



Kaipara te Oranganui

**KAIPARA
DISTRICT**

Two Oceans Two Harbours

Kaipara District Council Meeting Agenda

Date: Friday 25 October 2019
Time: 10.00am
Location: Dargaville Town Hall
37 Hokianga Road
Dargaville

Elected Members: His Worship the Mayor Dr Jason Smith
Deputy Mayor Anna Curnow
Cr Victoria del la Varis-Woodcock
Cr Jonathan Larsen
Cr Karen Joyce-Paki
Cr Mark Vincent
Cr Peter Wethey
Cr David Wills
Cr Eryn Wilson-Collins

*For any queries regarding this meeting please contact
the Kaipara District Council on (09) 439 7059*

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Statutory Declarations

Meeting: Kaipara District Council
Date of meeting: 25 October 2019
Reporting officer: Gavin Dawson, Governance Advisor

Purpose/Ngā whāinga

To allow the incoming Mayor and Councillors to make the required statutory declarations, which will formally confirm them as the Elected Members of the Kaipara District Council for the 2019 – 2021 local government term.

Context/Horopaki

The Local Government Act (2002) requires that the incoming Mayor and Councillors must make a declaration that formally confirms them in office for the term they have been elected to.

The Chief Executive acts as the Chair of the inaugural Council meeting until the incoming Mayor has made the statutory declaration. The Mayor then takes the Chair and the declarations of the incoming Councillors are completed.

Incoming elected members will attest to the following verbally and by written signature:

‘...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 Kaipara District, the powers, authorities, and duties vested in or imposed upon me as [a Member or Mayor] of the Kaipara District Council by virtue of the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, or any other Act’.

Significance and engagement/Hirahira me ngā whakapāpā

The decisions or matters of this report do not trigger the significance criteria outlined in council’s Significance and Engagement Policy, and the public will be informed via agenda on the website.

Gavin Dawson, 19 October 2019.

Mayoral address for the new triennium

Meeting: Kaipara District Council
Date of meeting: 25 October 2019
Reporting officer: Gavin Dawson, Governance Advisor

Purpose/Ngā whāinga

The Mayor will give his opening address for the new triennium.

Gavin Dawson, 19 October 2019.

General explanation of laws affecting elected members

Meeting: Kaipara District Council
Date of meeting: 25 October 2019
Reporting officer: Gavin Dawson, Governance Advisor

Purpose/Ngā whāinga

To provide elected members with information on the laws that affect them.

Recommendation/Ngā tūtohunga

That Kaipara District Council:

- (a) Note the General Explanation of Laws Affecting Elected Members report
- (b) Note that a joint session with elected members from the Northland Regional Council and Kaipara District Council on the laws affecting elected members, is being held on Tuesday 12 November 2019

Context/Horopaki

The Local Government Act 2002 requires that an explanation of certain legislation that will affect elected members must be provided at the first meeting of the Council. This is available at Attachment One to this report.

As part of the induction programme for elected members, a joint session with Northland Regional Council and Kaipara District Council elected members is being held on Tuesday 12 November 2019. This presentation is being provided by Simpson Grierson and will provide more in-depth information around the laws affecting elected members.

Significance and engagement/Hirahira me ngā whakapāpā

The decisions or matters of this report do not trigger the significance criteria outlined in council's Significance and Engagement Policy, and the public will be informed via agenda on the website.

Attachments/Ngā tapiritanga

Number	Title
1	General Explanation of Laws Affecting Elected Members

Gavin Dawson, 19 October 2019.

Attachment One:

Legislation Affecting Elected Members Information

Local Government Act

This is the Local Government Act (the “Act”) under which all authorities are constituted and which sets their powers and authorities.

General principles

The Act contains detail on the powers of councils and the setting of charges and making of bylaws, and the operation of Council Controlled Organisations (“CCOs”).¹ The setting and collection of rates is provided for under the Local Government (Rating) Act 2002.

