

Council Members

Allan Birchfield
Andy Campbell
Brett Cummings
Frank Dooley

Peter Ewen
Peter Haddock
Mark McIntyre



PUBLIC COPY

Inaugural Meeting of Council
Following the 2022 Triennial Election
(Te Huinga Tu)

Tuesday, 25 October 2022

10:30am

West Coast Regional Council Chambers, 388 Main South Road, Greymouth
and

Live Streamed via Council's Facebook Page:

<https://www.facebook.com/WestCoastRegionalCouncil>

COUNCIL MEETING

AGENDA

(Rarangi Take)

The meeting will be chaired by the Chief Executive until a Chair is elected.

1. Welcome and Introduction by the Chief Executive (*Haere mai*)
Karakia to open the meeting (*F Tumahai, Chairman Te Rūnanga o Ngāti Waewae*)
2. Apologies
3. Declarations of Interest
Members are reminded of the need to stand aside from decision-making when a conflict arises between their role as an elected representative and any private or other external interest they might have.
4. Councillor Declarations
Councillors to be called forward in the following order:
 - *Peter Ewen*
 - *Allan Birchfield*
 - *Brett Cummings*
 - *Frank Dooley*
 - *Andy Campbell*
 - *Peter Haddock*
 - *Mark McIntyre*
5. System of Voting for Chair and Deputy Chair
6. Election of the Chair and Declaration
7. Election of the Deputy Chair
8. General Explanation of Statutory Obligations
9. Appointment of Resource Management Committee
10. Appointment of Risk and Assurance Committee
11. Appointment of Infrastructure Governance Committee
12. Appointment of members to Regional Transport Committee and Te Tai Poutini Plan Committee
13. Schedule of meetings for 2022 and 2023
14. Closing comments from the Chief Executive (verbal report)
Close of meeting (F Tumahai, Chairman Te Rūnanga o Ngāti Waewae)

H. Mabin
Chief Executive

Purpose of Local Government

The reports contained in this agenda address the requirements of the Local Government Act 2002 in relation to decision making. Unless otherwise stated, the recommended option promotes the social, economic, environmental and cultural well-being of communities in the present and for the future.

Health and Safety Emergency Procedure

In the event of an emergency, please exit through the emergency door in the Council Chambers.

If you require assistance to exit, please see a staff member. Once you reach the bottom of the stairs make your way to the assembly point at the grassed area at the front of the building. Staff will guide you to an alternative route if necessary.

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| Report to: Council | Meeting Date: 25 October 2022 |
| Title of Item: Declaration of Office by Councillors | |
| Report by: Toni Morrison, Policy & Projects Consultant | |
| Reviewed by: Heather Mabin, Chief Executive Officer | |
| Public excluded? No | |

Report Purpose

Councillors-elect will take the declaration as required by Schedule 7, Clause 14 of the Local Government Act 2002.

Councillors will be called forward in the following order:

- Peter Ewen
- Allan Birchfield
- Brett Cummings
- Frank Dooley
- Andy Campbell
- Peter Haddock
- Mark McIntyre

Attachments

Attachment 1: Declaration certificate.



THE WEST COAST REGIONAL COUNCIL

DECLARATION BY MEMBER

I, _____
declare that I will faithfully and impartially, and according to the best of my skill and judgment, execute and perform, in the best interests of the West Coast region, the power, authorities, and duties vested in, or imposed upon, me as a member of the West Coast Regional Council by virtue of the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, or any other Act.

Dated at Greymouth this 25th day of October 2022.

Signature: _____

Signed in the presence of: _____

Heather Mabin
Chief Executive Officer

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| Report to: Council | Meeting Date: 25 October 2022 |
| Title of Item: Decision on System of Voting for Chair and Deputy Chair | |
| Report by: Toni Morrison, Policy & Projects Consultant | |
| Reviewed by: Heather Mabin, Chief Executive Officer | |
| Public excluded? No | |

Report Purpose

When electing a regional council chair and deputy chair, the Council must first resolve to use one of two voting systems specified in the Local Government Act 2002 (the Act). The purpose of this report is to inform Councillors of the two voting options for the election of the chair and deputy chair, as defined by Clause 25, Schedule 7 of the Act.

Once the voting procedure has been determined, the Chief Executive will then call for nominations for Chairperson.

Report Summary

Business that must be conducted at the first meeting of Council after the triennial general election includes the election of the chairperson and deputy chairperson. Clause 25 of the Act requires by resolution that a person be elected or appointed using one of the following systems of voting:

System A:

The candidate will be elected or appointed if he or she receives the votes of a majority of the members of the Council 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.

System B:

The candidate will be elected or appointed if he or she receives more votes than any other candidate. This system has the following characteristics:

- (a) There is only one round of voting; and
- (b) If two or more candidates tie for the most votes, the tie is resolved by lot.

Recommendations

It is recommended that Council resolve to:

EITHER:

1. Adopt **System A** for the election of the Chairperson and Deputy Chairperson;

OR:

2. *Adopt **System B** for the election of the Chairperson and Deputy Chairperson.*

Discussion

The Chief Executive will call for nominations for the voting systems and shall seek a mover and a seconder. Standing orders shall apply.

The Act requires that any decision by a local authority must be decided by open voting. The method of voting shall be by voice or by show of hands, the result of which, as announced by the Chief Executive, shall be conclusive unless such announcement is questioned immediately, in which case the Chief Executive will call for a division. If called, the Chief Executive will take note of the individual votes, declaring the result.

Both voting systems require a resolution by 'lot' if two candidates receive an equal number of votes and no one else is elected. The most common procedure is for the names of the candidates with the same number of votes to be placed in a container and the name of the person drawn out by an independent person is deemed the winner, i.e. elected or not excluded from the next round. It is recommended that this process be used in the event that there is a tie between candidates.

Once the system of voting has been resolved, the Chief Executive will call for nominations for Chairperson (refer next agenda item).

Attachment

Attachment 1: Clause 25, Schedule 7 Local Government Act 2002

Attachment 1: Clause 25, Schedule 7 Local Government Act 2002

25 Voting systems for certain appointments

(1) This clause 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.

(2) If this clause applies, a local authority or a committee (if the 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) the voting system in subclause (3) (**system A**):
- (b) the voting system in subclause (4) (**system B**).

(3) 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 the 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 2 or more candidates tie for the lowest number of votes, the person excluded from the next round is resolved by lot.

(4) 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 1 round of voting; and
 - (ii) if 2 or more candidates tie for the most votes, the tie is resolved by lot.

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| Report to: Council | Meeting Date: 25 October 2022 |
| Title of Item: Election of the Chair and Declaration | |
| Report by: Toni Morrison, Policy & Projects Consultant | |
| Reviewed by: Heather Mabin, Chief Executive Officer | |
| Public excluded? No | |

Report Purpose

To receive nominations for, and elect, the Chairperson.

Report Summary

Once the voting procedure has been resolved, the Chief Executive will call for nominations for the office of Chairperson. Each nominated person will be given the opportunity to speak to their nomination prior to a vote.

The Chief Executive shall call for a motion to vote for the Chairperson, in accordance with the system resolved. Standing Orders shall apply. Councillors shall vote for one nominated candidate.

Once elected, the Chairperson must make and attest to the declaration required under Clause 14 of Schedule 7 of the Local Government Act 2002 (refer Attachment 1). After making the declaration, the newly elected Chairperson shall take the chair for the rest of the meeting.

Election of the Deputy Chairperson will proceed after the Chairperson takes the chair (refer following report).

Attachments

Attachment 1: Declaration certificate.



THE WEST COAST REGIONAL COUNCIL

DECLARATION BY CHAIRPERSON

I, _____
declare that I will faithfully and impartially, and according to the best of my skill and judgment, execute and perform, in the best interests of the West Coast region, the power, authorities, and duties vested in, or imposed upon, me as Chairperson of the West Coast Regional Council by virtue of the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, or any other Act.

Dated at Greymouth this 25th day of October 2022.

Signature: _____

Signed in the presence of: _____

Heather Mabin
Chief Executive Officer

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| Report to: Council | Meeting Date: 25 October 2022 |
| Title of Item: Election of the Deputy Chair | |
| Report by: Toni Morrison, Policy & Projects Consultant | |
| Reviewed by: Heather Mabin, Chief Executive Officer | |
| Public excluded? No | |

Report Purpose

To receive nominations for, and elect, the Deputy Chairperson.

Report Summary

The elected Chairperson will call for a motion to vote for the Deputy Chairperson, in accordance with the voting system resolved. Standing Orders shall apply. Councillors shall vote for one nominated candidate.

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| Report to: Council | Meeting Date: 25 October 2022 |
| Title of Item: General Explanation of Statutory Obligations | |
| Report by: Toni Morrison, Policy & Projects Consultant | |
| Reviewed by: Heather Mabin, Chief Executive Officer | |
| Public excluded? No | |

Report Purpose

This report contains a general explanation of the Local Government Official Information and Meetings Act 1987 and other statutes.

The Local Government Act 2002 requires this to be provided to the first meeting of the Council following a triennial general election of members.

Report Summary

Clause 9 of Schedule 7 of the Local Government Act 2002 requires the Chief Executive to include, as part of the Agenda of the Inaugural meeting of the Council, a general explanation of certain statutes that impose duties and obligations on Councillors.

Those statutes are:

- a) the Local Government Official Information and Meetings Act 1987
- b) the appropriate provisions of the Local Authorities (Members' Interests) Act 1968
- c) Sections 99, 105, and 105A of the Crimes Act 1961
- d) the Secret Commissions Act 1910
- e) the Financial Markets Conduct Act 2013
- f) other laws affecting Councillors, which staff consider includes the Health & Safety at Work Act 2015.

Recommendation

It is recommended that Council resolve to:

1. *Receive this explanation of the Local Government Official Information & Meetings Act 1987 and other statutes affecting members.*

Attachment

Attachment 1: Summary of legislation affecting Councillors

Attachment 2: LGOIMA – Summary of Requests presented at the July 2022 Risk & Assurance Committee meeting

Attachment 3: Simpson Grierson, *Guidance for councils on registers of members' pecuniary interests*, July 2022

Attachment 1 - Summary of legislation affecting Councillors

Local Government Official Information and Meetings Act 1987 (LGOIMA)

The stated purposes of the LGOIMA are to:

- make official information held by local authorities more freely available
- provide for proper access by each person to official information relating to that person which is held by local authorities
- provide for the admission of the public to meetings of local authorities
- protect official information held by local authorities and the deliberations of local authorities to the extent consistent with the public interest and the preservation of personal privacy.

Access to Council Information

'Official information' is any information held by a local authority. This can include hard copies of documents (including emails), electronic/digital data and audio and audio-visual recordings.

The fundamental principle of availability is that information must be released unless there is good reason under the Act to withhold it and, where good reason exists, the withholding of the information is not outweighed by the public interest in making it available.

Reasons for refusing a request are set out in the Act. These include withholding information in order to:

- protect an individual's privacy
- prevent unreasonable prejudice to the commercial position of a person
- protect information which is subject to an obligation of confidence
- maintain the effective conduct of public affairs through the free and frank expression of opinions between elected members and between elected members and staff
- maintain legal professional privilege
- enable the Council to carry out commercial activities or conduct negotiations without prejudice or disadvantage.

The Council may also refuse a request on a number of administrative grounds, including that the information requested cannot be made available without substantial collation or research, or it will soon be publicly available.

Anyone may make a request for information. Where the information is held by the Council, a decision on the request must be made within 20 working days of it being received. If the Council does not hold the information, but believes it knows who does, it has 10 working days in which to transfer the request to another organisation.

The Ombudsman is authorised to investigate and review a decision to refuse a request. The outcome of the investigation may be a recommendation that the Council release the information requested in which case, if the Council refuses, the recommendation will be published in the Gazette along with the Council's reasons for its decision.

Council meetings

All Council meetings, including committees and sub-committees, should with limited exceptions be open to the public (including news media). That does not apply where there are no resolutions or decisions made at the meeting.

Exclusion

The public may be excluded from a meeting if any of the reasons in LGOIMA for withholding information apply, or in other limited circumstances. Any Council resolution to exclude the public must:

- use the correct form in Schedule 2A;
- form part of the minutes and be available to the public; and
- state the general subject matter, reasons for passing the resolution and the grounds on which the resolution is based.

Conduct

The person presiding at any meeting is responsible for maintaining order and can require any member of the public to leave if they reasonably believe that person is likely to prejudice, or continue to prejudice, the orderly conduct of the meeting.

The Council's standing orders outline expected Councillor conduct during meetings. Notification of meeting

The Council must publicly notify the date, time and place of meetings in accordance with LGOIMA.

Agendas, reports and minutes

Agendas and reports must be made available to the public:

- at least two working days before an ordinary meeting; or
- as soon as is reasonable in the circumstances if it is an extraordinary meeting.

Items can be excluded from reports by the Chief Executive if it is reasonable to expect that item will be discussed with the public excluded.

Minutes must be made available to the public, unless the public was excluded in which case any request will be deemed an official information request.

Defamation

Defamatory matters in agendas or minutes are privileged unless the plaintiff can prove they were predominantly motivated by ill will towards the plaintiff, or that the defendant otherwise took improper advantage of publication.

The rationale for this is that people who represent local government electors should be able to speak freely on any matter they believe affects the interests of their constituents.

However, for privilege to apply there must be a positive belief in the truth of what is said or written and no suggestion of personal spite or ill-will.

Local Authorities (Members' Interests) Act 1968

The main purposes of this Act are to ensure members are not affected by personal motives when they participate in Council decisions, and to prevent members with an interest in any contract with the Council from using their position to obtain preferential treatment.

There are two specific rules providing that Members may not:

- participate in matters before the Council in which they have a pecuniary interest, other than an interest in common with the public
- enter into contracts with the Council worth more than \$25,000 (incl. GST) in a financial year.

Pecuniary interest

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 of interest. The test currently used by the Auditor-General's office 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 a loss of money for the member concerned.

The Act also refers to indirect pecuniary interests, which means that if a member's spouse or partner has a pecuniary interest in a matter before the Council, then the member is deemed to have the same interest. This also applies if the pecuniary interest is through a company in which the member, and/or his or her spouse or partner owns 10% or more of the shares, or is general manager or managing director.

It is important for members to recognise that when a matter reaches the stage where it can reasonably be expected to affect the member's interests, he or she should no longer take part in the decision-making process.

An exemption to this requirement may be granted if, in the opinion of the Auditor-General, application of the rule would impede the transaction of business by the Council, or it would be in the interests of electors for the rule not to apply.

Contracts over \$25,000

Any member of Council or of a committee will be automatically disqualified from office if he or she is 'concerned or interested' in contracts with the Council and the total payments made, or to be made, by the Council exceed the financial limit imposed by the Act. The limit relates to the value of payments made for all contracts, it does not apply separately to each contract.

