type="text"/>
Contact Person	<input type="text" value="Taunaha Smith"/>	Position	<input type="text" value="Administrator"/>
Phone Number	<input type="text"/>	Mobile Number	<input type="text" value="0211600168"/>
Email Address	<input type="text" value="admin@kaikohe.town"/>		

Please briefly describe the purpose of the organisation.

The Kaikohe Business Association aims to develop a dynamic positive role contributing towards a better community and promoting the town of Kaikohe.

www.fndc.govt.nz | Memorial Ave, Kaikohe 0440 | Private Bag 752, Kaikohe 0440 | ask.us@fndc.govt.nz | Phone 0800 920 029

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Local Grant Application Form



Financial Information

Is your organisation registered for GST? ☒ Yes ☐ No GST Number 103-589-665

How much money does your organisation currently have? \$13,435

How much of this money is already committed to specific purposes? \$10,040.

List the purpose and the amounts of money already tagged or committed (if any):

Purpose	Amount
Ongoing monthly admin cost - Annual fee	\$6900
CCTV Rental annual fee	\$360-
Internet annual fee	\$1500
Community Patrol annual	\$1280
TOTAL	\$10,040.

Please list details of all other funding secured or pending approval for this project (minimum 50%):

Funding Source	Amount	Approved
		Yes / Pending
		Yes / Pending
N/A.		Yes / Pending
		Yes / Pending
		Yes / Pending

Please state any previous funding the organisation has received from Council over the last five years:

Purpose	Amount	Date	Project Report Submitted
Past and Present	2000	20/08/2019	Y / N In Progress
Community Patrol over 3 years	3000	10/04/2017	(Y) / N
CCTV System Upgrade	17,153	11/07/2016	(Y) / N
Blackboard + Seat in Library Square	439	10/11/2014	(Y) / N

Local Grant Application Form

No

Project Cost

Provide a detailed costs estimate for the activity. Funding requested may not exceed 50% of the total cost.

Total Cost - provide the **total** amount of the estimated quoted cost against the appropriate item.

Amount Requested - provide (against the item) the amount the Board is being requested to contribute.

Please Note:

You need to provide quotes (or evidence of costs) for everything listed in the total costs column

If your organisation is GST registered, all requested amounts must be GST exclusive.

Do not enter cents – round the values up or down to the nearest dollar

Do not use the dollar sign (\$) – just enter the dollar value

If you are applying for operating costs of a programme, please attach a programme outline

Expenditure	Total Cost	Amount Requested
Rent/Venue Hire	1050	500
Advertising/Promotion	391	391
Facilitator/Professional Fees ²		
Administration (incl. stationery/copying)	1500	539
Equipment Hire /sound	265	265
Equipment Purchase (describe)		
Utilities		
Hardware (e.g. cement, timber, nails, paint)		
Consumable materials (craft supplies, books)	50	50
Refreshments		
Travel/Mileage		
Volunteer Expenses Reimbursement		
Wages/Salary		not applicable
Volunteer Value (\$20/hr)		not applicable
Other (describe)	305	305
Face painting -	50	
Lolly scramble -	1510	1510
Kia Tupato, Road Closure -	200	200
Magician -	200	
Prizes -	250	250
Notifications re: road closure	250	
TOTALS	5771	250

Event Cost

\$2500

Road Closure

\$1510.

² If the applicant is for professional or facilitator fees, a job description or scope of work must be attached.

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Page 3

No

Which Community Board is your organisation applying to (see map Schedule A)?

Clearly describe the project or event:

Will there be a charge for the public to attend or participate in the project or event? ☐ Yes ☐ No

Outline your activity and the services it will provide. Tell us:

This event is running on a Thursday so it can compliment the night market held in town. On a Thursday

**Local Grant
Application Form**

No

Privacy Information

The information you have provided on this form is required so that your application for funding can be processed. Once this application is lodged with the Council it becomes public information and may be made available on the Council's website. If there is sensitive information in the proposal or personal details you wish to be withheld, please advise. These details are collected to inform the general public and community groups about all funding applications which have been submitted to the Far North District Council.


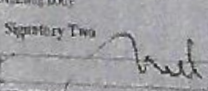
Applicant Declaration

This declaration must be signed by two people from your organisation who are 18 years of age or older with the authority to sign on behalf of the organisation. Signatories cannot be an undischarged bankrupt, cannot be immediately related, cannot be employed, and cannot live at the same address. They must have a daytime contact phone number and be contactable during normal business hours.