At a more general level, some principles are laid down for councils as a whole, and you are encouraged to become familiar with sections 10, 11A and 14 as these guide what councils can do, and the way they should do it; accessible via the link:

<http://legislation.govt.nz/act/public/2002/0084/latest/DLM170873.html>

Of particular note is the purpose of local government, as set out in section 10 of the Act:

10 Purpose of local government

- (1) *The purpose of local government is—*
- (a) *to enable democratic local decision-making and action by, and on behalf of, communities; and*
 - (b) *to promote the social, economic, environmental, and cultural well-being of communities in the present and for the future.*

Sections 14 and 15 are also of broad significance, and are attached (**see attachment two**) for ease of reference.

Section 14 sets out the principles that all local authorities must apply in performing their roles.

Section 15 requires all local authorities in the region to enter into an agreement specifying how they will communicate with each other and co-ordinate their activities. The agreement must be entered into by 1 March 2020.

Section 12(5) states that a regional council must exercise its powers wholly or principally for the benefit of all or a significant part of its region, and not for the benefit of a single district.

Elected members

Clause 1 of Schedule 7 of the Act provides that a person’s office as member of a Local Authority is vacated if the person, while holding office as a member of the local authority –

- (a) *ceases to be an elector or becomes disqualified for registration as an elector under the Electoral Act 1993; or*
- (b) *is convicted of an offence punishable by a term of imprisonment of two years or more.*

¹ Northland Inc Ltd is a CCO. Marsden Maritime Holdings Ltd is not a CCO, even though NRC holds the majority of the shares it is listed on the NZX.

Note that you are disqualified if convicted of that type of offence; it does not matter that you may not be imprisoned.

Absence from 4 consecutive council meetings without leave means you automatically vacate office; Clause 5(1)(e) of Schedule 7.

You must not act or purport to act as a member of the council until you have made a particular oral declaration relating to your role; Clause 14 of Schedule 7.

Elected member conduct

Clause 27 of Schedule 7 requires elected members to confirm with the Standing Orders adopted by the council. The Kaipara District Council has previously adopted Standing Orders for the 2016 -2019 triennium and these still apply until such time the Council elects to amend or adopt a new set of Standing Orders.

Clause 15 of Schedule 7 requires council to have a Code of Conduct. It deals with behaviour between elected members and with staff, media and the public, and a general explanation of relevant law. The current Code of Conduct still applies. However, council will be given the opportunity to review the Code of Conduct in due course.

You will be given copies of the Standing Orders of the Code of Conduct at the beginning of your training.

Local Government Official Information and Meetings Act 1987 (LGOIMA)

This Local Government Official Information and Meetings Act 1987 (the “LGOIMA”) provides that information held by local authorities is to be made publicly available unless there are good reasons, in terms of the LGOIMA, for withholding it. The reasons specified for the withholding of information also apply to the exclusion of members of the public from meetings of the Council and its committees.

The relevant extracts from Sections 6 and 7 of the LGOIMA are as follows:

6. Conclusive reasons for withholding official information –

Good reason for withholding official information exists, if the making available of that information 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.*

7. Other reasons for withholding official information –

1. Where this section applies, good reason for withholding official information exists, for the purpose of section 5, unless, in the circumstances of the particular case, the withholding of that information is outweighed by other considerations which render it desirable, in the public interest, to make that information available.

2. Subject to sections 6, 8 and 17 of this Act, this section applies if, and only if, the withholding of 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*

[iii] 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 waahi tapu; or

- c. 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**
- d. Avoid prejudice to measures protecting the health or safety of members of the public; or*
- e. Avoid prejudice to measures that prevent or mitigate material loss to members of the public; or*
- f. Maintain the effective conduct of public affairs through –
 - i. The free and frank expression of opinions by or between or to members or officers or employees of any local authority, or any persons to whom section 2(5) of this Act applies, in the course of their duty; or*
 - ii. The protection of such members, officers, employees, and persons from improper pressure or harassment; or**
- g. Maintain legal professional privilege; or*
- h. Enable any local authority holding the information to carry out without prejudice or disadvantage, commercial activities; or*
- i. Enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations); or*
- j. Prevent the disclosure or use of official information for improper gain or improper advantage.”*

Section 17 gives some other grounds for refusing to disclose information including that disclosure would be in breach of another law, the information will soon be public anyway, or it cannot be made available without substantial work.