Even if the contract is between the Council and another person, an elected member will still have an interest in it if he or she has a personal connection with that person, or could benefit from the contract. For example, where a spouse or partner is personally involved, or the contract is between the Council and a company in which the member and/or his or her spouse or partner own 10% or more of the shares, or is general manager or managing director (an indirect pecuniary interest as referred to earlier).

The Auditor-General's office may grant an exemption to the Act's requirements and approve contracts that would otherwise exceed the \$25,000 limit. Criteria to be considered will include whether the reasons for the Council awarding the contract are justifiable and the process followed is fair and transparent.

The Auditor-General's role also includes providing guidance for elected members and Council staff to assist with any compliance issues in particular situations and investigating and prosecuting alleged offences against the Act. The Auditor-General has published a useful guide on this issue, which is available on its website at <https://www.oag.govt.nz/good-practice/conflicts-of-interest-for-councillors>.

Penalties for breach are immediate loss of office and the possibility of a fine.

Non-Pecuniary Interests

Non-pecuniary interests broadly concern bias, conflicts of interest or pre-determination. The Act does not deal with non-pecuniary interests. Instead they are governed by common law.

Whether a Councillor has a non-pecuniary interest will be fact dependent. However, the risk is highest where:

- a Councillor's statements or conduct imply pre-determination of a matter; or
- a Councillor has a close relationship or involvement with an individual or organisation affected by the matter.

In contrast to pecuniary interests which expose the individual Councillor to liability, non-pecuniary interests undermine the validity of the Council's decision. If there is perceived, or actual, bias or predetermination the Council's decision may be challenged. Council decisions must be fair, and be seen to be fair.

Crimes Act 1961- sections 99, 105 and 105A

Section 99 of the Crimes Act provides a definition of 'official', which includes any member or employee of a local authority.

Sections 105 and 105A create offences for corruption and corrupt use of information.

Section 105 provides that it is unlawful for an official to corruptly accept a bribe for acting or not acting in relation to the business of Council. Section 105A provides that it is unlawful for an official to use information gained in the course of their duties for their, or another person's, monetary gain or advantage.

These offences are punishable by a term of imprisonment of seven years or more. Councillors convicted of these offences will also be automatically ousted from office.

Secret Commissions Act 1910

Under this Act it is unlawful for a Councillor (or officer) to advise anyone to enter into a contract with a third person and receive a gift or reward from that third person as a result, or to present false receipts to Council.

If convicted of any offence under this Act a person can be imprisoned for up to seven years. A conviction therefore would trigger the ouster provisions of the Local Government Act and result in the removal of the Councillor from office.

Financial Markets Conduct Act 2013

The Financial Markets Conduct Act 2013 imposes on Councillors the same responsibilities as those that are on company directors, whenever Council offers securities (debt or equity) to the public. Councillors may be personally liable if investment documents, such as a disclosure statement, contain untrue statements and may be liable for criminal prosecution if the requirements of the Act are not met.

Professional advice, both internally and externally, should be sourced and provided before the Council considered and made any decisions on disclosure statements. However, elected members should be aware they may be personally liable and at risk of criminal prosecution if the requirements of the Act are not met.

The Act also prohibits any Councillor who has information about a listed company that is not generally available to the market from trading in that company's shares or from disclosing that information.

The penalties for certain offences under this Act (false or misleading statements in disclosure documents – 10 years; or insider trading – five years) are such that if a Councillor were convicted, that conviction would result in being ousted from office.

Health and Safety at Work Act 2015

The Health and Safety at Work Act (HSWA) places a duty of 'due diligence' on Councillors as Officers of the Council under the Act.

Exercising due diligence as an officer means taking reasonable steps to:

- continuously learn about, and keep up-to-date with, work health and safety issues
- understand the work of the organisation
- know the risks that workers, volunteers, and any other people who could be affected by the organisation's actions may face
- check the organisation has processes:
 - and appropriate resources to eliminate or minimise risks to health and safety, and uses them
 - to communicate and consider information about work health and safety, and to respond to that information

- to comply with any duties and requirements under HSWA, and uses them.

While the due diligence requirements fully apply, members of a governing body of a territorial authority or regional council are expressly excluded from liability for offences under sections 47, 48 and 49 of the Act for failing to comply with a duty imposed on officers under section 44 (duties of officers).

In essence, this means elected members of local authorities are responsible but not accountable for a due diligence failure. Councillors are responsible and accountable under the Act for ensuring the safety of themselves while undertaking their duties as a Councillor and that his or her acts or omissions do not adversely affect the health and safety of other persons.

Attachment 2 -LGOIMA – Summary of Requests presented at the July 2022 Risk & Assurance Committee meeting

Staff provide a report quarterly to the Risk and Assurance Committee on requests received under the Local Government Official Information and Meetings Act 1987, for the Committee’s information.

A summary of enquiries received and responded to for the period 1 April to 30 June 2022 is set out below.

| Request No: | Date received: | Information Sought | Result |
|-------------------------------|----------------|---|--|
| REQ-2022-2548 | 22/04/2022 | Information request in relation to climate change & biodiversity | Information provided |
| REQ-2022-2554 | 01/05/2022 | Information request for parking fines | Response provided – not a Council function |
| REQ-2022-2563 | 12/05/2022 | Information request regarding Ngakawau River water quality | Information provided |
| REQ-2022-2564 | 12/05/2022 | Information on building systems | Request transferred to District Council |
| REQ-2022-2567 | 16/05/2022 | Information regarding mining company’s resource consents | Information provided |
| REQ-2022-2581 | 27/05/2022 | Information request in relation to the Civil Defence Emergency Management review process and implementation | Some information provided (partially withheld for confidentiality reasons) |
| REQ-2022-2590 | 02/06/2022 | Information about groundwater bores and wells around Reefton | Information provided |
| REQ-2022-2588 | 07/06/2022 | Media communications information | Some information provided (partially withheld for confidentiality reasons) |
| REQ-2022-2589 | 03/06/2022 | Hokitika seawall extension monitoring information | Information provided |
| REQ-2022-2602 | 03/06/2022 | Evacuation plan for Westport | Information provided |



Guidance for councils on registers of members' pecuniary interests

Prepared by Simpson Grierson for Taituarā

July 2022



Foreword

The Local Government (Pecuniary Interests Register) Amendment Act 2022 passed on 20 May 2022, and will come into force on 20 November 2022. It inserts a new set of requirements and obligations into the Local Government Act 2002 (LGA 02), all of which relate to members' pecuniary interests.

The purpose of the new provisions is to increase transparency, trust and confidence in local government by keeping and making publicly available, information about members' pecuniary interests. It is largely modelled on the regime that applies to members of Parliament, but has been tailored to reflect particular aspects of local government.

Moving forward, every council (including all territorial authorities, unitary authorities, and regional councils) will be required to keep a register of its members' pecuniary interests, and to make a summary of it publicly available. Each council must appoint a Registrar to maintain the register, and provide advice and guidance to members.

Members are obliged to provide annual returns, which are to be included on the registers, and to subsequently advise of any errors or omissions in those returns. Any failure to comply with the new obligations amounts to an offence, and so it is important that members understand and comply with these new provisions, and that they are provided with necessary guidance (including from council staff).

The purpose of this guidance is to help councils understand the new requirements and obligations. Given the Registrar's role of providing advice and guidance to members, this guidance also discusses members' obligations. The guidance also discusses the relationship between the new provisions and other legislation, including the Local Authorities (Members' Interests) Act 1968, the Privacy Act 2020, and the Local Government Official Information and Meetings Act 1987. Finally, this guidance provides a checklist designed to help councils identify and satisfy the new requirements and obligations.

This guidance is not intended as legal advice. If and when particular issues arise, councils should consider obtaining specific legal advice that addresses their particular circumstances.



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Part A: Councils and Registrars' Obligations

A1 Summary of councils' obligations

1. There are four main obligations for Councils. They must:
 - (a) keep a register of members' pecuniary interests (the Register);¹
 - (b) appoint a Registrar, who will compile and maintain the Register for the council² – the appointment is discussed at A2, and the Registrar's role is discussed at A3 and A4;
 - (c) make a summary of the information contained in the Register publicly available³ – discussed at A5; and
 - (d) ensure that information contained in the Register is:
 - (i) only used or disclosed in accordance with the purpose of the Register,⁴ and
 - (ii) retained for 7 years after the date on which a member provides the information, and is then removed from the Register.⁵
2. The obligations in paragraph (1)(d) will help guide councils' compliance with the Privacy Act 2020 in terms of handling personal information contained on the Register. They will also be relevant to councils' handling of requests for information included on any Register, which could be made under section 10 of the Local Government Official Information and Meetings Act 1987. The relationship between the new pecuniary interests provisions and these other Acts is discussed at C2 (Privacy Act) and C3 (LGOIMA).

A2 Appointment of Registrar

3. Each council must appoint a Registrar. The person appointed will need to be suited to engaging directly with members, and be well placed to make judgements about the advice to be given to members.
4. The power to appoint the Registrar sits with the full council, but is capable of being delegated.⁶ Councils should check if existing delegations to chief executives are sufficient to capture this power, or if a specific delegation might be required from the full Council (assuming that the chief executive is to make the appointment).
5. The LGA 02 makes clear that the council's chief executive may be appointed as the Registrar.⁷ This is not a requirement – some councils might consider it more appropriate for the Registrar to be a general manager or senior governance advisor.
6. Given the Registrar may need be involved in potential offending by members (due to any failure to comply with the new obligations), it may be considered preferable for the members themselves not to be closely involved in that decision, so as to avoid any potential suggestion of the Registrar being seen as favourable to members.

1 Section 54A(1) of the LGA 02.

2 Section 54G(1) of the LGA 02.

3 Section 54A(3)(a) of the LGA 02.

4 Section 54A(3)(b)(i) of the LGA 02.

5 Section 54A(3)(b)(ii) of the LGA 02.

6 Under clause 32(1), Schedule 7 of the LGA 02.

7 Section 54G(2) of the LGA 02.

Part A: Councils and Registrars' Obligations

A3 Registrars' obligation to compile and maintain the Register

7. Registrars are tasked with the compilation and maintenance of the Register.⁸ In practice, Registrars will look after the Register on a day-to-day basis, thereby helping to ensure the council satisfies its obligation to keep a register.
8. The Registrar will need to ensure that a Register is complete. Under the LGA 02, the Register is to be comprise all pecuniary interest returns filed by members **and** any corrections made by members.⁹ "Corrections" are the notifications given to the Registrar advising of an error or omission in a return.¹⁰
9. Registrars are specifically obliged to "correct" the Register when advised of an error or omission.¹¹ This suggests that any correction received must be somehow linked to the original return in question, so that anyone accessing the original return will be made aware of the correction.
10. In compiling and maintaining the Register, Registrars will need to ensure there is compliance with the Privacy Act 2020 – which is discussed at C2.
11. The LGA 02 provides some boundaries for Registrars when compiling and maintaining the Register. It states that a Registrar is **not** required to:¹²
 - (a) obtain a return from a member;
 - (b) notify a member if they fail to make a return by the due date; or
 - (c) notify a member if there is any error or omission in their return.
12. The lack of any proactive role for the Registrar makes it clear that the intention of these new provisions is that members must take personal responsibility for ensuring that they satisfy their obligations. It is not for the Registrars to make sure they do so.
13. Despite this, it would be good practice for Registrars to remind members, and provide appropriate guidance, about the need to provide a return, the due dates for returns, and the ongoing obligation to notify the Registrar of any error or omission with their returns. Assisting members to understand how to fulfil their obligations will ultimately make Registrars' jobs easier.

A4 Registrars' obligation to provide guidance and advice

14. Registrars are also tasked with providing advice and guidance to members in connection with their obligations.¹³
15. While Registrars should endeavour to help members who seek advice, but there may be some practical limits to how much a Registrar can help. A Registrar cannot be expected to provide definitive advice on the application of the new provisions for every situation. There will be some areas of uncertainty, although this should lessen over time (likely through auditing processes, and potentially case law).
16. If Registrars are unsure about any compliance related or interpretation issues, legal advice can be sought. If that is not feasible for whatever reason, the Registrar could recommend to the member that they obtain their own legal advice.

8 Section 54G(1)(a) of the LGA 02.

9 Section 54A(2) of the LGA 02.

10 Made under section 54D of the LGA 02.

11 Section 54D.

12 Section 54H(2).

13 Section 54G(1)(b) of the LGA 02.

Part A: Councils and Registrars' Obligations

17. Practically, when in doubt, a Registrar would be sensible to always advise a member to err on the side of disclosure – an over-disclosure of interests will not trigger any of the new offences, but an under-disclosure might.

A5 How to make a summary of the Register publicly available

18. Each council must make “a summary of the information contained in the Register publicly available”.¹⁴
19. The term “publicly available” is defined in the LGA 02.¹⁵ It requires a council to take reasonable steps to:
- (a) ensure that the summary is accessible to the general public in a manner appropriate to its purpose, including, where practicable, on the council’s Internet site; and
 - (b) publicise, in a manner appropriate to the purpose and significance of the summary, both the fact that the summary is available and the manner in which it may be accessed.
20. Good practice would be for councils to put a copy of the summary on their website (eg on the same page as where elected members bios are available), and to also have a copy (electronic or hard-copy) available at the front counter in appropriate council offices.
21. The LGA 02 does not provide any detail about what should be included in a “summary” of the register. As a result, councils will need to make a judgement call about how much to include. In doing so, they should look to strike an appropriate balance between members’ privacy and the purpose of the Register. The purpose of the Register is described as:¹⁶
- to record members’ interests so as to provide transparency and to strengthen public trust and confidence in local government processes and decision-making.
22. This statutory purpose suggests that the public should be given enough information about a pecuniary interest so that they can understand how it could impact any Council process or decision-making, and why it ought to have been disclosed, but no more than that.
23. For example, a summary should reference the name of a relevant entity and the general nature of the member’s interest in that entity, such as “XYZ Trust (beneficial interest)”. This should provide sufficient information for people to identify relevant interests, but without providing excessive details about a member’s personal affairs.
24. The pecuniary interests’ regime for members of Parliament (on which the new LGA 02 provisions are largely based) provides a helpful example. That regime also requires that a summary of the MPs’ register be published (both online and in a hardcopy booklet form).¹⁷ While the interests required for disclosure vary somewhat between MPs and council members, the online version of the MPs’ register provides a useful indication of the level of information that should be included in a summary. The current Parliamentary register is available at: <https://www.parliament.nz/en/mps-and-electoralates/members-financial-interests/mps-financial-interests/2022-current-register-of-members-pecuniary-and-other-specified-interests/>
25. In the event of uncertainty as to how much should be disclosed in a summary, it would be good practice for the Registrar to consult the member concerned, but it will ultimately need to be the Registrar (for the Council) that decides how it will satisfy the requirement to publish a summary. Councils could seek legal advice in problematic situations.
26. If a member of the public is unhappy with the level of disclosure in any summary, it will be open to them to request the additional information held on the Register under the Local Government Official Information and Meetings Act 1987. The relationship with that Act is discussed further at C3.
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14 Section 54A(3)(a) of the LGA 02.