On behalf of: (full name of organisation)

KAIKOHE BUSINESS ASSOCIATION INC

- We have the authority to commit our organisation to this application and we have been duly authorised by our governing body.
- We acknowledge and agree that the Far North District Council may disclose or obtain information related to the funding of the organisation from any other government department or agency, private person, or organisation.
- We have attached our organisation's most recent statement of income and expenditure, annual accounts, or other financial documents that demonstrate its ability to manage a grant.
- Individuals associated with our organisation will not receive a salary or any other pecuniary gain from the proceeds of any grant money arising from this application.
- The details given in all sections of this application are true and correct to the best of our knowledge, and reasonable evidence has been provided to support our application.
- We have the following set of internal controls in place:
 - Two signatories to all bank payments (if applicable)
 - A regularly maintained and current cash book, or electronic equivalent
 - A person responsible for keeping the financial records of the organisation
 - A regularly maintained tax record (if applicable)
 - A regularly maintained PAYE record (if applicable)
 - The funding and its expenditure shown as separate entries in the cash book or as a note to the accounts
 - Tracking of different funding streams through a spreadsheet or journal entry
 - Regular financial reporting to every 10th meeting of the governing body

Signature One  Signature Two 

www.fnd.govt.nz | Memorial Ave, Kaikohe 6440 | Private Bag 762, Kaikohe 6440 | ash.mcc@fnd.govt.nz | Phone 09 928 829

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Local Grant Application Form

No

We agree to the following conditions if we are funded by Local Community Grant Funding:

1. To uplift any funding granted within 3 months of the date on the letter of agreement. Failure to do so will result in loss of the grant money.
2. To spend the funding within 12 months of the date of grant approval unless written approval for an extension is obtained from Council before that 12 month period ends.
3. To spend the funding only for the purpose(s) approved by Far North District Council unless written approval for a change of purpose(s) is obtained **in advance** from the Community Board.
4. To return to the Far North District Council any portion of the funding that we do not spend. If our payment includes GST we will return the GST component of the amount to be returned.
5. To acknowledge the receipt of Community Board funds as a separate entry in our accounts, or in a note to our accounts, in our organisation's annual report.
6. To acknowledge any financial contribution from Far North District Council on signage and in any publicity relating to the project. Contact Governance Support for digital imagery.
7. To make available any files or records that relate to the expenditure of this funding for inspection if requested by the Far North District Council or its auditors.
8. To complete and return a Project Report within **two months** of the end of the project, or, if the activity is ongoing, within two months of the funding being spent. Applicants who fail to provide a project report within this timeframe will not be considered for funding for stand-down period of five years.
9. To inform the Far North District Council of significant changes in our organisation before this application has been considered, or the funding has been fully used and accounted for (such as change in contact details, office holders, financial situation, intention to wind up or cease operations, or any other significant event).
10. To lay a complaint with the Police and notify the Far North District Council immediately if any of the funding is stolen or misappropriated.

Signatory One

Name KORAK KANT Position ALIA Manager
 Postal Address P O BOX 12500 S HAVERS Post Code 1740
 Phone Number 021599915 Mobile Number 021599915
 Signature [Signature] Date 7/10/2019

Signatory Two

Name JOE NOL Position TREASURER
 Postal Address 47 ORRS RD KAIKOHE Post Code 0405
 Phone Number 027 260 2329 Mobile Number
 Signature [Signature] Date 7/10/19

www.fndc.govt.nz | Memorial Ave, Kaikohe 0440 | Private Bag 752, Kaikohe 0440 | ask.us@fndc.govt.nz | Phone 0800 920 029

Version 9 Sept 2018

Schedule of Supporting Documentation**KAIKOHE BUSINESS ASSOCIATION – CHRISTMAS IN THE VILLAGE**

The following supporting documentation has been provided in support of the grant application and is emailed under separate cover.

1	Cover Letter
2	Letter regarding comparative quote
3	Bank statement
4	Annual Report
5	Health & Safety/Emergency Plan
6	Quote from Mike's Magic & Entertainment
7	Quote for sound system (Music Workshop)
9	Quote from Halvo Signs
10	Quote from Rachel Bray
11	Quote from Blah Blah Marketing
12	Quote from Design & Print
13	Quote from Pioneer Village
14	Quote from Kia Tupato (Traffic Management Plan)
15	Site Plan

6.2 FUNDING PROJECT REPORTS

File Number: A2718814

Author: Kathryn Trewin, Funding Advisor

Authoriser: Sheryl Gavin, Manager Corporate Planning and Community Development

PURPOSE OF THE REPORT

Recipients of funds from the Community Board's Local Grant Fund must complete and submit a project report no later than two months after the completion of their project.

RECOMMENDATION

That the Kaikohe-Hokianga Community Board note the project reports received from:

- a) **Hokianga Sailing Trust**

1) BACKGROUND

Clause 15 of the Community Grant Policy states that: "At the completion of a project that received community funding, recipients are required to complete a Project Report. These reports must be received no later than two months after the completion of the project, or, if the activity is ongoing, within two months of the funding being spent. Recipients who do not complete this form are ineligible for Council funding for a period of five years."

2) DISCUSSION AND OPTIONS

A copy of the project report is attached for the Board's information. Should Board members have concerns or issues with this report, this should be discussed at this part of the meeting.



Reason for the recommendation

To receive the project report from the funding applicant in accordance with the Community Grant Policy.

3) FINANCIAL IMPLICATIONS AND BUDGETARY PROVISION

There are no financial implications or budgetary requirements.

ATTACHMENTS

1. **Community Grant Project Report - Hokianga Sailing Trust - A2718813**  

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.