Section 13(5) of the LGOIMA requires that decisions on information requests be made by the Chief Executive Officer (or an officer or employee authorised by that Chief Executive). If you receive a request personally, you should send it promptly to the Chief Executive to ensure it is processed appropriately; and you may tell the requester you are doing that. Please do not give the requester any informal assurances that the information exists or will be provided. It is quite likely that at the point the request is made, you may not be aware of all the relevant circumstances.

Be aware that:

- Your copies of council papers, including your own annotations on them, are official information, and may be requested.
- Exclusion of the public from a meeting or workshop does not mean that the papers for or generated at the meeting or workshop are automatically able to be withheld. The LGOIMA still applies; often the reason for confidentiality may have passed.

Public excluded meetings

Unless one or more of the grounds in Section 7 apply, then the Council cannot exclude the public from a meeting. Every resolution to exclude the public from a meeting is required to state:

- the general subject of each matter to be considered;

- the reason why the matter is considered to be confidential
- the grounds in the Act under which the resolution is based.

Any items deemed by the Chief Executive Officer to be confidential are included at the back of the council agenda and are excluded from copies provided to the public. A suggested resolution to comply with the above requirements is also provided in the non-confidential part of the agenda.

Workshops are routinely closed to the public, except people who are invited to attend for a specific purpose.

Meeting procedures

LGOIMA also regulates and sets out the procedural requirements for meetings of local authorities; including the notification of meetings, the publication of agendas and access by the public to the minutes of meetings.

Of particular importance for the roles and conduct of elected members is the fact that the Chair has the responsibility to maintain order at meetings, but all elected members should accept a personal responsibility to maintain acceptable standards of address and debate. No elected member should:

- create a disturbance or a distraction while another councillor is speaking
- be disrespectful when they refer to each other or other people
- use offensive language about the council, other councillors, any employee of the council or any member of the public.

Unlike Members of Parliament, elected members of councils do not have absolute privilege for what they say at council meetings. There is a form of qualified privilege, but it is lost if you are proved to have been predominantly motivated by ill will, or took improper advantage of the situation; sections 52 and 53 LGOIMA.

Think of the defences as being available if you make a mistake. Attacking someone in the belief that the defences will protect you is a very high-risk strategy.

Things you should not do

As well as not attempting to deal with official information requests (discussed above), as elected members you should not:

- become engaged in employment issues, other than the employment of the Chief Executive. You appoint the Chief Executive. The Chief Executive hires, fires, disciplines, and promotes the other employees; and is accountable to you for how this is done
- become engaged in prosecution decisions. Elected members should set prosecution guidelines. Individual decisions on whether or not to prosecute should be made by officers at the appropriate level, implementing your guidelines.

Generally, avoid statements that suggest you have predetermined an issue. In most cases, significant council decisions have to be made by following a process that includes consultation and allowing people to tell you their views. Predetermination can mean you cannot participate in a decision process on something you feel strongly about. There is a world of difference between:

“I will never require boaties to pay for fan worm control”; or

“I am totally opposed to off-leash dog exercise areas in council reserves”

AND

“I understand fan worm spreads in various ways. I’m not convinced that boaties should be charged for its control, but we need to assess the options”; or

“I can see there are health and safety issues with dogs off-leash and children both using reserves. I will need to be satisfied that child safety can be assured before I will agree”.

The Local Authorities (Members’ Interests) Act 1968

One purpose of the The Local Authorities (Members’ Interests) Act 1968 (the “ Interests Act”) is to control the making of contracts between councils and councillors, their partners or companies in which they have roles or interests that need not be controlling interests. The Interests Act applies to a contract, contracts or sub contracts with the council to a value of \$25,000 or more each year, I total. It is no excuse that the contract is at arms-length, or on standard terms.

The Interests Act also restricts the actions of councillors when matters in which they have a monetary interest are being considered. The Interests Act imposes restrictions on councillors who are deemed to have a pecuniary interest in matters coming before the council. This affects participation in both discussions and formal voting. You are required by the Interests Act to declare the fact of a pecuniary interest when the matter comes before the council and that, and your abstention from discussing and voting will be re-worded in the minutes.