15 See section 5(3) of the LGA 02.

16 Section 54B.

17 Parliamentary Standing Orders, Appendix B, clauses 18 and 19.

Part B: Members' Obligations

B1 New regime applies to elected, not appointed, members

27. The new requirements and obligations will apply to the following members:¹⁸
- (a) members of the council;
 - (b) members who have been elected under the Local Electoral Act 2011 to a community board that is part of the council; and
 - (c) members who have been elected under the Local Electoral Act 2011 to a local board that is part of the council.
28. Appointed members will **not** be subject to these requirements and obligations. For example, individuals who have been appointed as a member of a council committee due to their skills, attributes, or knowledge will not need to provide annual returns to the Registrar.

B2 Summary of members' obligations

29. The key obligations for members are to:
- (a) make annual returns that contain information on certain pecuniary interests to the Registrar, within the statutory timeframe;¹⁹
 - (b) ensure that the information contained in their returns is accurate;²⁰ and
 - (c) in the event of becoming aware of an error or omission in their returns, advise the Registrar of that as soon as practicable.²¹
30. If a member does not comply with these obligations, they will commit an offence, which is punishable by a fine of up to \$5,000. Offences and prosecutions are discussed at B7.

B3 Members are responsible for fulfilling their obligations, but can seek advice

31. The LGA 02 explicitly states that it is the responsibility of each member to ensure that they fulfil their obligations.²²
32. It also makes clear that the Registrar is not required to obtain returns from members, or to notify members about any failure to make a return by the due date or of any error or omission in a return.²³ So while a Registrar might choose to provide helpful notification to members, they are not obliged to do so.
33. It is implicit that members are expected to take personal responsibility for making sure that they satisfy their own obligations.
34. Where members have any questions about making returns, or their obligations more generally, they can seek advice from the Registrar. It will also be open to members to obtain their own legal advice, if they consider that would be helpful.

18 Section 54A(1) of the LGA 02.

19 Section 54C of the LGA 02.

20 Section 54D(1) of the LGA 02.

21 Section 54D(2) of the LGA 02.

22 Section 54H(1) of the LGA 02.

23 Section 54H(2) of the LGA 02.

Part B: Members' Obligations

B4 Due dates for returns

35. In each triennium, the due dates for a return are:²⁴
- (a) **Year 1:** the day that is 120 days after the date on which the member comes into office under section 115 of the Local Electoral Act 2001;
 - (b) **Year 2:** the last day of February in the second year of the triennium; and
 - (c) **Year 3:** the last day of February in the third year of the triennium.
36. Calculating the due date for Years 2 and 3 should be straight-forward – it will typically be 28 February of the relevant year. However, in any leap year, the due date will typically be 29 February.
37. If 28 February (or 29 February in a leap year) falls on a weekend, then the due date will be the next working day.²⁵ For example, if 28 February (in a non-leap year) is a Saturday, then the due date will be Monday, 2 March.
38. Calculating the Year 1 due date is more complicated. Under section 115 of the LEA, a member comes into office the day after public notice of the final election result is given under section 86 of the LEA. So the 120 day period should be calculated from the date that is one day after the public notice.
39. Note that the date that is one day after the public notice should not be counted in calculating the 120 day period – rather the day that is two days after the public notice is 'day 1' of the 120 days.²⁶ The date that is 'day 120' should be the due date for members' returns.
40. Weekends and public holidays should be included in the 120 days – but if the 120th day falls on a weekend (or public holiday), then the due date will be the next working day.²⁷
41. The following example may assist:

| Date | Event |
|--------------------------------|--|
| 8 October 2022 | Polling day |
| 15 October 2022 | Public notice of the final election result is given, under section 86 of the LEA (note that this date can vary ²⁸) |
| 16 October 2022 | Members come into office |
| 17 October 2022 | 'Day 1' of the 120 day period |
| 13 February 2023 ²⁹ | Due date for members' returns ('day 120') |

42. Due dates will likely vary between councils, as final election results may be publicly notified on different days. Due dates could even vary between members on the same council in some situations. For instance, a member whose election was dependent on a recount, or who is elected in a by-election within the first year of the triennium, could have a significantly later due date for their Year 1 return.

24 Section 54C(2) of the LGA 02.

25 See section 55 of the Legislation Act 2019, and the definition of "working day" in section 13 of that Act.

26 Section 54 of the Legislation Act 2019, see Item 2 in that section.

27 Section 55 of the Legislation Act 2019.

28 Typically, public notice of the final result for the 2022 election will be given perhaps a week or so after polling day. With the change to the "public notice" definition applying to the 2022 triennial elections, it is possible that the public notice might be given even sooner, perhaps just a matter of days after polling day. The change to the "public notice" definition results from the Local Electoral Act 2002 not including any definition for "public notice". As a result, councils have previously relied on the definition of "public notice" that was in the Interpretation Act 1999 (which required publication of notices in local newspapers). However, the Interpretation Act was repealed in late 2021, and replaced by the Legislation Act 2019. The definition of "public notice" in that Act provides for either publication in local newspapers, or simply through a council's website. Obviously, publication through a website can be achieved more quickly than publication through newspapers, meaning that section 86 public notices may potentially be made sooner than the usual one week or so.

29 13 February 2023 happens to be a Monday, thus a working day.

Part B: Members' Obligations

43. The due date will end at midnight on the relevant day (ie members will have the entire day in which to provide their returns). So, assuming Registrars allow for return via email, members will be able to send in a return after business hours on the due date, but before midnight, and still satisfy the statutory deadline. Returns emailed after midnight on the due date will fall outside the deadline.
44. Although the return obligations are a member's responsibility, it would be good practice for a Registrar to advise members well in advance of the due date for a return (and specify the final return date), and to send a reminder a few weeks beforehand. This will be especially important for Year 1 returns, given the calculation of the due dates in Year 1 is more complicated.

B5 The time period that a return must cover

45. Returns are made in respect of a 12 month period.³⁰ This means that any relevant pecuniary interests that existed at any point during this 12 month period must be disclosed in the member's return. It is not necessary for an interest to have existed for the full 12 month period.
46. The exact dates of the 12 month period will depend on the due date for the particular return. Specifically, the period will be the 12 months that ended on the day that is one month before the due date.³¹
47. So the practical steps involved in identifying the 12 month period are:
 - (a) What is the due date for the return? This is your starting point for calculating the 12 month period.
 - (b) What is the date that is one calendar month before that due date? That date is the final day in the relevant 12 month period.
 - (c) What is the date that is one calendar year before that 'final day'? The day after that date is the first date in the relevant 12 month period.
48. Taking the upcoming triennium as an example (building on the example given for calculating a Year 1 due date in the section above), the dates are:

| Year of triennium | Due date for return | 12 month time period covered by return |
|------------------------------|--------------------------------|--|
| Year 1 – 2023 | 13 February 2023 ³² | 14 January 2022 to 13 January 2023 |
| Year 2 – 2024 (leap year) | 29 February 2024 ³³ | 30 January 2023 to 29 January 2024 |
| Year 3 – 2025 | 28 February 2025 ³⁴ | 29 January 2024 to 28 January 2025 |

49. This example illustrates that the 12 month periods for returns will not always align. There is the potential for reporting on some of the same days in two returns, eg both the Year 2 and 3 returns will need to report on 29 January 2024.
50. There is also the potential for some short periods not to be covered by any return, eg no return will report on the period from 14 January 2023 to 29 January 2023. Gifts or payments received during such windows of time will not need to be disclosed in any return made under the LGA 02. Councils may, however, choose to address such potential 'loopholes' through non-statutory reporting. This is further discussed at C1.

30 Section 54C(1) of the LGA 02.

31 Section 54C(1) of the LGA 02.

32 This date is based on the example set out in the due date section of this guidance. It assumes the public notice of the final election result (given under section 86 of the Local Electoral Act 2001) was given on 15 October 2023.

33 29 February 2024 will be a Thursday, thus a working day.

34 28 February 2025 will be a Friday, thus a working day.

Part B: Members' Obligations

51. Reporting on the right 12 month period is a member's responsibility. However, as with the due date, it would be good practice for a Registrar to advise members of the 12 month period that a return must cover (specifying the relevant dates).

B6 Information to be disclosed in members' returns

52. There are two broad categories of information that members need to disclose in their returns:
- (a) information relating to the member's position (covered in section 54E of the LGA 02); and
 - (b) information relating to the members' activities (covered in section 54F of the LGA 02).
53. Within these two broad categories are numerous specific types of interests that need to be disclosed.
54. Appendix A sets out each of the specific types of interests that need to be disclosed, and includes a brief explanation of, and examples for, each type.
55. Appendix B sets out a series of flow charts, which members can work through when completing their returns to ensure they have addressed all relevant interests.
56. Note that it is only the members' interests that need be disclosed – interests of spouses, partners, and other close family members do not need to be disclosed under the LGA 02.³⁵

B7 Prosecutions against members and councils' potential role

57. New offences have been created that will apply where members fail to comply with their obligations. Specifically, a member will commit an offence if they:³⁶
- (a) fail to file a return that includes all relevant information by the due date;
 - (b) file an inaccurate return; or
 - (c) do not advise the Registrar of any error or omission in a return as soon as practicable after they become aware of it.
58. Each offence is punishable by a fine of up to \$5,000.³⁷
59. Prosecution for these offences will follow the procedure for existing offences under section 235 of the LGA 02, which relate to a member acting while disqualified or unqualified.³⁸ It will typically be up to the Secretary for Local Government to file a charging document and prosecute members who have committed an offence.³⁹ The Secretary for Local Government is the Chief Executive of the Department of Internal Affairs. (Note that parties other than the Secretary are not prevented from bringing a private prosecution.⁴⁰)
60. For offences where members have acted while disqualified or unqualified, the Secretary is obliged to bring proceedings.⁴¹ However, no equivalent obligation exists for the offences relating to the members' returns, which

35 The fact that the LGA 02 provisions do not capture any interests of a member's whanau creates issues with using the register for helping to ensure compliance with the Local Authorities (Members' Interests) Act 1968. The potential to supplement the register with additional disclosure requirements is discussed at C1.

36 See sections 54C and 54D(1) and (2), and section 235, of the LGA 02.

37 Section 242(2) of the LGA 02.

38 See section 235 of the LGA 02, which has previously provided for offences for acting while disqualified or unqualified, and now also applies to breaches of sections 54C and 54D(1) and (2).

39 It is evident that this is the role of the Secretary from section 235(2) and also from clause 3(1), Schedule 7 of the LGA 02.

40 Clause 3(2), Schedule 7 of the LGA 02.

41 Clause 3(1), Schedule 7 of the LGA 02.

Part B: Members' Obligations

suggests the Secretary for Local Government should have some discretion in deciding whether or not to bring proceedings against members for these offences.

61. The LGA 02 is silent on whether councils are required to report possible offences to the Secretary for Local Government, although it is difficult to see how else the Secretary would identify potential offences. There is the potential for the Secretary to issue guidance or an indication about when and how they would expect to be notified of any potential offences by councils.
62. In the absence of such guidance, it would be good practice for councils to develop their own policies about when they will refer potential offences to the Secretary for Local Government. If a strict approach were adopted, councils may decide to refer every potential offence identified to the Secretary, with members notified of the referral as soon as possible afterwards.
63. Alternatively, councils may decide that discretion is appropriate, eg providing that potential offences will be referred to the Secretary unless there is good reason not to do so. Council policies could provide a disputes process first, and if no resolution is reached, a member will then be notified of an intention to make a referral to the Secretary, and be given a reasonable opportunity to put forward information that would be relevant to there being 'a good reason' not to make the referral.
64. It would be unlawful to adopt a policy that precludes referral of any potential offences to the Secretary.
65. The most likely officers to make referrals would be the Chief Executive and/or the Registrar. The council should ensure that appropriate delegations are in place for any officers who may need to make referrals to the Secretary.
66. It would be good practice for elected members to have some involvement in the development of any internal policy, and for them to formally adopt it via resolution. Copies of the policy should be given to members in advance of returns being due (or form part of a fuller set of guidance material), so that they understand the consequences of failing to meet their obligations.

Part C: Relationship with Other Legislation

C1 Relationship with LAMIA and supplementing the new statutory framework

67. The Local Authorities (Members' Interests) Act 1968 (**LAMIA**) governs some conflict of interest issues for members, notably those involving pecuniary interests. In particular:
- (a) the **contracting rule** prohibits members from being interested in any contracts (eg being a director of a company who is party to the contract, being a sub-contractor of an entity who is party to the contract) with the council that have a combined value of more than \$25,000 in a financial year – unless the Auditor-General approves the arrangement; and⁴²
 - (b) the **participation rule** prohibits members from participating in any council decision-making in which the member has a pecuniary interest that is not one held in common with the public – unless the Auditor-General has pre-approved such participation.⁴³
68. The LGA 02 sets out two specific clarifications about the relationship with LAMIA.⁴⁴ It provides:
- (a) a member's obligations under the LGA 02 in relation to the Register are in addition to any obligations under LAMIA, and do not affect the application of LAMIA; and
 - (b) a pecuniary interest that a member has declared under the LGA 02 regime is not necessarily an interest for the purposes of LAMIA.
69. These clarifications suggest that LAMIA and the new LGA 02 provisions will, in practice, need to operate separately from one another.
70. Despite this, there is some potential for overlap between the relevant requirements – in that the Register may help to identify interests that might be relevant to triggering either of the contracting or participation rules under LAMIA. For example, before entering into a contract with a party, it would be sensible for the council to check that that party is not mentioned on the Register.
71. That said, the Register will not provide a comprehensive approach to identifying interests relevant to LAMIA compliance. There are two main reasons for this.
72. First, the pecuniary interests reported under the LGA 02 are unlikely to capture the full range of interests that can sometimes create problems under LAMIA. For instance, LGA 02 returns do not need to cover:
- (a) a member's spouse's or dependents' pecuniary interests;
 - (b) details of a member's debtors and creditors;
 - (c) any contracts with the council in which the member is interested; or
 - (d) any non-financial interests that the member may have.
73. Second, the LGA 02 does not require any ongoing reporting of new interests as they arise between annual returns.
74. The practical result of these differences is that the Register will be of some, but limited, use to councils in managing conflicts of interest under LAMIA.
75. As a result, councils may want to consider if and how they might supplement the LGA 02 in a manner that assists with on-going compliance with LAMIA. For instance, councils could choose to request additional disclosures by

42 See section 3 of LAMIA.

43 See section 6 of LAMIA.

44 Section 54H(3) of the LGA 02.

Part C: Relationship with Other Legislation

members, capturing the types of interests listed above. They might also want to impose an ongoing obligation on members to notify interests as they arise (eg 4 or 6 monthly updates to returns), and perhaps extend some or all of this system to their appointed members. Such a supplementary regime could address any periods of time that are not already covered by returns under the LGA 02 (see the 'loophole' issue discussed at B5).