Compliance requirement	Staff assessment
State the level of significance (high or low) of the issue or proposal as determined by the Council's Significance and Engagement Policy	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.	Community Grant Policy.
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.	It is the responsibility of each Community Board to confirm the funding that they allocated has been spent correctly.
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.	There are no implications on Māori in confirming the project reports. Any implications on Māori arising from matters included in project reports should be considered as part of the relevant report.
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 (for example – youth, the aged and those with disabilities).	This report is asking for the project reports to be approved, any interests that affect other people should be considered as part of the individual reports.
State the financial implications and where budgetary provisions have been made to support this decision.	There are no financial implications or the need for budgetary provision.
Chief Financial Officer review.	The Chief Financial Officer has not reviewed this report.



**Far North
District Council**

**Project Report
COMMUNITY GRANT FUND - LOCAL**

F0080402

At the completion of a project that received community funding, recipients are required, as stated in the Community Grant Policy, to submit a Project Report to the Community Board. Project Reports are to be received no later than two months after the completion of the project or if the activity is ongoing, within two months of the funding being spent.

Applicants who fail to provide a project report within the required time will not be considered for future funding.

Please return the completed form to:

Governance Support

Far North District Council

Private Bag 752

KAIKOHE 0440

or email to: governance@fndc.govt.nz (PDF attachment via email is preferred)

Name of organisation:

Hokianga Sailing Club

Name & location of project:

Life vests for the sailing club

Date of project/activity:

every summer from October - April

Which Community Board did you receive funding from?

☐ Te Hiku

☒ Kaikohe-Hokianga

☐ Bay of Islands-Whangaroa

Amount received from the Community Fund:

\$ 504.90

Please give details of how the money was spent:

- Your contribution to the project and the funding you received from the Community Board must be accounted for
- Attach supplier receipts or bank statements to show proof of expenditure of Community Board funds.

Supplier/Description	\$amount	Receipt/s attached (please tick)
Life vests	\$ 654.87	✓
	\$	
	\$	
	\$	
Total:	\$ 654.87	

Give a brief description of the highlights of your project including numbers participating:

sailing lessons in the Hokianga Harbour
for free every Sunday from October to April
over the season 10-15 children every Sunday

Describe the main findings in your evaluation of the project/event; describe how your project/event benefited the community:

improved safety for the children

Please provide details and attach or email photos and/or any marketing collateral that was produced for your event/project acknowledging the Community Board:

placing of photos of the children with their new life vests and thank you message with logo of the Hokianga-Community board on our Facebook page "Hokianga Sailing Trust"

If you have a Facebook page that we can link to please give details:

Hokianga Sailing Trust

This report was completed by:

Name: Rene de Vries
 Address: 84 Waihuka-rd Omapere
 Phone: 09 4058842 mob: 02102393844
 Email: devriesrene@xtra.co.nz
 Date: 15/10/2018

6.3 KAIKOHE-HOKIANGA COMMUNITY BOARD APPOINTMENT TO DISABILITY ACTION GROUP

File Number: A2701419

Author: Aya Morris, Community Development Advisor

Authoriser: Sheryl Gavin, Manager Corporate Planning and Community Development

PURPOSE OF THE REPORT

The purpose of the report is to give the Kaikohe-Hokianga Community Board the opportunity to appoint a member to the Disability Action Group.

EXECUTIVE SUMMARY

- The Disability Action Group includes a representative from Council and each of the community boards.
- The Kaikohe-Hokianga Community Board is able to appoint a member as their delegate to the group.
- Information about the 2018-2019 operation of the group is presented as an attachment to the report.

RECOMMENDATION

That the Kaikohe-Hokianga Community Board appoint _____ as its representative on the Disability Action Group.

1) BACKGROUND

The Disability Action Group is a stakeholder engagement group which was established by the Council and consists of elected members, representatives of external groups involved with people of various abilities, and people with a lived experience of disability.

In June 2013 the Council adopted Policy 3211 – Equity and Access for People with Disabilities. The Disability Action Group meets quarterly to assist the Council to meet the objectives of the policy, including building the capacity of disabled groups to take responsibility for advocating on their own behalf.

The Disability Action Group Annual Report 2018-2019 is presented as an attachment to this report in order to provide information to the Community Board on the operations of the group.

2) DISCUSSION AND OPTIONS

The Kaikohe-Hokianga Community Board can appoint one of its members to the Disability Action Group. The appointee would enable communication between the group and the board and ensure the Kaikohe-Hokianga community's views are represented on the group.

Reason for the recommendation

To allow for appointment of a Community Board member to the Disability Action Group.

3) FINANCIAL IMPLICATIONS AND BUDGETARY PROVISION

There are no financial implications.

ATTACHMENTS

1. **Disability Action Group Annual Report 2018-2019 - A2701418** [!\[\]\(0551a83d441798e532995956b603f604_img.jpg\)](#) 

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.

Compliance requirement	Staff assessment
State the level of significance (high or low) of the issue or proposal as determined by the Council's Significance and Engagement Policy	The proposal has a low level of significance.
State the relevant Council policies (external or internal), legislation, and/or community outcomes (as stated in the LTP) that relate to this decision.	Policy 3211 – Equity and Access for People with Disabilities
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.	The matter has District wide relevance and delegates from each of the community boards and Council are requested.
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.	Māori are considered as part of the group's operation.
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 (for example – youth, the aged and those with disabilities).	The group specifically seeks to engage with these people.
State the financial implications and where budgetary provisions have been made to support this decision.	There are no additional financial implications.
Chief Financial Officer review.	The Chief Financial Officer has not reviewed this report.