The Controller and Auditor-General has produced a useful guide to the provisions of this Interests Act; “Guidance for Members of local authorities about the Local Authorities (Members’ Interests) Act 1968” which can be accessed using the link:

<http://www.oag.govt.nz/2010/lamia>

The Interests Act permits the Controller and Auditor General to grant exemptions from its provisions. That must be sought in advance. Hence, councillors are urged to advise the Chief Executive Officer of their financial interest in any entity or a disqualifying contract so that the appropriate exemption can be sought, if possible.

Local Government Auditors request each year to see a register of councillors’ interests, so it is essential that councillors complete the “Declaration of Interests” form, making a declaration (nil or otherwise) and provide the Chief Executive Officer with details. The completed form needs to be returned to a Governance Advisor on or before the inaugural council meeting. These returns will be treated in strict confidence.

The Controller and Auditor-General has produced a useful guide which councillors are encouraged to read entitled “Managing conflicts of interest: Guidance for public entities” which is accessible via the link:

<http://www.oag.govt.nz/2007/conflicts-public-entities>

The Interests Act addresses only pecuniary interests in contracts. You may well have other interests that reasonable observers might reasonably conclude could affect your decision-making. Please be alert to the risk of that perception occurring and address how you should act before issues arise.

Sections 99,105 and 105a of the Crimes Act 1961: Bribery and Corruption

These sections of the Crimes Act 1961 (the “Crimes Act”) relate to acceptance of bribes by “officials”.

The definition of an “official” in Section 99 of the Crimes Act includes any member or employee of a local authority. A ‘bribe’ means *“any money, valuable consideration, office or employment, or any benefit whether direct or indirect.”*

Sections 105 creates an offence of accepting or trying to obtain a bribe in respect of your official capacity; penalty up to seven years jail.

Section 105A creates an offence with the same penalty for corruptly using or disclosing information obtained in an official capacity to obtain advantage or gain for yourself or anyone else.

Secret Commissions Act 1910

This Secret Commissions Act 1910 (the “Commissions Act”) makes it an offence for any officer or member of a local authority to offer or receive gifts, favours or inducement in relation to the affairs of the local authority including the granting of contracts. The same applies to their agents and offers to them.

Any gift or other consideration given or offered to any parent, husband, wife, child, partner, “clerk or servant” of the councillor or staff member is also caught within the provisions of this Act. The receipt of gifts is also prohibited.

Penalties for conviction or indictment includes fines of up to \$1,000 and imprisonment for up to two years.

The Commissions Act is old and archaic, but is very much alive, and there have been some high profile convictions in recent years.

Financial Markets Conduct Act 2013

This Financial Markets Conduct Act 2013 prohibits trading in listed securities (broadly shares or bonds) by an information insider. Typically this is called insider trading, and the prohibitions include not trading (buying or selling) by the insider, no disclosing to others likely to trade, and no encouraging of trading by others (even if the information itself is not disclosed).

Inside information is not just information about listed securities held by the council e.g Marsden Maritime Holdings, or council’s listed company investments. It can include information about companies with which council is dealing (for example, advance notice of an application for a consent that suggests a big development is planned).

Inside information is material information not generally available to the market; and which the person knows or ought reasonably to know was material information not generally available and would have a material effect on the price of the quoted stock.

The source of information, the motive of the councillor, and whether he or she makes no profit is irrelevant.

The rules are enforced by the Financial Markets Authority and it is assiduous about protecting the integrity of the stock market. Enforcement is most likely to be against an individual councillor or councillors, not the council.

There are some technical exceptions. One that can be relevant is for redemption of managed investment products in managed investment schemes.

There are some defences, for example the use of blind trusts, but generally councillors should avoid any conduct that means they are likely to need to rely on the exceptions or defences. Councillors are encouraged to take expert advice personally at an early stage if they suspect an insider trading situation may arise.

Health and Safety at Work Act 2015

On 4 April 2016, the Health and Safety at Work Act 2015 (HWSA) came into force. The HWSA provided a significant change to New Zealand’s health and safety legislation and was in response to the scrutiny placed on New Zealand’s health and safety practices following the Pike River tragedy.