76. Councils who are minded to supplement the statutory regime will need to carefully consider the best way for them to do this (eg will they add questions to the statutory return form, or adopt a separate process). They will also need to consider what, if anything, about these additional interests they will proactively make publicly available.
77. Any supplementary disclosure regime should be incorporated into a council's code of conduct for its elected members. This will allow the regime to be enforced through code of conduct complaints.
78. Many councils already have existing disclosure regimes. These councils will need to consider whether to retain these regimes once the new LGA 02 provisions are engaged and, if so, how they might need to be modified to accommodate the LGA 02 requirements.

C2 Privacy compliance needed

79. The Register will contain members' personal information.⁴⁵ As a result, the information privacy principles (IPPs) in the Privacy Act 2020 will apply to this information.⁴⁶
80. To help ensure compliance with the Privacy Act, a council should consider how it will comply with each of the IPPs in relation to the Register. This could be done by way of a privacy impact assessment.⁴⁷
81. In carrying out a privacy impact assessment, there are some matters the council should bear in mind:
 - (a) IPP 3 requires members to be informed of certain matters at the time of collection of their personal information. For this purpose, a draft privacy statement is included in the template return form set out in Appendix C.
 - (b) The LGA 02 states that council must ensure information contained in the Register is retained for 7 years from when the member provides the information, after which it is to be removed from the Register.⁴⁸ This will be relevant to IPP 9, which addresses how long a council may keep personal information for.
 - (c) The LGA 02 also requires councils to ensure that the information in the Register is only used or disclosed in accordance with the purpose of the Register.⁴⁹ This will be relevant to compliance with IPPs 10, 11 and 12.

C3 LGOIMA requests can still be made

82. The Register will constitute "official information" in terms of the Local Government Official Information and Meetings Act 1987 (LGOIMA).⁵⁰ As a result, members of the public will be able to request information held on the Register. Practically, the publication of the summary of the Register should significantly reduce the likelihood of such LGOIMA requests being made, but they remain a possibility if someone considers that the summary does not provide sufficient detail.

45 See the definition of "personal information" in section 7 of the Privacy Act 2020.

46 The information privacy principles are set out in section 22 of the Privacy Act 2020.

47 Information about privacy impact assessments is available on the Privacy Commissioner's website, here: <https://www.privacy.org.nz/publications/guidance-resources/privacy-impact-assessment/>

48 Section 54A(3)(b)(ii) of the LGA 02.

49 Section 54A(3)(b)(i) of the LGA 02.

50 "Official information" is defined in section 2 of LGOIMA as meaning "any information held by a local authority", which would clearly capture the Register.

Part C: Relationship with Other Legislation

83. Any LGOIMA requests for information relating to the Register (which is not already available in the summary of the Register) will need to be considered on a case-by-case basis.
84. The LGA 02 states that councils are required to ensure the information in the Register is only disclosed in accordance with the purpose of the Register.⁵¹ The purpose of the Register is described in the LGA 02 as:⁵²
- to record members' interests so as to provide transparency and to strengthen public trust and confidence in local government processes and decision-making.
85. Accordingly, if a LGOIMA request were to be made that was not in accordance with the purpose of the Register, it would be open to the council to refuse the request on the basis that making the information available would be contrary to the LGA 02.⁵³ It seems very unlikely, however, that this will occur in practice, given the very wide scope of the purpose of the Register.
86. Another possible withholding ground that a council would need to consider is protection of privacy.⁵⁴ Almost all the information in the Register will be personal information, so this ground is likely to be relevant.
87. Members' privacy will, however, need to be balanced against public interest considerations favouring disclosure.⁵⁵ Whether such public interest considerations exist, and the weight that should be afforded to them, is likely to depend on the circumstances of the particular LGOIMA request (eg who has made the request? Why do they want the information? What is the information in question? Is there a particular council process or decision that the information requested is relevant to?).
88. Depending on the particular request, there might possibly be other potential withholding grounds to consider. For example, a possible ground is where withholding the information is necessary to protect people (including members) from improper pressure or harassment, so that the effective conduct of public affairs can be maintained.⁵⁶

51 Section 54A(3)(b)(i) of the LGA 02.

52 Section 54B of the LGA 02.

53 See section 17(c)(i) of LGOIMA.

54 See section 7(2)(a) of LGOIMA.

55 See section 7(1) of LGOIMA.

56 Section 7(2)(f)(ii) of LGOIMA.

Part D: Pecuniary Interests Checklist for Councils

Being ready for the new LGA 02 provisions will require:

- ✓ Officers to prepare advisory materials to be given to members following the 2022 elections, which provide practical guidance on how to file a return, the due dates for the triennium and the applicable 12 month periods for the returns
- ✓ Officers to prepare a return form (hard-copy and/or electronic), which members can use to complete their annual returns (a template form is included in Appendix C)
- ✓ Officers to undertake some form of privacy impact assessment in relation to the personal information to be held on the Register, to ensure compliance with the information privacy principles in the Privacy Act 2020
- ✓ Council (or anyone with the requisite delegated authority) must appoint a Registrar (this can be done before 20 November 2022 if necessary, due to section 43(1)(c) of the Legislation Act 2019)
- ✓ Council to consider whether to adopt policies that address and clarify when referrals of potential prosecutions should be made to the Secretary for Local Government
- ✓ Council to determine whether to supplement the LGA 02 with additional disclosure requirements and, if so, what that supplementary regime will involve, plus ensure the code of conduct provides for this regime

It would be good practice to inform members before the 2022 elections about these new requirements and obligations, and the preparatory work that is being undertaken.

It is up to councils to determine how to package these matters. But one approach could be to develop a 'one-stop-shop' guidance document for members, which captures their obligations under the LGA 02, information about due dates and 12 month periods, and also the council's approach to dealing with the referral of potential offences to the Secretary for Local Government or any potential disagreements between members and the council or Registrar.

APPENDIX A: Table of Interests and Examples

| Interests relating to the Member's position | | |
|---|---|---|
| Section reference | Explanation of interest and required disclosure | Example |
| Section 54E(1)(a) | <p>Members must disclose the name of any company in which they are a director, or in which they hold or control more than 10% of the voting rights.</p> <p>Members are required to provide a description of the main business activities of the company. This could be relatively brief, but must accurately represent what activities or services the company undertakes or provides.</p> | <p>Matthew is a director of his family business, being a company that owns and leases commercial property. He is also elected to the local council. Matthew will need to declare his directorship, by providing both the name of the company and a description of its main business activities in his return. He describes the business activities as “developer and landlord of commercial properties”.</p> <p>Caitlin is a shareholder in her sister's ice cream company. She holds 10 voting shares out of the total 80 voting shares the company has issued. As a result she owns 12.5% of the voting shares in the company and will need to declare her shareholding by providing both the name of the company and its main business activities in her return. She describes the business activities as “sells ice-cream through retail shops in Auckland and Wellington”.</p> |
| Section 54E(1)(b) | <p>Members must disclose the name, and describe the main business activities, of any other company or business entity in which they hold a pecuniary interest.</p> <p>‘Business entities’ mean any separate body or organisation, whether incorporated or unincorporated, that carries on any profession, trade, manufacturing, or undertaking for pecuniary profit, and includes a business activity carried on by a sole proprietor, but does not include any blind trust. Such entities can include joint ventures, partnerships, sole proprietors or other arrangements that are not companies.</p> <p>There is a clear exception for any managed investment scheme, such as Kiwisaver or an index fund, which do not need to be disclosed. A</p> | <p>Emiria is a partner at a law firm. She must disclose the name of the law firm and give a description of its main activities (eg “provider of legal services”).</p> |

APPENDIX A: Table of Interests and Examples

| Interests relating to the Member's position | | |
|---|---|---|
| Section reference | Explanation of interest and required disclosure | Example |
| | <p>"managed investment scheme" has the same meaning as in section 9(1), (2) and (4) of the Financial Markets Conduct Act 2013.</p> <p>A member will not have a pecuniary interest in a company merely because they have an interest in that company's 'parent' company or its subsidiary.</p> | |
| Section 54E(1)(c) | <p>Members must disclose the name of any employer, and describe the main business activities of that employer(s). This could include permanent, fixed term or casual employment under an employment agreement (or contract of service).</p> <p>It will not include services provided as a freelancer or contractor under a contract for service (which is likely to be captured by section 54E(1)(ca) or (b) if the member is acting through some form of business entity, or perhaps through section 54F(1)(c) if acting personally). It will also not include holding the position of elected member of a council, local board, or community board, or any other position for which the member concerned would not be qualified unless he or she held their role as an elected member.</p> | Meilin has a part time job as a lecturer in environmental studies at City University. She must disclose that she is employed at City University and that their main activities are providing higher education and research. |
| Section 54E(1)(d) | Members must disclose any beneficial interest they have in a trust and the name of the trust. Having a beneficial interest means that they are a "beneficiary" of the trust (and are typically listed as such in the trust deed). There is no cap or requirement on the amount or type of beneficial interest, so members will need to disclose any beneficiary interest that they have in a trust. | Melanie is a beneficiary of her parents' family trust: the Jack and Jill trust. She is also aware that she is an uri (descendant) of a local iwi. The iwi's settlement assets are held in a trust and the trust's beneficiaries are all uri (descendants) of the iwi's tupuna (ancestors). Melanie will need to disclose the name of both trusts. |
| Section 54E(1)(e) | Members must disclose if: | Frank is on the board of a charitable cycling organisation Bikes4U. Bikes4U applied for a council grant to run cycle repair workshops, as |

APPENDIX A: Table of Interests and Examples

| Interests relating to the Member's position | | |
|---|---|--|
| Section reference | Explanation of interest and required disclosure | Example |
| | <p>(a) they are a member of an organisation, or a member of the governing body of an organisation, or a trustee of a trust; and</p> <p>(b) that organisation or trust receives funding from, or has applied to receive funding from, the local authority, local board, or community board to which the member has been elected.⁵⁷</p> <p>For this interest, the member must disclose the organisation or trust's name and a description of its main activities.</p> <p>If the organisation concerned is a council-controlled organisation (CCO), then the member does not need to provide a description of the CCO's main activities. The member could instead simply give the CCO's name and note it is a CCO.</p> | <p>part of encouraging active transport. Frank will therefore need to disclose that he is on the board of Bikes4U and provide a description of Bikes4U's main activities.</p> |
| Section 54E(1)(f) | <p>Members must disclose the title and description of any organisation to which they are appointed by virtue of being an elected member.</p> <p>The statutory language used is somewhat confusing. All other interests in section 54E require disclosure of the "name" of a company/entity/employer etc. It is arguable that the reference to "title" is meant to require a member to disclose the title of the role they hold.</p> | <p>Emily is the mayor of a large city council, and as part of that role serves as the chair of a network of Mayors that is called the Council Employment Advocacy Group (CEAD). Emily should disclose that she is the chair of CEAD, and that CEAD aims to encourage youth employment in council jobs.</p> |

⁵⁷ If a member has an interest to disclose under section 54E(1)(e), this is an interest that is likely to constitute a pecuniary interest under section 6 of the Local Authorities (Members' Interests) Act 1968, and possibly prevent them participating in any decision-making relevant to the organisation concerned.

APPENDIX A: Table of Interests and Examples

| Interests relating to the Member's position | | |
|---|---|--|
| Section reference | Explanation of interest and required disclosure | Example |
| | <p>Given this uncertainty (and in light of the purpose of the new provisions), it will be prudent to disclose the title of the role that the member has been appointed to and the name of the organisation concerned, as well as providing a description of that organisation's activities.</p> | |
| Section 54E(1)(g) | <p>Members must disclose the location of any real property that they have any legal interest in, outside of an interest as a trustee. "Real property" is property that consists of land and/or buildings.</p> <p>A member will have a legal interest in land if they own or lease it.</p> <p>A licence to occupy, or having a caveat or encumbrance, will not constitute having a legal interest in property. Also, being a director or shareholder in a company that owns land will not constitute having a legal interest in that land.</p> <p>Members are required to disclose the location of the property. This requires disclosure of the general location (eg suburb and city), but does not require disclosure of the street address.</p> <p>Members must also provide a description of the nature of the property. For instance, it might be "family home", "holiday home", "investment property", or "commercial property".</p> | <p>Mariama leases her family home, jointly with her husband, at 123 Main Road in a small town called Fairtown. Her disclosure is: "Family home – Fairtown (leasehold interest)". Miriama is not obliged to disclose that her interest in the property is a leasehold one, but chooses to provide this for clarity.</p> |

APPENDIX A: Table of Interests and Examples

| Interests relating to the Member's position | | |
|---|--|---|
| Section reference | Explanation of interest and required disclosure | Example |
| Section 54E(1)(h) | <p>If a member is a beneficiary of a trust (and they ought reasonably to know that they are a beneficiary), they must disclose the location and description of any real property held by the trust. "Real property" is property that consists of land and/or buildings.</p> <p>There are two exceptions. A member does not need to make any disclosure if the trust is:</p> <ul style="list-style-type: none"> • a unit trust for which the member has already made a disclosure under section 54E(1)(d); or • a retirement scheme whose membership is open to the public. <p>Members are required to disclose the location of the property. This requires disclosure of the general location (eg suburb and city), but does not require disclosure of the street address.</p> <p>Members must also provide a description of the nature of the property. For instance, it might be "residential property", "investment property", or "commercial property".</p> | <p>James is a beneficiary of a trust established by his aunt and uncle. The home James lives in, which is in Karori in Wellington, is owned by the trust. James leases the house from the trust. James' disclosure in relation to this trust will be "Residential property – Karori, Wellington". (James will already have disclosed the name of the trust under section 54E(1)(d) of the LGA 02, and disclosed his leasehold interest in the property as a "family home" under section 54E(1)(g) of the LGA 02.)</p> <p>Evan is a longstanding member of his local Church in Small Town. The Church runs a charitable trust to provide financial support to Church members for living costs or education costs. All members of the Church are beneficiaries. The Church building is held by the trust. Evan will need to disclose in relation to the trust: "Church property and building – Small Town". (Evan will have already disclosed the name of the trust under section 54E(1)(d) of the LGA 02.)</p> |

| Interests relating to the Member's activities | | |
|---|---|---------|
| Section Reference | Explanation of interest and required disclosure | Example |