Disability Action Group Annual Report 2019

The Disability Action Group (DAG) works with the Far North District Council (FNDC) to advocate for a more accessible environment for Far North residents and visitors with disabilities.

This report covers the period 30 June 2018-1 July 2019 and outlines key areas of advocacy and action for the DAG during this time.

DAG structure, strategy and operation

The DAG has held quarterly meetings and an annual strategic workshop as outlined in the recently developed Terms of Reference. A speaker with a wireless microphone has increased accessibility for those attending DAG meetings.

DAG engagement with Council and Community Boards

The DAG strategic goals developed through the annual strategic workshop have been presented to Council through a DAG deputation to a Council meeting.

The DAG annual report has been presented to each of the three community boards, gaining support for the DAG request to reinstate a community board agenda item about disabilities.

DAG engagement with FNDC staff

The DAG chairperson has met directly with the FNDC CEO to discuss the work of the DAG.

The DAG has given feedback on Reserve Management Plans for Lindvart Park and Kerikeri Domain.

The DAG has made a submission on the Draft District Plan to advocate for increased accessibility across all zones.

The DAG has engaged with the FNDC Transport Planner to provide feedback on the process to create new accessible car parking spaces, to recommend new spaces, and to recommend improvements for existing spaces. DAG has advocated for increased monitoring for accessible car parking spaces.

The DAG chairperson attended a workshop about the FNDC Integrated Transport Strategy.

The DAG has provided feedback to the Strategy & Policy team regarding the future review of the Equity and Access for People with Disabilities policy.

DAG promotion

The FNDC has issued a DAG media release which generated two articles in local newspapers, been featured in a social media post on the FNDC Facebook page, and recruited new members.

Accessible transport

The DAG has engaged with a range of agencies to advocate for improvements in accessible transport. These have included Northland DHB, Northland Regional Council, FNDC, and local Members of Parliament, Matt King and Kelvin Davis. The DAG has advocated for the allocation of FNDC funding to support accessible transport through schemes such as Total Mobility.

Disability Awareness Training

The DAG has successfully advocated to FNDC to provide disability awareness training for staff in line with the Equity and Access for People with Disabilities policy. The next round of training has been scheduled for 2019.

Equity and Access

The DAG has advocated for equity and access in matters other than accessibility for people with mobility or sensory impairments. For example the DAG has advocated for the needs of people with intellectual disabilities, mental health conditions and respiratory disabilities in their work.

6.4 RURAL TRAVEL FUNDING PROJECT REPORTS

File Number: A2631355

Author: Marlema Baker, Meetings Administrator

Authoriser: Aisha Huriwai, Team Leader Governance Support

PURPOSE OF THE REPORT

To receive the project reports from previous funding applicants to the Rural Travel Funding Scheme.

EXECUTIVE SUMMARY

- Recipients of funds from the Rural Travel Funding must complete and submit a project report form within two months of funding being spent to subsidise travel for youth to participate in sporting activity and or competition.
- A project report has been received from Mid North United Sports Inc.

RECOMMENDATION

That the Kaikohe-Hokianga Community Board note the Rural Travel Project Report from Mid North United Sports Inc.

1) BACKGROUND

The Far North District Council, as part of its agreements with Sport New Zealand and Sport Northland to administer Rural Travel funding, is required to submit an annual report on how the funding was allocated. To assist the Council in compiling this report and to ensure accountability from applicants a project report form for funding is requested. The Community Boards have in the past indicated a preference to support applicants that have returned a completed project report form for previous funding.

2) DISCUSSION AND OPTIONS

A copy of the project report forms are attached for the Board to receive. If Board members have concerns or issues with any of these reports, they should be discussed at this point of the meeting.

Reason for the recommendation

To receive the project reports from previous funding applicants to the Rural Travel Funding Scheme.

3) FINANCIAL IMPLICATIONS AND BUDGETARY PROVISION

There are no financial implications or budgetary requirements.

ATTACHMENTS

1. Rural Travel Fund - Project Report - Mid North United Sports Inc - A2628880  
2. Schedule of Supporting Documents - Mid North United Sports Inc - A2628893  

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.