The Act allocated duties to those people who are in the best position to control risks to health and safety as appropriate to their role in the workplace, and for the person conducting a business or undertaking (PCBU) (i.e. the council) to ensure, as far as is reasonably practicable, the safety of workers and others who may be impacted by the work the business undertakes.

One of the significant changes was the introduction of “Officers”, who is any person occupying a position in relation to the business or undertaking, that allows the person to exercise significant influence over the management of the business or undertaking. For the purposes of the HSWA, elected council members and the Chief Executive are by default identified as “Officers”.

Officers have obligations of due diligence, which are:

- (a) To acquire, and keep up-to date, knowledge of work health and safety matters; and
- (b) To gain an understanding of the nature of the operations of the business or undertaking of the PCBU, and generally of the hazards and risks associated with those operations; and
- (c) To ensure that the PCBU has available for use, and uses, appropriate resources and processes to eliminate or minimise risks to health and safety from work carried out as part of the conduct of the business or undertaking; and
- (d) To ensure that the PCBU has appropriate process for receiving and considering information regarding incidents, hazards and risks and for responding in a timely way to that information; and
- (e) To ensure that the PCBU has, and implements, processes for complying with any duty or obligation of the PCBU under this Act; and
- (f) To verify the provision and use of the resources and processes referred to in paragraphs (c) to (e).

The duties of the Officers and of the PCBU are independent of each other. This means if a PCBU has failed to meet its duty but the Officers exercised due diligence then they would not be personally liable for the health and safety failings.

Guidelines for company directors on their health and safety responsibilities have been developed to provide a framework for how directors can lead, plan, review and improve health and safety. It is an essential resource for directors, providing information on director responsibilities, the role of directors in health and safety, diagnostic questions and actions for directors as well as case studies and a checklist. These will assist directors to identify whether their health and safety systems are effective at minimising risk. Councillors should read these as if they were directors.

The guide has been updated to cover some of the key concepts in the Health and Safety at Work Act 2015 that are particularly relevant to directors – officers due diligence duty, officers liability and worker engagement and participation requirements. The guidance was reviewed in 2016 by WorkSafe and Institute of Directors.

The guidelines for good governance are accessible via the link:

<https://worksafe.govt.nz/managing-health-and-safety/businesses/guidance-for-business-leaders>



New Zealand Legislation

Local Government Act 2002

- Warning: Some amendments have not yet been incorporated

14 Principles relating to local authorities

- (1) In performing its role, a local authority must act in accordance with the following principles:
- (a) a local authority should—
 - (i) conduct its business in an open, transparent, and democratically accountable manner; and
 - (ii) give effect to its identified priorities and desired outcomes in an efficient and effective manner:
 - (b) a local authority should make itself aware of, and should have regard to, the views of all of its communities; and
 - (c) when making a decision, a local authority should take account of—
 - (i) the diversity of the community, and the community's interests, within its district or region; and
 - (ii) the interests of future as well as current communities; and
 - (iii) the likely impact of any decision on each aspect of well-being referred to in section 10:
 - (d) a local authority should provide opportunities for Māori to contribute to its decision-making processes:
 - (e) a local authority should actively seek to collaborate and co-operate with other local authorities and bodies to improve the effectiveness and efficiency with which it achieves its identified priorities and desired outcomes; and
 - (f) a local authority should undertake any commercial transactions in accordance with sound business practices; and
 - (fa) a local authority should periodically—
 - (i) assess the expected returns to the authority from investing in, or undertaking, a commercial activity; and
 - (ii) satisfy itself that the expected returns are likely to outweigh the risks inherent in the investment or activity; and
 - (g) a local authority should ensure prudent stewardship and the efficient and effective use of its resources in the interests of its district or region, including by planning effectively for the future management of its assets; and
 - (h) in taking a sustainable development approach, a local authority should take into account—
 - (i) the social, economic, and cultural well-being of people and communities; and
 - (ii) the need to maintain and enhance the quality of the environment; and
 - (iii)

the reasonably foreseeable needs of future generations.