APPENDIX A: Table of Interests and Examples

| | | |
|--|---|---|
| <p>Section 54F(1)(a) and section 54F(2)</p> | <p>Members must disclose if:</p> <ul style="list-style-type: none">(a) they have travelled to a country other than New Zealand; and(b) their travel costs and/or accommodation costs were not paid in full by the member and/or a member of their family. <p>“Member of their family” includes only the member’s spouse, partner, parent, grandparent, child, stepchild, foster child, grandchild or sibling. It does not include a member’s wider family or whānau.</p> <p>In particular, the member must disclose:</p> <ul style="list-style-type: none">(a) the name of the country;(b) the purpose of travelling to the country; and(c) the name of each person who contributed fully or partially to travel costs to/from the country; and(d) the name of each person who contributed fully or partially to the member’s accommodation costs while in the country. | <p>Hemi was sponsored by the Rotary Club to go on a trip to Japan to promote New Zealand as a great place to study and work. The Rotary Club paid for his flights and half of his accommodation. Hemi will therefore need to disclose that he went to Japan, that the purpose of the trip was to promote New Zealand as a location for business and study, and that the Rotary Club contributed to both his travel and accommodation costs.</p> |
|--|---|---|

APPENDIX A: Table of Interests and Examples

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| <p>Section 54F(1)(b) and section 54F(3)</p> | <p>Members must disclose gifts received if a gift is worth more than \$500, or if all gifts from one donor have a combined value of more than \$500.</p> <p>The value of gifts is the “estimated market value in New Zealand”.</p> <p>Gifts will include hospitality and donations of cash or in kind.</p> <p>There are two exceptions. No disclosure is needed if:</p> <ul style="list-style-type: none"> • the gift is a donation made to cover expenses in an electoral campaign;⁵⁸ or • the gift was from a member of the member’s family and the member does not consider that information about the gift should be included in the return taking the purpose of the register into account. <p>In terms of the second exception, “family” includes only the member’s spouse, partner, parent, grandparent, child, stepchild, foster child, grandchild or sibling. It does not include a member’s wider family or whānau.</p> <p>Also, according to section 54B of the LGA 02, the purpose of the register “is to record members’ interests so as to provide transparency and to strengthen public trust and confidence in local government processes and decision-making”.</p> <p>Where disclosure is required, the member must provide:</p> | <p>Claire’s cousin Alfred is a hairdresser. He gifts her a \$600 voucher to his salon to celebrate her being elected to the council. Claire must disclose the gift, and includes the following in her return: “Hair salon voucher – Alfred Smith”.</p> <p>Claire also receives a congratulatory gift from her brother Antoni. Antoni is a wine-seller and gives Claire seven boxes of wine. The wine would be worth \$800 if bought from a retail shop. Antoni lives in the council’s district, and is likely to be significantly impacted by some proposed changes to the council’s district plan. While Antoni is her brother (and so comes within the definition of “family”), Claire decides that it is prudent to disclose the gift and Antoni’s identity, taking the purpose of the register into account.</p> |
|--|--|--|

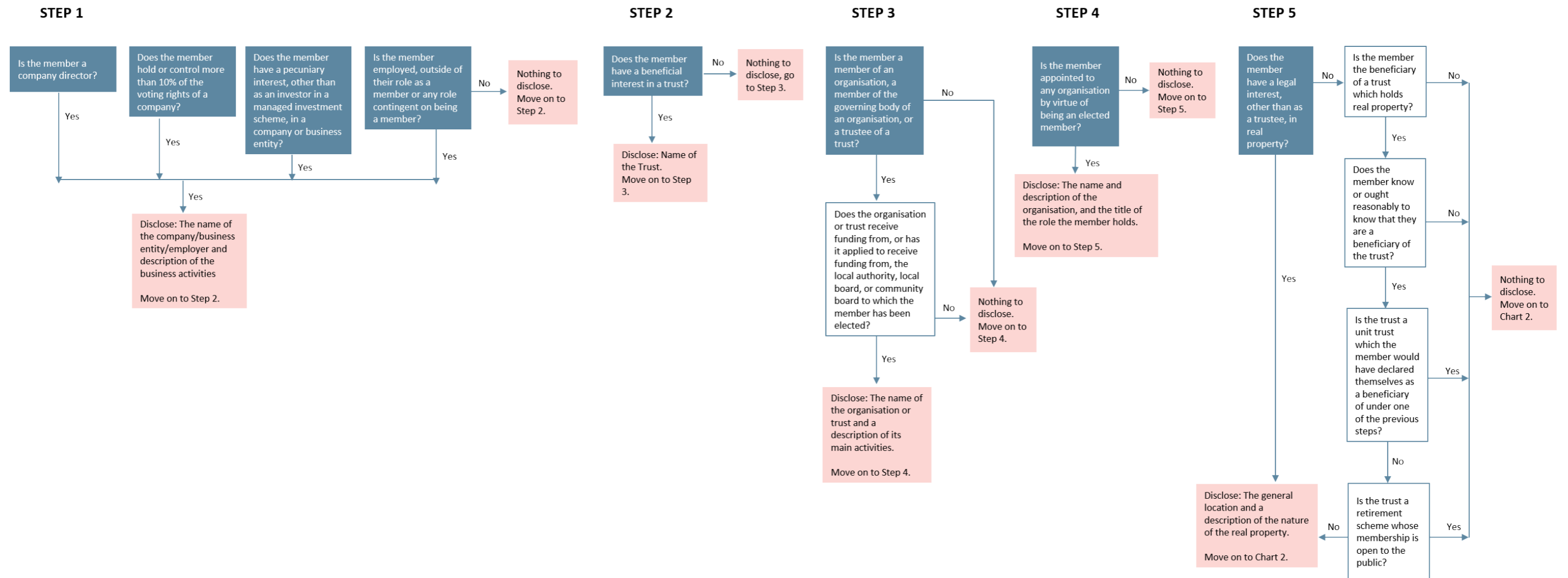
58 Members will of course need to make appropriate disclosures about their election donations as part of returns that they submit under the Local Electoral Act 2001.

APPENDIX A: Table of Interests and Examples

| | | |
|---------------------------------|--|---|
| | <ul style="list-style-type: none"> • a description of each gift; and • the name of the donor of each gift, if known or reasonably ascertainable by the member. | |
| <p>Section 54F(1)(c)</p> | <p>Members must describe each payment they have received for activities in which the member is involved.</p> <p>There are several important exceptions to this. No disclosure is needed for:</p> <ul style="list-style-type: none"> • salary or allowances paid to the member under the Remuneration Authority Act 1977 or the LGA 02; • payment received from an interest already required to be disclosed under section 54E of the LGA 02; or • payment in respect of any activity that the member ceased to be involved in before becoming a member. | <p>Chantelle occasionally gives speeches at conferences about her life experiences, and usually receives a speaker’s fee for doing so. Her speaking roles are on a freelance one-off basis. Chantelle does this in her own name, without using any business entity or company. Chantelle will need to disclose the payment, and includes the following in her return: “\$300 fee for speaking at <i>Life 2022 Conference</i>.”</p> <p>Amy is a member of the city council and also a novelist. She recently wrote a popular book. Amy receives annual royalties under her contract with the book’s publisher, which she entered into in her own name, without using any business entity or company. Amy will need to include the following in her return: “\$1,234 annual royalties for novel <i>Flying to the Moon</i>”.</p> |

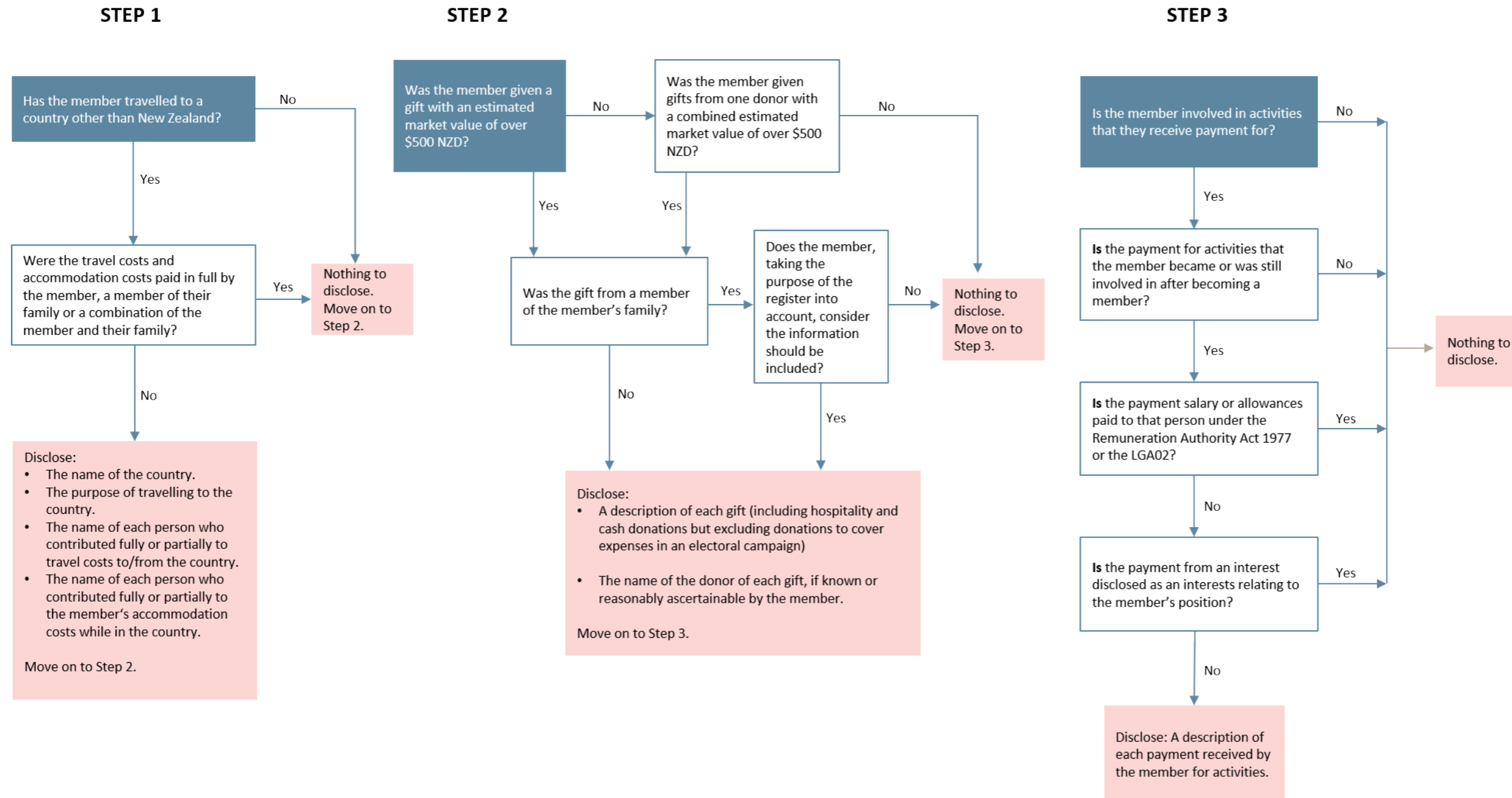
APPENDIX B: Flowcharts of Members' Interests

Chart 1: Information relating to a member's position



APPENDIX B: Flowcharts of Members' Interests

Chart 2: Information relating to a members' activities



APPENDIX C: Template Pecuniary Interest Return Form

Pecuniary Interests Return Form

Information for members:

Sections 54A to 54I of the Local Government Act 2002 (**LGA**) requires members to provide annual returns of certain pecuniary interests. You can use this form to provide your return.

You are responsible for complying with your obligations under the LGA relating to this return.

You can, however, seek advice and guidance from the Registrar of the members' pecuniary interests register on how to complete your return.

How to file this return:

You can file your completed return form with the Registrar by *[insert details of possible means for filing that are available, eg give email address, online portal information, postal, or information about how to file in person]*.

The due date for the return is *[insert date]*.

Privacy statement:

Your personal information is being collected so that the Council and the Registrar can comply with their obligations under the LGA, particularly those in sections 54A and 54G.

You are required to provide this information under sections 54C to 54H of the LGA. Failure to do so will constitute an offence under section 235 of the LGA.

Your personal information will be used and disclosed in accordance with the purpose of the register set out in section 54B of the LGA, which is to record members' interests so as to provide transparency and to strengthen public trust and confidence in local government processes and decision-making. The information will be retained for 7 years from the date on which you provide it, and will then be removed from the register.

A summary of your personal information will be made publicly available by the Council, in accordance with section 54A of the LGA. In addition, your personal information will constitute official information, and so is subject to the Local Government Official Information and Meetings Act 1987.

You have the right to access and seek correction of your personal information under the Privacy Act 2020. This can be done by contacting *[insert contact details]*.

APPENDIX C: Template Pecuniary Interest Return Form

Return:

This return is made under section 54C of the Local Government Act 2002, providing information required under sections 54E and 54F of that Act.

Member's name:

12 month period covered by this return:

1. Are you the director of a company?
(section 54E(1)(a))

| Yes | No |
|--------------------------|--------------------------|
| <input type="checkbox"/> | <input type="checkbox"/> |

If yes, please provide the name of the company (or companies) and a description of their main business activities:

2. Do you hold or control more than 10% of the voting rights in a company?
(section 54E(1)(a))

| Yes | No |
|--------------------------|--------------------------|
| <input type="checkbox"/> | <input type="checkbox"/> |

If yes, please provide the name of the company (or companies) and a description of their main business activities:

APPENDIX C: Template Pecuniary Interest Return Form

3. Do you have a pecuniary interest in any other company or business entity (except as an investor in a managed investment scheme)?
(section 54E(1)(b))

| Yes | No |
|-----|----|
| | |

If yes, please provide the name of the company (or companies) or business entity (or entities) and a description of their main business activities:

4. Are you employed?
(section 54E(1)(c))

| Yes | No |
|-----|----|
| | |

If yes, please provide the name of your employer(s) and a description of their main business activities:

5. Do you have a beneficial interest in a trust?
(section 54E(1)(d))

| Yes | No |
|-----|----|
| | |

If yes, please provide the name of the trust(s):

APPENDIX C: Template Pecuniary Interest Return Form

6. Are you a member of an organisation, a member of the governing body of the organisation, or a trustee of the trust **and** that organisation or trust receives, or has applied to receive, funding from the Council, local board or community board to which you are elected?
(section 54E(1)(e))

Yes No

| | |
|--|--|
| | |
|--|--|

If yes, please provide the name of the organisation(s) or trust(s) and a description of their main business activities:

7. Are you appointed to any organisation by virtue of being an elected member?
(section 54E(1)(f))

Yes No

| | |
|--|--|
| | |
|--|--|

If yes, please provide the title for your appointed role(s), the name of the organisation(s), and a description of them:

8. Do you have a legal interest, other than as a trustee, in any real property?
(section 54E(1)(g))

Yes No

| | |
|--|--|
| | |
|--|--|

If yes, please provide the location of the real property (eg suburb and city, or town) and a description of the nature of property (eg. family residence, rental property, or commercial property):

APPENDIX C: Template Pecuniary Interest Return Form

9. Are you the beneficiary of a trust that holds real property (but excluding a trust that is a unit trust you have already disclosed under question 5 or a trust that is a retirement scheme whose membership is open to the public)?
(section 54E(1)(h))

| Yes | No |
|-----|----|
| | |

If yes, please provide the location of the real property (eg suburb and city, or town) and a description of the nature of property (eg. family residence, rental property, or commercial property):

10. Have you travelled to any country (other than New Zealand) where your travel and accommodation costs were not paid in full by you and/or a member of your family?
(section 54F(1)(a))

| Yes | No |
|-----|----|
| | |

(In this question, "family" means the member's spouse, partner, parent, grandparent, child, stepchild, foster child, grandchild, or sibling.)