Compliance requirement	Staff assessment
State the level of significance (high or low) of the issue or proposal as determined by the Council's Significance and Engagement Policy	N/A
State the relevant Council policies (external or internal), legislation, and/or community outcomes (as stated in the LTP) that relate to this decision.	N/A
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.	This is a community board report
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.	N/A
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 Community Board has delegated authority to allocate funding.
State the financial implications and where budgetary provisions have been made to support this decision.	There are no financial implications or the need for budgetary provision
Chief Financial Officer review.	The Chief Financial Officer has not reviewed this report.

original

Far North
District CouncilSPORT
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NEW ZEALANDFAR NORTH RURAL TRAVEL FUND
PROJECT REPORT

P064653

A. Details

Name of organisation:

MID NORTH UNITED SPORTS INC

Contact person:

Mel Rameka & Suzee Ross

Postal address:

PO Box 8 KAIKOHE

Telephone:

0212987290

Email:

mnus2017inc@gmail.com

B. FINANCIAL (Attach copies of relevant bank statements, all Invoices & receipts for granted Rural Travel Fund)

1. Community Board meeting date the grant was approved

1st May 2019

2. Please indicate the successful amount that you received

\$ 2178 (FNDC contribution) \$ — (Other Funders)

\$ 4898 (Your Contribution) \$ 7076 (Total)

3. What other, if any, organisations did you receive funding from? (briefly explain using the following table)

Date	Organisation	Purpose of Funding	Amount Received
			\$
			\$
			\$
TOTAL EXPENSES			\$

4. Please explain in detail how the funding you received through the FNDC Travel Fund was spent (in the following table)

Date	Supplier/Service/Provider	Item	Expense (\$)
13.6.19	Broadwood van	Petrol 16 weeks	\$ 350.00
13.6.19	Okaihau Van	Petrol 24 weeks	\$ 530.00
13.6.19	Kaikohe Van - Nipapa	Petrol 36 weeks	\$ 780.00
13.6.19	Kaikohe Van. Karakuru.	Petrol 24 weeks	\$ 520.00
			\$
Receipts required			TOTAL EXPENSES \$ 2,180.00



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C. DESCRIPTION OF FUNDING ALLOCATION

1. What were some of the benefits in having the travel fund approved?

Our volunteers spend hundreds of dollars filling vehicles to get our youth to Basketball in Waipapa, Kawakawa, Whangarei & other representatives opportunities down the line. This funding eases the burden on them and our youth.

2. In your opinion did the Far North Rural Travel Fund help your organisation/group increase participation in sport/recreation?

Our numbers are increasing where it comes to more events for our youth. We do need more volunteers to transport & supervise youth. The funding helps us encourage more volunteers and this is increasing yearly. It would be nice to have our own "indoor basketball courts" here.

D. FUNDING TIMEFRAMES

Funds must be expended within six months of being received. If funding is not spent as allocated it is expected that the funding will be returned to Council. In Kaikohe to support this ever growing sport in Northland, current players & supporting Whanau.

E. Checklist

1. Have you answered every question?
1. Have you attached a recent bank statement showing the funding being spent?
2. Have you attached all receipts as proof of expenditure?

Thank you for taking the time to complete the project report. Please remember that in not returning a project report your organisation or group can be deemed ineligible for future funding.

Send your project report and attached documents to;

governance@fndc.govt.nz (PDF attachment via email preferred)

OR: mail to

Governance Support
Far North District Council
Private Bag 752
KAIKOHE
0440

Or contact us;

(09) 401 5200
ask.us@fndc.govt.nz
www.fndc.govt.nz

6.5 RURAL TRAVEL FUNDING - APPLICATIONS SUMMER ROUND 2019/20**File Number: A2713029****Author: Kathryn Trewin, Funding Advisor****Authoriser: Sheryl Gavin, Manager Corporate Planning and Community Development****PURPOSE OF THE REPORT**

To allocate Rural Travel Funding for the 2019/20 summer sporting season.

RECOMMENDATION

That the Kaikohe-Hokianga Community Board allocates Rural Travel Grant funding in accordance with the recommendations received from Sport Northland as follows:

- a) Kerikeri Gymnastics Club \$1450.00**
- b) Special Olympics Bay Of Islands \$1000.00**

1) BACKGROUND

The Rural Travel Fund was developed in response to concerns raised by Councils throughout the country about the lack of participation in sport by young people living in rural communities. The Fund was introduced as an interim measure until a rural participation strategy was fully developed and implemented. The strategy is yet to be developed.

Kiwisport was launched in 2009 by Prime Minister John Key and funding is given to Sport Northland to achieve three objectives. One of the barriers that has been identified in Northland is the cost of travel. Sport Northland agreed to give part of its funding to the Far North District Council to add to its Rural Travel Fund to overcome the travel barrier and help achieve their three objectives.

Council receives funding based on a per capita basis and gave the three Community Boards delegated authority to allocate the funding. Each Board receives a sum based on the number of people between ages five and nineteen living in their respective areas. Figures are based on the 2013 census results. This funding round is the second of two funding rounds for the current financial year, for sporting activities taking place in winter, or until November 2019 when the next round of funding is allocated.

Council advertises that funding is available approximately one month before applications close in local newspapers and on Council's facebook page. The Sport Northland representatives also forward information of the fund to clubs and schools that they work with as a more targeted approach to advertise the funding is available.

2) DISCUSSION AND OPTIONS

It is each Community Board's role to determine which applications best meet the criteria and will have the most positive broad effect in their communities. The following table is a guide to the funding criteria.

Funding is available for activities taking place within the district. It is understood, that in some cases, competitions do not exist within the district and travel is required in which case the Community Boards may use their discretion.

While the clubs applying for funding are based in the Bay of Islands-Whangaroa ward, the participants that these applications apply to are all based in the Kaikohe-Hokianga ward. The funding allocation for the Bay of Islands-Whangaroa ward is fully expended for this season.