- (2) If any of these principles, or any aspects of well-being referred to in section 10, are in conflict in any particular case, the local authority should resolve the conflict in accordance with the principle in subsection (1)(a)(i).

Section 14(1)(c)(iii): replaced, on 14 May 2019, by section 7(1) of the Local Government (Community Well-being) Amendment Act 2019 (2019 No 17).

Section 14(1)(e): replaced, on 8 August 2014, by section 8(1) of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

Section 14(1)(fa): inserted, on 27 November 2010, by section 6 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 14(1)(g): replaced, on 8 August 2014, by section 8(2) of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

Section 14(1)(h)(i): amended, on 14 May 2019, by section 7(2) of the Local Government (Community Well-being) Amendment Act 2019 (2019 No 17).

Section 14(2): amended, on 14 May 2019, by section 7(3) of the Local Government (Community Well-being) Amendment Act 2019 (2019 No 17).

Section 14(2): amended, on 5 December 2012, by section 8(3) of the Local Government Act 2002 Amendment Act 2012 (2012 No 93).



New Zealand Legislation

Local Government Official Information and Meetings Act 1987

- with search matches highlighted

53 Oral statements at local authority meetings privileged

- (1) 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 shall be privileged, unless, in any proceedings for defamation in respect of the statement, the plaintiff proves that, in making the statement, the defendant was predominantly motivated by ill will towards the plaintiff, or otherwise took improper advantage of the occasion of publication.
- (2) The privilege conferred by subsection (1) 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.

Section 53(1): amended, on 1 February 1993, by section 56(1) of the Defamation Act 1992 (1992 No 105).



New Zealand Legislation

Local Government Official Information and Meetings Act 1987

- with search matches highlighted

52 Defamatory matter in copy of agenda or additional particulars supplied to public or in minutes of meeting

Where a meeting of any local authority is open to the public during the proceedings or any part thereof, and—

- (a) there is supplied to a member of the public a copy of the agenda for the meeting with or without further statements or particulars for the purpose of indicating the nature of any item included in the agenda; or
- (b) the minutes of that meeting or part are produced for inspection by any member of the public or a copy thereof is given to any member of the public,—

the publication thereby of any defamatory matter included in the agenda or in the further statements or particulars or in the minutes shall be privileged unless, in any proceedings for defamation in respect of that publication, the plaintiff proves that, in publishing the matter, the defendant was predominantly motivated by ill will towards the plaintiff, or otherwise took improper advantage of the occasion of publication.

Compare: 1962 No 113 s 8; 1975 No 125 s 7

Section 52: amended, on 1 February 1993, by section 56(1) of the Defamation Act 1992 (1992 No 105).



New Zealand Legislation

Local Government Official Information and Meetings Act 1987

6 Conclusive reasons for withholding official information

Good reason for withholding official information exists, for the purpose of [section 5](#), if the making available of that information 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.

Compare: 1982 No 156 s 6(c), (d); 1987 No 8 s 3



New Zealand Legislation

Local Government Official Information and Meetings Act 1987

7 Other reasons for withholding official information

- (1) Where this section applies, good reason for withholding official information exists, for the purpose of [section 5](#), unless, in the circumstances of the particular case, the withholding of that information is outweighed by other considerations which render it desirable, in the public interest, to make that information available.
- (2) Subject to [sections 6, 8, and 17](#), this section applies if, and only if, 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
 - (ba) 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 Maori, or to avoid the disclosure of the location of waahi tapu; or
 - (c) 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
 - (d) avoid prejudice to measures protecting the health or safety of members of the public; or
 - (e) avoid prejudice to measures that prevent or mitigate material loss to members of the public; or
 - (f) maintain the effective conduct of public affairs through—
 - (i) the free and frank expression of opinions by or between or to members or officers or employees of any local authority, or any persons to whom [section 2\(5\)](#) applies, in the course of their duty; or
 - (ii) the protection of such members, officers, employees, and persons from improper pressure or harassment; or
 - (g) maintain legal professional privilege; or
 - (h) enable any local authority holding the information to carry out, without prejudice or disadvantage, commercial activities; or
 - (i) enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations); or

(j) prevent the disclosure or use of official information for improper gain or improper advantage.