If yes, please provide the name of the country, the purpose of travelling to the country, the name of each person who contributed (in whole or in part) to the costs of travel to or from the country to or any accommodation costs incurred by the member while in the country (if more than one country was travelled to, provide all of this information for each country):

APPENDIX C: Template Pecuniary Interest Return Form

11. Have you received any gift (other than a gift from a family member, unless you consider that gift should be disclosed taking into account the purpose of the members' pecuniary interests register) that:

Yes No

| | |
|--|--|
| | |
|--|--|

- has an estimated market value in New Zealand of over \$500; or
- when combined with all other gifts from the same donor, have a total estimated market value in New Zealand of over \$500?

(section 54F(1)(b))

(In this question:

"gift" includes hospitality and donations in cash or kind, but excludes electoral expenses, and

"family" means the member's spouse, partner, parent, grandparent, child, stepchild, foster child, grandchild, or sibling.)

If yes, please provide a description of the gift(s) and the name of the donor of the gift(s) (if known or reasonably ascertainable by you):

12. Have you received any payment for an activity in which you are involved, excluding:

Yes No

| | |
|--|--|
| | |
|--|--|

- any salary or allowance paid to you under the Remuneration Authority Act 1977 or the Local Government Act 2002
- any payment received from an interest that has already been disclosed in this return; or
- any payment made in respect of an activity that you ceased to be involved in before becoming a member?

(section 54F(1)(c))

If yes, please provide a description of the payment(s) received by you:

AUCKLAND

Level 27, 88 Shortland Street,
Private Bag 92518,
Auckland 1141, New Zealand
+64 9 358 2222

WELLINGTON

Level 24, HSBC Tower,
195 Lambton Quay, PO Box 2402,
Wellington 6140, New Zealand
+64 4 499 4599

CHRISTCHURCH

Level 1, 151 Cambridge Terrace,
West End, PO Box 874,
Christchurch 8140, New Zealand
+64 3 365 9914

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| | |
|--|--------------------------------------|
| Report to: Council | Meeting Date: 25 October 2022 |
| Title of Item: Appointment of Resource Management Committee | |
| Report by: Toni Morrison, Policy & Projects Consultant | |
| Reviewed by: Heather Mabin, Chief Executive Officer | |
| Public excluded? No | |

Report Purpose

To establish the Resource Management Committee of Council, and the membership of and delegations for that Committee, pursuant to clauses 30, 31 and 32 of Schedule 7 of the Local Government Act 2002 (LGA).

Report Summary

Pursuant to clause 30(1)(a) of the LGA, a local authority may appoint the committees, subcommittees and other subordinate decision-making bodies that it considers appropriate.

Council's previous standing committees were discharged at the election, in accordance with the LGA. New committees are required to be established following each election (NB this does not apply to Council's Joint Committees, which remain in force following previous Council resolutions).

The Council has had a Resource Management Committee for many years. It is proposed that the new Council re-constitute this Committee to consider Council's resource management, planning and policy matters, on the same terms and with the same membership structure and delegations as the previous Committee operated under. These are appended to this report (refer Attachment 1).

The Chief Executive has liaised with each Rūnanga regarding their nominations to this Committee. Nominations will be received on the day of the meeting.

The Chief Executive would like to acknowledge and thank Francois Tumahai and Jackie Douglas for their support and valuable input as members of this Committee in the past. WCRC looks forward to continued collaboration and involvement by Iwi representatives in the future.

Recommendations

It is recommended that Council resolve to:

1. *Establish the Resource Management Committee; and*
2. *Adopt the Terms of Reference and approve the delegations for the Resource Management Committee as detailed in Attachment 1; and*
3. *Appoint all elected members of Council to the Resource Management Committee; and*
4. *Appoint _____ and _____ as the representatives of Te Rūnanga o Ngāti Waewae and Te Rūnanga o Makaawhio respectively; and*
5. *Appoint _____ as Chair of the Resource Management Committee.*

Background

The Council has traditionally had this Committee as a standing Committee over many years. The Committee includes all members of Council, and two appointees from the Rūnanga in the region.

Considerations

Tangata whenua

The Council has signed a Protocol and Iwi Participation Arrangement with Te Rūnanga o Ngāti Waewae, Te Rūnanga o Makaawhio and Te Rūnanga o Ngai Tahu. The purpose of the Protocol is to establish an enduring partnership between the parties, and to maintain the Protocol as an expression of the Treaty of Waitangi partnership.

The agreement states that the Council will facilitate an ongoing role for Papatipu Rūnanga in decision-making and resource management, incorporating appointment of nominated representative(s) from, or acting on behalf of, Te Rūnanga o Ngāti Waewae and Te Rūnanga o Makaawhio to relevant Council committees and forums such as the Resource Management Committee.

Financial implications

The establishment and operation of the Committee is provided for in annual governance budgets.

Legal implications

Under clause 32(1) of Schedule 7 of the LGA, unless expressly provided otherwise in the LGA or 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 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 plan; or
- (d) the power to adopt a long-term plan, annual plan, or annual report; or
- (e) the power to appoint a chief executive; or
 1. the power to adopt policies required to be adopted and consulted on under this Act in association with the long-term plan or developed for the purpose of the local governance statement; or
- (f) the power to adopt a remuneration and employment policy.

The proposal to establish the Resource Management Committee complies with these requirements.

In relation to the appointment of Rūnanga representatives on the committee, this is consistent with LGA requirements, particularly in terms of the following sections:

- Section 14(1)(d), which states that the Council should provide opportunities for Māori to contribute to its decision-making processes;
- Section 77(1)(c), which requires the Council, when considering a matter that involves a significant decision in relation to land or a body of water, to 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;

- Section 81, which requires Council to establish and maintain processes to provide opportunities for Māori to contribute to the decision-making processes of the Council, and to consider ways in which it may foster the development of Māori capacity to contribute to the decision-making processes of the local authority.

The proposal for Rūnanga representation at the governance table on this Committee assists the Council in fulfilling these sections of the LGA.

Attachments

Attachment 1: Draft Terms of Reference – Resource Management Committee

Attachment 1 Draft Terms of Reference – Resource Management Committee

Resource Management Committee

(a) Purpose

To guide and monitor the resource management, building, biosecurity, transport, environmental monitoring, mining and emergency management functions of the West Coast Regional Council.

(b) Meetings

The Resource Management Committee will have ordinary meetings as required.

(c) Delegations

1. To formulate and recommend to Council (unless otherwise stated in this section) all policies, plans and strategies on resource management, and to review such policies, plans and strategies as necessary.
2. To set and review policy in respect of resource consent processing, compliance monitoring, mining responsibilities, building legislation functions, environmental monitoring and enforcement. This includes the following delegations:
 - To approve a list of accredited Hearing Commissioners from which appointments can be made to hear and/or decide resource consent applications, reviews or changes to consents, or from which nominations can be made for Hearing Commissioner appointments; and
 - To decide on/approve the release of bonds associated with mining.
3. To make submissions and representations on matters relating to resource management, on District and Regional plans, national policies and programmes, and on legislation and regulations affecting the Council's interest.
4. To formulate, approve and review biosecurity plans and policies.
5. To formulate, approve and review all transport plans and policies and to manage transport issues.
6. To formulate, approve and review strategies for activities related to natural hazards and contaminated sites.
7. To formulate, approve and review flood warning manuals and procedures.

The Resource Management Committee may appoint sub-committees or working parties as appropriate provided they are limited to a time duration consistent with performance of their specified tasks.

(d) Membership

The Resource Management Committee shall be a committee of the whole Council. All elected members of the West Coast Regional Council shall be members of the Resource Management Committee and in addition, a representative appointed by each of the tribal Rūnanga on the West Coast, namely Te Rūnanga o Ngāti Waewae and Te Rūnanga o Makaawhio.

A quorum of the Resource Management Committee shall be four members.

(e) Explanatory Comment

The Resource Management Committee will be responsible for establishing and reviewing the statutory and legal policy instruments of Council. This will particularly include Resource Management Act Policies and Plans, Regional Land Transport and Passenger Transport Plans, and Pest Management Plans.

| | |
|---|--------------------------------------|
| Report to: Council | Meeting Date: 25 October 2022 |
| Title of Item: Appointment of Risk and Assurance Committee | |
| Report by: Toni Morrison, Policy & Projects Consultant | |
| Reviewed by: Heather Mabin, Chief Executive Officer | |
| Public excluded? No | |

Report Purpose

To establish the Risk and Assurance Committee of Council, and the membership of and delegations for that Committee, pursuant to clauses 30, 31 and 32 of Schedule 7 of the Local Government Act 2002 (LGA).

Report Summary

Pursuant to clause 30(1)(a) of the LGA, a local authority may appoint the committees, subcommittees and other subordinate decision-making bodies that it considers appropriate.

Council's previous standing committees were discharged at the election, in accordance with the LGA. New committees are required to be established following each election (NB this does not apply to Council's Joint Committees, which remain in force following previous Council resolutions).

During the previous term the Council formed a Risk and Assurance Committee to provide governance oversight of Council's financial management, risk management, and financial and non-financial reporting. It is proposed that the new Council re-constitute this Committee, given the importance of this oversight and in light of the significant work programmes before the Council.

Draft Terms of Reference are attached for the Council's consideration. These are the same terms and delegations as the previous Committee operated under.

Membership of the previous Risk and Assurance Committee was initially four members of Council, but this was subsequently changed by Council to include all elected members on the Committee. Council is asked to consider and confirm membership of the Risk and Assurance Committee. This will then be included in the final Terms of Reference.

Recommendations

It is recommended that Council resolve to:

1. *Establish the Risk and Assurance Committee; and*
2. *Adopt the Terms of Reference and approve the delegations for the Risk and Assurance Committee as detailed in Attachment 1; and*
3. *Appoint _____ to the Risk and Assurance Committee; and*
4. *Appoint _____ as Chair of the Risk and Assurance Committee.*

Considerations

Financial implications

The establishment and operation of the Committees is provided for in annual governance budgets.

Legal implications

Under clause 32(1) of Schedule 7 of the LGA, unless expressly provided otherwise in the LGA or 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 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 plan; or
- (d) the power to adopt a long-term 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 this Act in association with the long-term plan or developed for the purpose of the local governance statement; or
- (g) the power to adopt a remuneration and employment policy.

The proposal to establish the Risk and Assurance Committee complies with these requirements.

In relation to membership of Committees, the LGA states that the minimum number of members for a committee is three. A committee can also include members who are not elected members/Councillors. These members can be appointed where they have skills, attributes or knowledge that will assist the work of the committee.

Attachments

Attachment 1: Draft Terms of Reference – Risk and Assurance Committee

Attachment 1 Draft Terms of Reference – Risk and Assurance Committee

Risk and Assurance Committee

(a) Purpose

To ensure that Council has appropriate financial, risk management and internal control systems in place that provide Council with:

1. An overview of the financial performance of the organisation;
2. Effective management of potential opportunities and adverse effects; and
3. Reasonable assurance as to the integrity and reliability of Council's financial and non-financial reporting.

(b) Areas of Responsibility

- Risk management and the system of internal controls.
- Reporting – financial and non-financial.
- Maintain an effective relationship with the external auditor.
- Appoint or engage any internal auditor.
- Promote, monitor and review compliance with Council's legal and other obligations.
- Ensure there is good communication between Council, Committees and Management.
- Prepare and implement programmes of work relevant to the purpose of the Committee.

(c) Delegations

The Committee is delegated the authority to:

- Receive and consider external and internal audit reports.
- Receive and consider staff reports on audit, internal controls and risk management related matters.
- Make recommendations to the Council on financial, internal control and risk management policy and procedure matters as appropriate.
- To approve the Auditors' engagement and arrangements letters in relationship to the Annual Report.
- To approve the write-off or write-down of general debtor invoices for sums greater than \$10,000, and approval of the write-off or write-down of rate debtor invoices or penalties for sums greater than \$10,000.

(d) Meetings

The Risk and Assurance Committee will meet quarterly, with additional meetings as required.

(e) Membership

The Committee shall be made up of _____ elected members of the Council. A quorum of the Committee shall be not less than _____ members¹.

¹ The number for a quorum will depend on the number of members appointed. In relation to a quorum, the LGA provides that a quorum for a committee shall be not less than 2 members, at least one of which must be an elected member.

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|--|--------------------------------------|
| Report to: Council | Meeting Date: 25 October 2022 |
| Title of Item: Appointment of Infrastructure Governance Committee | |
| Report by: Toni Morrison, Policy & Projects Consultant | |
| Reviewed by: Heather Mabin, Chief Executive Officer | |
| Public excluded? No | |

Report Purpose

To establish the Infrastructure Governance Committee of Council, and the membership of and delegations for that Committee, pursuant to clauses 30, 31 and 32 of Schedule 7 of the Local Government Act 2002 (LGA).

Report Summary

Pursuant to clause 30(1)(a) of the LGA, a local authority may appoint the committees, subcommittees and other subordinate decision-making bodies that it considers appropriate.

Council's previous standing committees were discharged at the election, in accordance with the LGA. New committees are required to be established following each election (NB this does not apply to Council's Joint Committees, which remain in force following previous Council resolutions).

During the previous term the Council formed an Infrastructure Governance Committee to provide governance oversight of the Council's Infrastructure Programme of Works. These projects are listed in Schedule A of Attachment 1 to this report. The purpose of the Committee is to provide guidance, recommendations, long-term vision, policy, project prioritisation and review. It is proposed that the new Council re-constitute this Committee, in light of the significant work programmes before the Council and the critical importance of maintaining this oversight.

Draft Terms of Reference are attached for the Council's consideration. These are the same terms and delegations as the previous Committee operated under, and which were adopted by the previous Council relatively recently in August 2022. Membership of the previous Infrastructure Governance Committee was made up of three members of Council, in accordance with the draft Terms of Reference which provide for between three and five. The draft also provides that the Committee will appoint its own Chair.