Project reports for any previous grants have been received from all the current applicants. Further detailed information provided by Sport Northland regarding their recommendations has been distributed to Board Members separately.

	Sport Northland (Kiwisport)	Sport New Zealand (Rural Travel)
What are the Objectives?	1. Increase the number of children participating in sport 2. Increase the availability and accessibility of sport for children 3. Support the development of skills to enable effective participation.	Subsidise travel for junior teams participating in local sport competition.
How much is available?	\$25,000.00 across the Far North District.	\$25,080.30 across the Far North District.
Funding is not available for	Coaches, referees, children playing in Regional or District rep teams, club/school sport administration.	Activities taking place during school hours, coaches, referees, club/school sport administration, travel to training.
Who can apply?	Schools, clubs or individuals.	Schools, clubs or individuals.
What age group is funding for?	Funding is available for school aged children. This is understood to be ages 5 - 18 years of age.	Funding is available for youth/children aged 5 - 19 years of age.
Eligible Sports	Team or individual organised sporting activities such as volleyball, netball, rugby; hockey, football, orienteering, waka ama, basketball, ki-o-rahi, shooting, athletics, swimming.	Sports that have regular grass roots competitions such as netball, hockey, rugby, rugby league, softball, football, touch rugby, basketball.

Applicants are advised, when granted funds, that the funds are to be uplifted within three months and that a project report form is required if they wish to be eligible to apply for future funding.

1	Kerikeri Gymnastic Club	\$1450.00
2	Special Olympics Bay Of Islands	\$1000.00

Reason for the recommendation

To fulfil the requirements of the Sport NZ Rural Travel Fund agreement with Sport New Zealand and the Kiwisport agreement with Sport Northland to increase participation in sport by young people living in rural communities.

3) FINANCIAL IMPLICATIONS AND BUDGETARY PROVISION

Council receives two grants annually that make up this funding budget - \$25,080.30 from Sport New Zealand and \$25,000 (plus GST) from Sport Northland.

The total budget for rural travel funding for the 2019/20 financial year is \$50,080.30. The percentage of youth throughout the district is translated into percentages to calculate the percentage of funding each Board can allocate. It is recommended that only 40% of the total funding be allocated for summer activities and the remainder allocated for the busier winter sporting season.

The total available funds for the summer season is \$5,551.47.

%	Board	40% Summer	60% Winter	Total
28%	Kaikohe-Hokianga Community	\$5,551.47	\$8,327.20	\$13,878.67
31.5%	Te Hiku Community	\$6,245.40	\$9,368.10	\$15,613.50
40.5%	Bay of Islands-Whangaroa Community	\$8,029.80	\$12,044.70	\$20,074.50

ATTACHMENTS

1. RTF SS Kerikeri Gymnastics - KHCB - A2704644 [↓](#) 
2. RTF SS Special Olympics KHCB - A2704646 [↓](#) 

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.

Compliance requirement	Staff assessment
State the level of significance (high or low) of the issue or proposal as determined by the Council's Significance and Engagement Policy	This report is 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.	The Council promotes a vibrant and thriving economy that encourages a wide range of sporting activities and a safe a healthy district where young people are valued.
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.	This is delegated to Community Boards to consider.
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.	There are none that affect Maori any greater than other residents of the District.
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.	Anyone in the district participating in organised sporting activities could be eligible for funding. To try and capture everyone the funding is advertised a month in advance in newspapers, social media and word of mouth
State the financial implications and where budgetary provisions have been made to support this decision.	Funding is provided by Sport Northland (Kiwisport) and Sport New Zealand (Rural Travel).

Chief Financial Officer review.	The Chief Financial Officer has not reviewed this report.
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Western Ward.



FAR NORTH RURAL TRAVEL FUND APPLICATION FORM

Schools, clubs or other sporting/activity organisations can apply for this funding. Funding is specifically to subsidise travel to and from sporting competitions/practices within the Far North District for school aged children (between ages 5 - 19 years) with the aim of increasing the number of children participating in sport, provide additional opportunities for participation in organised sport and to improve the development of skills to enable effective participation.

All applications are considered by the Community Boards, and advice is given from Sport Northland Representatives.

Priority will be given to those applications with a focus on providing sporting opportunities to - the appropriate age group, travel to regular sporting competition; competition within the District; funding for the upcoming season; applicants not seeking more than 50% of their total travel cost; applicants that have provided Project Reports for previous funds granted.

A. Details

Name of organisation: Kerikeri Gymnastics Club.
 Postal address: PO Box 40 Kerikeri
 Primary contact name: Janet Mclea.
 Telephone: 0210517766 Email: kerikerigymclub@gmail.com

B. Secondary Contact Name

Name: Amber Shaw Telephone: 0212409969
 Email: amberjanneshaw@gmail.com

C. Organisation Details

1. Is your organisation registered for GST?

No ☒ Yes - give number

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2. How many members belong to your club/organisation? 130

3. Will the travel subsidy benefit participants aged between 5 and 19 (please circle) YES / NO
 (If so how many participants) 130

4. How many participants are aged between 5-12 yrs ~~20~~ 110

5. How many participants are aged between 13-19 yrs ~~30~~ 20

6. What percentage of your participants are new to this sporting activity? 30 %

7. What is this funding going to be used for? (Briefly explain)

We have many families that travel great distances to participate in gymnastics. As a club in our community we would like to assist them so that they can continue to bring their children to gymnastics (+ further to Kaitiaki, Whangarei + elsewhere if required for competitions).