Compare: 1982 No 156 s 9; 1987 No 8 ss 4(2), 5

Section 7(2)(ba): inserted, on 1 October 1991, by section 362 of the Resource Management Act 1991 (1991 No 69).

Appointment of the Deputy Mayor

Meeting: Kaipara District Council
Date of meeting: 25 October 2019
Reporting officer: Gavin Dawson, Governance Advisor

Purpose/Ngā whāinga

To advise the Council and the public of the appointment of the Deputy Mayor.

Recommendation/Ngā tūtohunga

That the Kaipara District Council:

Notes the mayoral appointment of Councillor Anna Curnow as Deputy Mayor.

Context/Horopaki

The Local Government Act (2002) permits the Mayor to appoint the Deputy Mayor. If this option is not exercised, a Deputy Mayor must be elected at the first meeting of the Council.

This report advised that the Mayor has appointed Councillor Anna Curnow as the Deputy Mayor. A memo from the Mayor advising of the appointment is attached to this report.

Significance and engagement/Hirahira me ngā whakapāpā

The decisions or matters of this report do not trigger the significance criteria outlined in council's Significance and Engagement Policy, and the public will be informed via agenda on the website.

Gavin Dawson, 19 October 2019.

Memorandum

To: Louise Miller, CE of Kaipara District Council
From: Dr Jason Smith, Mayor-Elect/Mayor of Kaipara District
Date: 20 October 2019
Subject: Deputy Mayor Appointment

Tena koe Louise,

After careful consideration, I have chosen a Deputy Mayor for Kaipara District Council and wish to inform you in writing of this decision. My Deputy Mayor appointment is Cr Anna Curnow. I am making this appointment using my mayoral powers as defined in Section 41 of the Local Government Act 2002, and have informed the Elected Members of this appointment.

Anna is the highest-polling candidate in the Otamatea Ward and spreads her time between her house in Mangawhai and Ruawai; she is a popular and well-known Councillor whose interests and activities span much of the District, and by her activities Anna helps bring together the discrete communities across Kaipara.

This is an important value for the council to promote, and Anna is “walking the talk” of connecting east and west Kaipara communities, particularly. With Councillors numbering four women and four men, Deputy Mayor Anna Curnow will also bring to our leadership team a gender balance reflecting the composition of the council and the Kaipara community we represent.

Importantly, based on my experience in the last 18 months I expect Anna and I will work well as a team and that we will be able to get on with the job quickly of leading Kaipara District Council for the busy term ahead. For there is much to be done!

I wish for the announcement of this appointment to be made in the agenda for the Inaugural Meeting of the new Kaipara District Council scheduled for 25 October 2019. I hope you will join me in welcoming Deputy Mayor of Kaipara District Anna Curnow to her new role.

Naku noa, na

Dr Jason Smith
Mayor.

Ordinary meetings of Council – November and December 2019

Meeting: Kaipara District Council
Date of meeting: 25 October 2019
Reporting officer: Gavin Dawson, Governance Advisor

Purpose/Ngā whāinga

To schedule the November and December ordinary meetings of the Council.

Recommendation/Ngā tūtohunga

That Kaipara District Council:

- (a) Set the first Ordinary Meeting for 27 November 2019 starting at 9.30am, in the Dargaville Town Hall.
- (b) Set the December Ordinary Meeting for 11 December 2019 starting at 9.30am, in the Dargaville Town Hall.

Context/Horopaki

Council is required by the Local Government Act (2002) to fix the date and time of the first Ordinary Meeting or adopt a Schedule of Ordinary Meetings at its inaugural meeting.

This report sets the first ordinary meeting in November and the December ordinary meeting as well.

It is intended that the committee structure, membership and the future meeting schedule will be presented to the 27 November 2019 meeting.

Significance and engagement/Hirahira me ngā whakapapa`

The decisions or matters of this report do not trigger the significance criteria outlined in council's Significance and Engagement Policy, and the public will be informed via agenda on the website.

Gavin Dawson, 19 October 2019.