Recommendations

It is recommended that Council resolve to:

1. *Establish the Infrastructure Governance Committee; and*
2. *Adopt the Terms of Reference and approve the delegations for the Infrastructure Governance Committee as detailed in Attachment 1; and*
3. *Appoint _____ to the Infrastructure Governance Committee.*

Considerations

Financial implications

The establishment and operation of the Committees is provided for in annual governance budgets.

Legal implications

Under clause 32(1) of Schedule 7 of the LGA, unless expressly provided otherwise in the LGA or 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 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 plan; or
- (d) the power to adopt a long-term 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 this Act in association with the long-term plan or developed for the purpose of the local governance statement; or
- (g) the power to adopt a remuneration and employment policy.

The proposal to establish the Infrastructure Governance Committee complies with these requirements.

In relation to membership of Committees, the LGA states that the minimum number of members for a committee is three.

Attachments

Attachment 1: Draft Terms of Reference – Infrastructure Governance Committee

INFRASTRUCTURE GOVERNANCE COMMITTEE TERMS OF REFERENCE

PURPOSE

The Infrastructure Governance Committee (IGC) is the governance oversight body for the West Coast Regional Council's Climate Resilience Programme of Works (Programme of Works) and other significant infrastructure projects as listed in Schedule A. Its purpose is to provide guidance, recommendations, long-term vision, policy, project prioritisation and review.

The IGC's role and responsibilities reflect the mandate given to it by the West Coast Regional Council (WCRC).

The Standing Orders of the West Coast Regional Council will apply to meetings of the Committee except where inconsistent with these Terms of Reference, in which case the provisions of these Terms of Reference shall apply.

MEMBERSHIP

The IGC will consist of a maximum of 5 members, ideally 3, to function effectively.

The IGC will have sufficient collective financial, technical and cultural skills and experience, knowledge of the requirements of the local community and the ability to communicate with the West Coast community sufficient to ensure that it can discharge its responsibilities.

All representatives are current councilors of the WCRC.

Members will be invited to join the IGC based on their individual capacity, outstanding skills and contribution that they will bring to the programme of work.

CHAIRPERSONSHIP

The IGC shall select a Chairperson among its members. The role of a chair is to:

- Lead meetings so that agendas are followed, and meetings adjourn on-time;
- Allow all members to be heard during discussions;
- Moderate discussions between members with differing points of view; and
- Be a sounding board for the Chief Executive, and through the Chief Executive the Programme Manager, in the preparation of agendas and how to best involve the full Committee in work plan tasks.

ROLES AND RESPONSIBILITIES

Monitoring the delivery of the of the Projects within the Programme of Works and developing the Programme of Works, as required. This includes:

- Approving of Memoranda
- Oversight of the Project Budgets
- Input into the Programme Budget (Non-Project Costs)
- Monitoring the Programme Schedule

- Monitoring Risks and Issues as listed in the IGC Risk Register
- Providing advice
- Acting as an advocate for initiatives and projects across the wider organization
- Prioritising and reprioritising project deliverables
- Developing policies and governance procedures
- Advocating for the region and community

All media communications will be in line with existing Council processes and protocols.

DECISION-MAKING

The key method of decision making will be via unanimous approval of memoranda where the Programme Manager will seek approvals from the IGC. Where there is not a unanimous decision, memoranda will be tabled at an Extraordinary meeting of Council at the discretion of the Programme Manager.

Decision making memoranda will require the signature of each of the IGC members.

ATTENDANCE

Participation of all Committee members in meetings is important, and members should make every effort to attend each meeting. If Committee members cannot attend, they should inform the Programme Manager before the meeting is conducted.

ALTERNATES

There may be circumstances when regular members cannot attend or be available to sign off memoranda. The IGC will identify an alternate who will represent an absent member at any meeting for which attendance cannot be met.

An IGC alternate can make a binding decision or vote on any issue at a meeting in which they preside as an IGC representative.

QUORUM

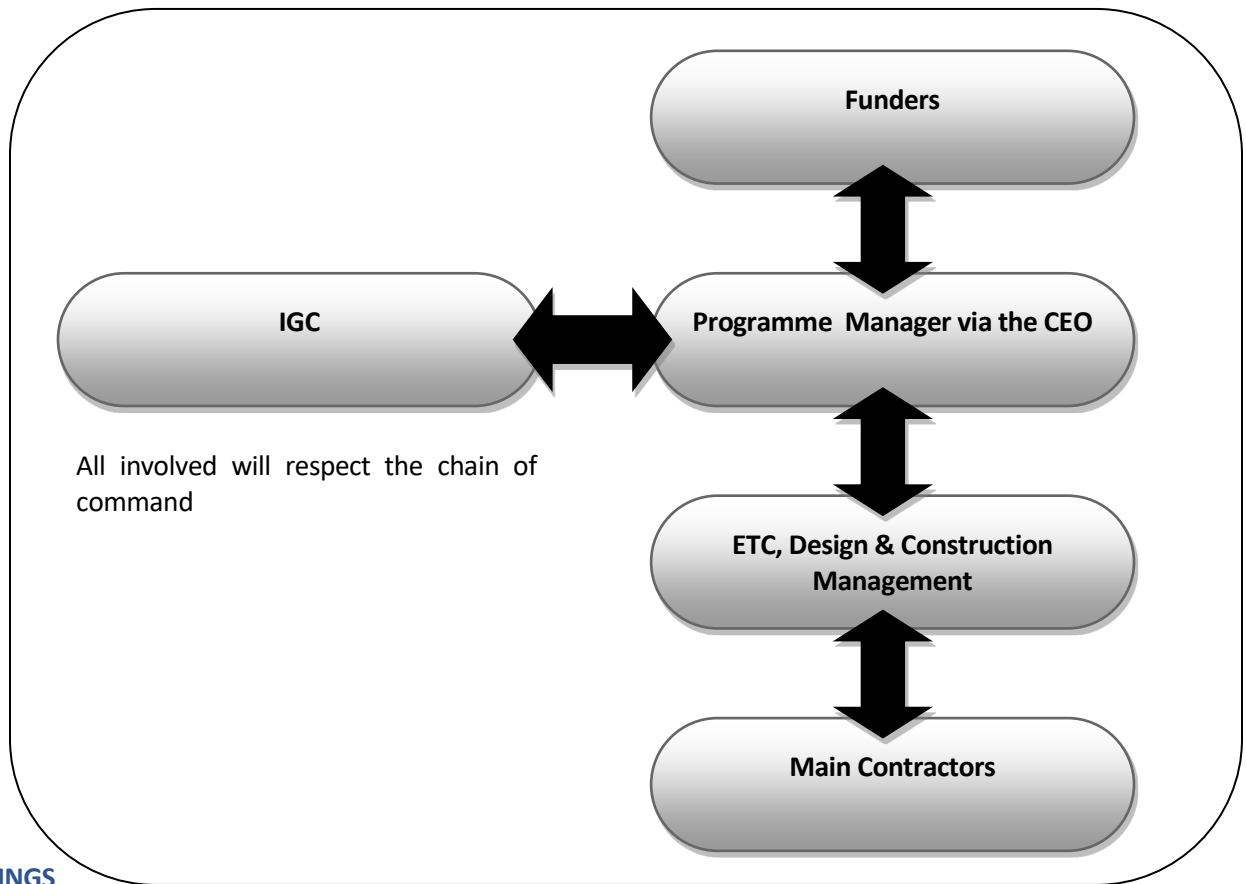
The quorum for a meeting of the Committee shall be two members present either at an online or in person, one of whom must be the Chair.

ACCOUNTABILITY

The Programme Manager of the Programme Delivery Team is accountable to the IGC through the CEO and will bring forward recommendations to them.

The Council has delegated the authority to the IGC in line with their responsibilities listed above and for expenditure within approved Council budget of the Chief Executive.

COMMUNICATIONS PATHWAY



MEETINGS

The full Programme of works will be reviewed by the IGC bi-monthly, a week prior to the monthly Council meeting.

Meetings will be conducted either remotely (via Teams or Zoom or similar) or in-person meetings. The IGC will also have the liberty to call for meetings based on needs and availability of resources.

SCHEDULE A: PROGRAMME OF WORKS

The Programme of Works consists of:

- Franz Josef IRG Project
 - Stage 1
 - Stage 2
- Hokitika IRG Project
 - Hokitika Seawall
 - Hokitika Riverwall
- Greymouth IRG Project
- Westport IRG Project
- Westport Flood Protection Scheme
 - Immediate urgent maintenance works
 - Organs Island
 - Buller River scour near O'Connor Home
 - Ring embankment and Carter's Beach floodwall
- Investigation into the Wanganui River

| | |
|--|--------------------------------------|
| Report to: Council | Meeting Date: 25 October 2022 |
| Title of Item: Appointment of Council members to Regional Transport and Tai Poutini Plan Committees | |
| Report by: Toni Morrison, Policy & Projects Consultant | |
| Reviewed by: Heather Mabin, Chief Executive Officer | |
| Public excluded? No | |

Report Purpose

To appoint two members to the Regional Transport Committee, and an additional member to the Te Tai o Poutini Plan Committee.

Report Summary

Regional Transport Committee

As per section 105(2) of the Land Transport Management Act, the Regional Council must appoint two representatives to the Regional Transport Committee. The Regional Council must appoint from its representatives the chair and deputy chair of the Regional Transport Committee.

As well as the two representatives from the Regional Council, this committee includes one representative from each of the District Councils and one representative of Waka Kotahi NZ Transport Agency. Once these organisations have nominated their appointees, the Regional Council will then be asked to formally confirm the appointments and adopt a Terms of Reference for the Committee.

Tai Poutini Plan Committee

The Tai Poutini Plan Committee (TTPP Committee) was established under the Local Government Reorganisation Scheme (West Coast Region) Order 2019. This Committee is a permanent Joint Committee of the four West Coast Councils and iwi. For the Regional Council, the membership of the TTPP Committee is specified in the Reorganisation Scheme Order, as follows:

5(b) ...the chairperson of West Coast Regional Council and one other elected member from and appointed by West Coast Regional Council;...

The Chair of Council is therefore automatically appointed to the TTPP Committee. Council is asked to make the second appointment.

Other Committees

Additional appointments to other committees including the Joint Floodwall Committees and the CDEM Joint Committee will be made at the November meeting.

Recommendations

It is recommended that Council resolve to:

1. Appoint _____ as Chair of the Regional Transport Committee and _____ as Deputy Chair of the Regional Transport Committee; and

2. Appoint _____ as the second Regional Council member of the Tai Poutini Plan Committee.

Considerations

Financial implications

The operation of the Committees is provided for in operational budgets.

Attachments

Attachment 1: New Zealand Gazette, *Local Government Reorganisation Scheme (West Coast Region) Order 2019*, 17 June 2019

Attachment 2: Ross Dowling Marquet Griffin, *Te Tai o Poutini Plan*, 3 June 2020

NEW ZEALAND GAZETTE

Local Government Reorganisation Scheme (West Coast Region) Order 2019

Order in Council

At Wellington this 17th day of June 2019

Present:

THE RT HON PATSY REDDY, GNZM, QSO, Governor-General

Presiding in Council

Pursuant to section 25(4) and Part 4 of Schedule 3 of the Local Government Act 2002, the Governor-General, acting by and with the advice of the Executive Council and at the request of the Local Government Commission, makes the following order.

Order**1. Title and Purpose**

(1) This order is the Local Government Reorganisation Scheme (West Coast Region) Order 2019.

(2) This order:

- (a) Gives effect to the reorganisation scheme adopted by the Local Government Commission on 23 May 2019 which completes the final reorganisation proposal given effect to by the Local Government Reorganisation (West Coast Region) Final Proposal Order 2018 made on 5 November 2018;
- (b) is prepared under Part 4 of Schedule 3 of the Local Government Act 2002; and
- (c) is prepared to promote good local government in a way that meets the needs and preferences of affected communities.

2. Commencement

This order comes into force on the date that is 28 days after the date on which the order is notified in the *New Zealand Gazette*.

3. Interpretation

The following terms have their meaning in this order as follows:

Act means the Local Government Act 2002

combined district plan means a combined district plan for the Buller, Grey and Westland districts under section 80 of the RMA

party means each of the four West Coast councils, Te Rūnanga o Ngāti Waewae and Te Rūnanga o Makaawhio

RMA means the Resource Management Act 1991

four West Coast councils means the Buller, Grey and Westland district councils and the West Coast Regional Council

CONTENTS OF REORGANISATION SCHEME FOR THE WEST COAST**4. Affected local authorities continue in existence**

As provided for in the Local Government Reorganisation (West Coast Region) Final Proposal Order 2018:

- (a) The four West Coast councils as presently constituted and with their current boundaries, continue in existence; and
- (b) The four West Coast councils as referred to in clause 4(a), with the exception of their district plan statutory obligations transferred by clause 6 of the Local Government Reorganisation (West Coast Region) Final Proposal Order 2018, continue to have all their current roles, powers and responsibilities by or under law.

5. Areas of interest of iwi and hapū in West Coast

As provided for in the Local Government Reorganisation (West Coast Region) Final Proposal Order 2018 there are no changes to the extent to which areas of interest for Ngai Tahu and Te Rūnanga o Ngāti Waewae and Te Rūnanga o Makaawhio in particular, are included in Buller, Grey and Westland districts.

6. Transfer of Statutory Obligations

By clause 6 of the Local Government Reorganisation (West Coast Region) Final Proposal Order 2018:

- a. The obligations of each of Buller, Grey and Westland district councils under section 73 and Schedule 1 of the RMA for there to be a district plan at all times for each district and for the preparation, notification, adoption,

- periodic amendment and review of the district plan, are transferred to the West Coast Regional Council; and
- b. The transferred obligations under subclause 6(a) for the preparation, notification, adoption, periodic amendment and review of new district plans will be met by the preparation, notification, adoption, periodic amendment and review of a combined district plan for the Buller, Grey and Westland districts under section 80 of the RMA; and
 - c. Subclause 6(b) will not prevent the preparation, notification, adoption, periodic amendment and review of a document that meets the requirements of both the combined district plan and a regional plan, or a regional policy statement, or both, under section 80 of the RMA.

7. Further provisions of Reorganisation Scheme

The following provisions give effect to the Reorganisation Scheme which completes (and is prepared and issued in accordance with) the final proposal given effect to by the Local Government Reorganisation (West Coast Region) Final Proposal Order 2018.

8. Establishment of Tai Poutini Plan Committee

(1) A joint committee is created between the four West Coast councils and local iwi known as the **Tai Poutini Plan Committee**.

(2) The Tai Poutini Plan Committee is a permanent joint committee, and is not subject to powers of discharge or reconstitution by the four West Coast councils under the Act.

(3) The West Coast Regional Council must delegate to the Tai Poutini Plan Committee its combined district plan obligations under clause 6(1) of the Local Government Reorganisation (West Coast Region) Final Proposal Order 2018.