D. Financial Details**1. Budget**

TOTAL budget required \$ 13260
 Your contribution \$ 1450
 *Other funders/parent contributions \$ 10360

This Application Is For \$ 1450

** The intention of this fund is to subsidise expenses. Applicants need to show they have made a partial financial contribution towards the travel costs.*

Our decision makers look more favourably on applicants who have made an effort to obtain funding through other avenues, be that fundraising, applying for other grants, parent contributions.

2. Please briefly explain where/how you have sought funding from other organisations and if so what was the result.

Organisation - (including other councils)	Amount requested (\$)	Results date (if known)
Fundraising including holding competitions and receiving entry fees, selling sweets, vaffles, cake sales.		

E. Declaration

We hereby declare that the information supplied here on behalf of our organisation is correct?

We consent to Far North District Council collecting the personal contact details and information provided in this application, retaining and using these details and disclosing them to Sport NZ for the purpose of review of the rural travel fund. This consent is given in accordance with the Privacy Act 1993.

1. Name: Amber Shaw
 Position in organisation / title: Committee Member
 Signature: AJ Shaw Date: 8/10/19

2. Name: Janet McLea
 Position in organisation / title: President
 Signature: pp. AJ Shaw Date: 8/10/19

Checklist:

1. If you have applied for funding in the past please ensure a **project report form** has been completed and returned (this can affect your eligibility)
2. Have you answered every question?
3. Is your balance sheet or financial statement attached?
4. Is your deposit slip attached? (in case your application is approved)
5. Is your draft travel calculation breakdown attached? (refer to your Sport Northland representative).

Western/Kaikohe-Hokianga ward

Kerikeri Gymnastics Club Inc Rural Travel Fund 2019

Calculations are for Term 2 and 3 so are indicative of 6 months out of the year.

Calculations rounded to the nearest \$10

Base	Destination	Members	Distance Ret	Vehicles	Trips/wk	76c/km	Member Cost	Club Cost	Requested Fund Contribution
Rawene	Kerikeri	1	143	1	1	\$ 2,170.00	\$ 1,690.00	\$ 240.00	\$ 240.00
Kaikohe	Kerikeri	3	61	3	3	\$ 2,780.00	\$ 2,180.00	\$ 300.00	\$ 300.00
Okaihau	Kerikeri	3	46	3	6	\$ 2,090.00	\$ 1,630.00	\$ 230.00	\$ 230.00
Horeke	Kerikeri	1	70	1	1	\$ 1,060.00	\$ 840.00	\$ 110.00	\$ 110.00
Umawera	Kerikeri	2	90	2	2	\$ 2,730.00	\$ 2,130.00	\$ 300.00	\$ 300.00
Opononi	Kerikeri	1	160	1	1	\$ 2,430.00	\$ 1,890.00	\$ 270.00	\$ 270.00
Total							\$ 10,360.00	\$ 1,450.00	\$ 1,450.00

ASBASB Bank Limited
Kerikeri

Depositor's name _____

Reference ☐☐☐☐☐☐

Credit account of _____

KERIKERI GYMNASTICS CLUB

Funds included in this deposit cannot be drawn against until proceeds have been cleared.

Deposit Date _____

Notes	No.	Amount
\$100		
\$50		
\$20		
\$10		
\$5		
Coin		
Cheques (per bank)		
\$		

⑈ 123091⑈ 0050882⑈00 ⑈ 50

Balance Sheet

KERIKERI GYMNASTICS CLUB INC

As at 31 August 2019

31 AUG 2019

Assets

Bank

ASB Cheque Account	10,128.08
ASB Fastsaver - Building Acc	1,139.66
ASB Money Maker	4,756.84
Total Bank	16,024.58

Current Assets

Accounts Receivable	1,408.50
Total Current Assets	1,408.50

Fixed Assets

Computer Equipment	1,698.00
Gym Equipment	128,462.51
Less Accumulated Depreciation on Computer Equipment	(1,183.30)
Less Accumulated Depreciation on Office Equipment	(16,453.60)
Total Fixed Assets	112,523.61

Total Assets

129,956.69

Liabilities

Current Liabilities

Accounts Payable	7,116.74
Competition Leotard Bond	1,700.00
Nett Wages Payable - Xero Payroll	65.78
PAYE Payable	1,261.43
Total Current Liabilities	10,143.95

Total Liabilities

10,143.95

Net Assets

119,812.74

Equity

Current Year Earnings	1,959.61
Retained Earnings	69,298.57
Revaluation of Equipment	48,554.56
Total Equity	119,812.74

Balance Sheet

KERIKERI GYMNASTICS CLUB INC

As at 31 December 2018

31 DEC 2018

Assets

Bank

ASB Cheque Account	1,738.12
ASB Fastsaver - Building Acc	3,138.52
ASB Money Maker	370.43
Total Bank	5,247.07

Current Assets

Accounts Receivable	1,812.60
Total Current Assets	1,812.60

Fixed Assets

Computer Equipment	1,698.00
Gym Equipment	128,462.51
Less Accumulated Depreciation on Computer Equipment	(1,098.40)
Less Accumulated Depreciation on Office Equipment	(15,207.69)
Total Fixed Assets	113,854.42

Total Assets

120,914.09

Liabilities

Current Liabilities

Nett Wages Payable - Xero Payroll	730.59
PAYE Payable	693.52
Total Current Liabilities	1,424.11

Non-current Liabilities

Manual Accounts Payable	1,636.85
Total Non-current Liabilities	1,636.85

Total Liabilities

3,060.96


Net Assets

117,853.13


Equity

Current Year Earnings	(14,105.17)
Retained Earnings	83,403.74
Revaluation of Equipment	48,554.56
Total Equity	117,853.13


KAIKOHE / HOKIANGA.



Far North District Council



SPORT NORTHLAND
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SPORT NEW ZEALAND

FAR NORTH RURAL TRAVEL FUND APPLICATION FORM

WESTERN

Schools, clubs or other sporting/activity organisations can apply for this funding. Funding is specifically to subsidise travel to and from sporting competitions/practices within the Far North District for school aged children (between ages 5 - 19 years) with the aim of increasing the number of children participating in sport, provide additional opportunities for participation in organised sport and to improve the development of skills to enable effective participation.

All applications are considered by the Community Boards, and advice is given from Sport Northland Representatives.

Priority will be given to those applications with a focus on providing sporting opportunities to - the appropriate age group, travel to regular sporting competition; competition within the District; funding for the upcoming season; applicants not seeking more than 50% of their total travel cost; applicants that have provided Project Reports for previous funds granted.

A. Details

Name of organisation: SPECIAL OLYMPICS BAY OF ISLANDS

Postal address: PO BOX 158 KAIKOHE REGISTERED CHARITY CC48492

Primary contact name: NICOLE GRIMME

Telephone: 021 1511105 Email: nicolegrimme@hotmail.com
specialolympicsbayofislands@hotmail.com

B. Secondary Contact Name

Name: EILEEN BEDFORD Telephone: 09 407 4380

Email: richalwa@xtra.co.nz

C. Organisation Details

- Is your organisation registered for GST?
No ☒ Yes - give number

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- How many members belong to your club/organisation? 51
- Will the travel subsidy benefit participants aged between 5 and 19 (please circle) YES / NO
(If so how many participants) 2
- How many participants are aged between 5-12 yrs 0
- How many participants are aged between 13-19 yrs 2
- What percentage of your participants are new to this sporting activity? 10 %
- What is this funding going to be used for? (Briefly explain)
TRANSPORTING ATHLETES TO/FROM SWIMMING TRAINING
SESSIONS AT KAWAKAWA INDOOR POOL
JOURNEY FROM KAIKOHE TO KAWAKAWA RETURN
2 SESSIONS A WEEK MONDAY AND THURSDAY
TRAINING TOWARDS QUALIFICATION FOR NATIONALS COMPETITION
SPECIAL OLYMPICS NATIONALS IS ONCE EVERY 4 YEARS

D. Financial Details**1. Budget**TOTAL budget required \$ 2042.88Your contribution \$ 500.00

*Other funders/parent contributions \$ _____

This Application Is For \$ 1542.88

* The intention of this fund is to **subsidise** expenses. Applicants need to show they have made a partial financial contribution towards the travel costs.

Our decision makers look more favourably on applicants who have made an effort to obtain funding through other avenues, be that fundraising, applying for other grants, parent contributions.

2. Please briefly explain where/how you have sought funding from other organisations and if so what was the result.

Organisation - (including other councils)	Amount requested (\$)	Results date (if known)
GENERAL FUNDRAISING	\$1,000	

E. Declaration

We hereby declare that the information supplied here on behalf of our organisation is correct?

We consent to Far North District Council collecting the personal contact details and information provided in this application, retaining and using these details and disclosing them to Sport NZ for the purpose of review of the rural travel fund. This consent is given in accordance with the Privacy Act 1993.

1. Name: NICOLE GRIMMEPosition in organisation / title: CHAIRPERSONSignature: N. Grime Date: 8/10/20192. Name: EILEEN BEDFORDPosition in organisation / title: VICE CHAIRPERSON

Signature: _____ Date: _____

Checklist:

1. If you have applied for funding in the past please ensure a **project report form** has been completed and returned (this can affect your eligibility)
2. Have you answered every question?
3. Is your balance sheet or financial statement attached?
4. Is your deposit slip attached? (in case your application is approved)
5. Is your draft travel calculation breakdown attached? (refer to your Sport Northland representative).

CALCULATION 21 WEEKS 76c PER KM (IRD RATE)
 KAIKOHE 32kms X 2 = 64kms
 64 X 2 WEEKLY 128 X 21 WEEKS 2688 kms
 1 CAR 2688 2042.88

7 MEETING CLOSE