(4) The purpose and terms of reference for the Tai Poutini Plan Committee are to:

- a. prepare and notify a combined district plan;
- b. hear and consider (including through subcommittees as necessary and appropriate) all submissions received on the draft combined district plan;
- c. adopt a final combined district plan;
- d. monitor implementation of the combined district plan and the need for any amendments; and
- e. undertake amendments and reviews of the combined district plan, or ensure these are undertaken, as required.

(5) The initial membership of the Tai Poutini Plan Committee, until at least such time as the combined district plan becomes fully operative, comprises:

- a. an independent chairperson;
- b. the chairperson of West Coast Regional Council and one other elected member from and appointed by West Coast Regional Council;
- c. the mayor of Buller District and one other elected member from and appointed by Buller District Council;
- d. the mayor of Grey District and one other elected member from and appointed by Grey District Council;
- e. the mayor of Westland District and one other elected member from and appointed by Westland District Council;
- f. one representative appointed by Te Rūnanga o Ngati Waewae; and
- g. one representative appointed by Te Rūnanga o Makaawhio.

9. Independent chairperson of Tai Poutini Plan Committee

(1) There shall be an independent chairperson of the Tai Poutini Plan Committee who is a permanent member of the Committee.

(2) The first independent chairperson of the Tai Poutini Plan Committee appointed by the Local Government Commission is Robert Rex Williams.

(3) Subject to clause 9(5), the term of appointment of the first independent chairperson of the Tai Poutini Plan Committee is until at least such time as the combined district plan becomes fully operative.

(4) Any subsequent appointment of an independent chairperson and their term of appointment will be made by the Tai Poutini Plan Committee.

(5) Clauses 1 to 4A of Schedule 7 of the Act apply to the Tai Poutini Plan Committee in relation to the independent chairperson as if it were a local authority.

10. Sub-committees of Tai Poutini Plan Committee

(1) In the conduct of the Tai Poutini Plan Committee business as set out in this order, the Tai Poutini Plan Committee may appoint subcommittees, including to hear and consider submissions received on the draft combined district plan.

(2) Any such subcommittee is appointed for the purpose and for the period identified by the Tai Poutini Plan Committee and is then discharged.

(3) The Tai Poutini Plan Committee may appoint to any subcommittee a person who is not a member of a local authority if, in the opinion of the Committee, that person has the skills, attributes or knowledge that will assist the work of the subcommittee.

11. Procedure for Tai Poutini Plan Committee

(1) To the extent consistent with the provisions of this order:

- a. The Tai Poutini Plan Committee must adopt its own standing orders governing matters relating to Tai Poutini Plan Committee meetings and how these are conducted, and clauses 19, 20, 25A, 27 and 28 of Schedule 7 of the Act apply to the Tai Poutini Plan Committee as if it were a local authority; and
- b. The Tai Poutini Plan Committee may from time to time enter and, as necessary, amend a further deed of agreement governing the workings of the Committee including (but not limited to) matters such as meeting venue, media publicity regarding Committee decision-making, and provision of administrative support for the Committee.

(2) At the meetings of the Tai Poutini Plan Committee:

- a. the quorum consists of at least one member of four of the six parties to the Tai Poutini Plan Committee;
- b. voting is to be by majority of the members in attendance (whether in person or by audio link or audiovisual link);
- c. each party to the Tai Poutini Plan Committee may, for a specified meeting or meetings, appoint a deputy member in place of (as appropriate) that district's mayor, the chairperson of West Coast Regional Council or a member they have otherwise appointed who may perform all the functions, responsibilities, duties, and powers of the member for that meeting or meetings. The party must give notice to the other members (or the chairperson) of the appointment of a deputy for a specified member prior to the meeting or meetings concerned;
- d. in any case where the independent chairperson is unable to attend a meeting or meetings, the Tai Poutini Plan Committee may, for the specified meeting or meetings, appoint one of the members present to preside at that meeting who may perform all the functions, responsibilities, duties, and powers of the independent chairperson for that meeting; and
- e. the independent chairperson does not have a casting vote.

(3) Except as otherwise provided in this order, the provisions of Schedule 7 of the Act will apply (with all necessary changes) to the Committee and its meetings as if the Tai Poutini Plan Committee were a joint committee constituted under that Schedule 7.

12. Technical Advisory Team

(1) The West Coast District Plan Technical Advisory Team (the **Technical Advisory Team**) is established and will provide technical advice to the Tai Poutini Plan Committee as requested by the Committee.

(2) Membership of the Technical Advisory Team will be agreed by the Tai Poutini Plan Committee as needed from time to time following nominations by the parties comprising the Committee.

13. Funding

As provided for in the Local Government Reorganisation (West Coast Region) Final Proposal Order 2018:

(1) Subject to clause 13(2), the costs for there to be a combined district plan and for preparing, notifying, adopting, periodically amending and reviewing the combined district plan will be funded by the West Coast Regional Council by a rate set in relation to all rateable land within the West Coast Region; and

(2) The Tai Poutini Plan Committee may agree that the relevant West Coast district council or councils, or their

NEW ZEALAND GAZETTE

district or districts, is to be responsible for funding work relating to a particular amendment to the operative combined district plan which will have only, or predominantly, a localised impact.

14. Clauses 45 and 46 of Part 4 of Schedule 3 of the Act not to apply

As provided for in the Local Government Reorganisation (West Coast Region) Final Proposal Order 2018 clauses 45 and 46 of Part 4 of Schedule 3 of the Act do not apply to this order.

Dated this 17th day of June 2019.

MICHAEL WEBSTER, Clerk of the Executive Council.

2019-go2872

21-06-2019 10:37

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ROSS DOWLING MARQUET GRIFFIN
BARRISTERS AND SOLICITORS

3 June 2020

Project Manager
Te Tai o Poutini Plan

Email: joa@wrc.govt.nz

For: Jo Armstrong

Dear Jo,

Te Tai o Poutini Plan

Introduction

1. I refer to our telephone conversation and your email of 25 May 2020.

Issues

2. Whether the Te Tai o Poutini Plan Committee ("TTPPC") should be making the planning decisions on plan changes for the existing Grey, Buller and Westland District Plans;
3. Whether TTPPC should have any input in current planning decisions for the existing Grey, Buller and Westland District Plans, e.g. ensuring they are consistent with the direction of Te Tai o Poutini Plan development, having a vote on final decisions etc.; and
4. Whether the District Councils can make decisions which will be inconsistent with Te Tai o Poutini Plan prior to TTPP becoming operative.

Reorganisation Order

5. The Local Government Reorganisation Scheme (West Coast Region) Order 2019 provides:
 - 5.1. The obligations of the Buller, Grey and Westland District Councils under section 73 and Schedule 1 of the RMA for there to be a district plan at all times for each district and for the preparation, notification, adoption,

periodic amendment and review of the district plan, are transferred to the West Coast Regional Council (“WCRC”);

- 5.2. The transferred obligations for the preparation, notification, adoption, periodic amendment and review of new district plans will be met by the preparation, notification, adoption, periodic amendment and review of a new combined district plan for the 3 districts under section 80 of the RMA;
 - 5.3. A joint committee is created between the four West Coast councils and local iwi known as the Tai Poutini Plan Committee; and
 - 5.4. WCRC must delegate to the Tai Poutini Plan Committee its combined district plan obligations.
6. The purpose and terms of reference for the Tai Poutini Plan Committee are to:
- 6.1. Prepare and notify a combined district plan;
 - 6.2. Hear and consider all submissions received on the proposed combined district plan;
 - 6.3. Adopt a final combined district plan;
 - 6.4. Monitor implementation of the combined district plan and the need for any amendments; and
 - 6.5. Undertake amendments and reviews of the combined district plan, or ensure these are undertaken as required.
7. There are three critical relevant elements in the Reorganisation Order:
- 7.1. District council functions under section 73 and Schedule 1 of the RMA are vested in the Regional Council;
 - 7.2. The function of preparing a combined district plan must be delegated to the Tai Poutini Plan Committee; and
 - 7.3. The functions, powers and duties of the Tai Poutini Plan Committee relate only to a combined plan for three West Coast districts.

Section 73 of the RMA

8. This section reads:

“73 Preparation and change of district plans

- (1) *There must at all times be 1 district plan for each district, prepared in the manner set out in the relevant Part of Schedule 1.*
- (1A) *A district plan may be changed in the manner set out in the relevant Part of Schedule 1.*
- (1B) *A territorial authority given a direction under section 25A(2) must prepare a change to its district plan in a way that implements the direction.*
- (2) *Any person may request a territorial authority to change a district plan, and the plan may be changed in the manner set out in Part 2 or 5 of Schedule 1.*
- (2A) *A request for a plan change may be made jointly with an application to exchange recreation reserve land under section 15AA of the Reserves Act 1977 if the territorial authority—*
 - (a) *is also the administering body in which the recreation reserve land is vested; and*
 - (b) *agrees that the request and application may be made jointly.*
- (3) *A district plan may be prepared in territorial sections.*
- (4) *A local authority must amend a proposed district plan or district plan to give effect to a regional policy statement, if—*
 - (a) *the statement contains a provision to which the plan does not give effect; and*
 - (b) *one of the following occurs:*
 - (i) *the statement is reviewed under section 79 and not changed or replaced; or*
 - (ii) *the statement is reviewed under section 79 and is changed or replaced and the change or replacement becomes operative; or*
 - (iii) *the statement is changed or varied and becomes operative.*
- (5) *A local authority must comply with subsection (4)—*
 - (a) *within the time specified in the statement, if a time is specified; or*
 - (b) *as soon as reasonably practicable, in any other case.”*

9. The key points to note about section 73, in the context of the Reorganisation Order, are:

- 9.1. For “*territorial authority*”, WCRC must be substituted in section 73;
 - 9.2. The functions in section 73 include the change of district plans under Schedule 1;
 - 9.3. Schedule 1 enables the relevant local authority (in this case WCRC) to change a district plan; and
 - 9.4. Any person can request the local authority (i.e. WCRC) to change a plan under Schedule 1.
10. It follows that, under the Reorganisation Order, the initiation of plan changes to district plans is to be undertaken by the Regional Council. Likewise, if a request is made to change one of the West Coast district plans, that plan change request must be processed by WCRC.
 11. The change of current district plans is not a function which the Reorganisation Order vests in the Tai Poutini Plan Committee.
 12. Nor is the West Coast Regional Council required to delegate the review or change of any of the three district plans to the committee.
 13. In short, the Reorganisation Order does not contemplate the Tai Poutini Plan Committee dealing with existing district plans, including the in periodic amendment and review. That function is the Regional Council's.
 14. The Tai Poutini Committee's mandate is the new combined plan. The Reorganisation Order does not give it a role in changing the three current plans.

Answers

15. The answers to the specific questions posed are:
 - 15.1. The Tai Poutini Plan Committee does not have a role in making planning decisions for the existing Grey, Buller and Westland District Plans. The WCRC does.
 - 15.2. The Tai Poutini Plan Committee does not have a decision-making role on review or changes to the existing district plans.

- 15.3. The District Councils no longer have decision-making ability in relation to the review or amendment of existing district plans. Those functions belong solely to the Regional Council.
- 15.4. There is an inherent risk that planning decisions which result in changes to existing district plans will be inconsistent with the future combined plan. Once operative the new Te Tai o Poutini Plan will supersede the current district plans, subject to any existing use rights created under the former plans.

Additional Matters

16. I have considered whether it is possible for the Regional Council to delegate the review or amendment of existing District Plans to the Tai Poutini Plan Committee. That is not envisioned by the Reorganisation Order. It is at least arguable that such a delegation would be unlawful.
17. I have also considered whether the Tai Poutini Plan Committee could make a submission on proposed changes to existing District Plans. That is also not envisioned by the Reorganisation Order and is therefore arguably unlawful.
18. It may be possible however for the Regional Council to appoint one or more members of the Tai Poutini Plan Committee as Hearings Commissioners for any plan changes. Such appointments would need to be made with care to ensure that there is no element of predetermination.

Conclusion

19. Please contact me if you wish to discuss further.

Yours faithfully

ROSS DOWLING MARQUET GRIFFIN

Per



A J Logan
Partner

Email: alastair.logan@rossdowling.co.nz

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|---|--------------------------------------|
| Report to: Council | Meeting Date: 25 October 2022 |
| Title of Item: Adoption of Meeting Schedules for 2022 & 2023 | |
| Report by: Toni Morrison, Policy & Projects Consultant | |
| Reviewed by: Heather Mabin, Chief Executive Officer | |
| Public excluded? No | |

Report Purpose

The purpose of this report is for the Council to consider and adopt a schedule of meetings for the remainder of 2022 and for 2023.

The attached schedules set out proposed dates for ordinary meetings of Council and its committees. The Local Government Act generally requires 14 days' notice of meetings. Provision is made to adopt a schedule of meetings, to meet this requirement. A schedule also provides Councillors with the knowledge of meetings for the year.

As well as scheduled meetings, additional meetings are held from time to time where more urgent business needs to be considered. These additional meetings are known as extraordinary meetings and are provided for in the Council's Standing Orders and in the Local Government Act.

Attached are proposed schedules of meeting dates for consideration. Once adopted the schedules will be put on Council's website.

Recommendation

It is recommended that Council resolve to:

- 1. Adopt the 2022 and 2023 Schedule of Meeting dates.*

Attachments

Attachment 1: Proposed Schedule of Meeting Dates for the remainder of 2022.

Attachment 2: Proposed Schedule of Meeting Dates for 2023.

Attachment 1



THE WEST COAST REGIONAL COUNCIL

PROPOSED SCHEDULE OF MEETING DATES FOR 2022

| MEETING NAME | PROPOSED DATE | TIME | VENUE |
|--|--|---------------------------|-------|
| Inaugural Council meeting and swearing-in | Tuesday 25 October 2022 | 10:30am | WCRC |
| Resource Management Committee meeting to be followed by Council meeting | Tuesday 8 November 2022 [placeholder] | 10:30am | WCRC |
| Infrastructure Governance Committee inaugural meeting | Tuesday 8 November 2022 [placeholder] | Following Council meeting | WCRC |
| Risk and Assurance Committee inaugural meeting | Thursday 24 November 2022 [placeholder] | 10:30am | WCRC |
| Resource Management Committee meeting to be followed by Council meeting | Tuesday 13 December 2022 | 10:30am | WCRC |

Attachment 2



THE WEST COAST REGIONAL COUNCIL

PROPOSED SCHEDULE OF MEETING DATES FOR 2023

| MEETING NAME | PROPOSED DATE | TIME | VENUE |
|--|---|------------------------------|--|
| Resource Management Committee to be followed by Council meeting | Monday 6 February 2023 <i>[Waitangi Day]</i> | 10:30am | Bruce Bay marae <i>(formal invitation to be received)</i> |
| Infrastructure Governance Committee | Monday 6 February 2023 <i>[Waitangi Day]</i> | Following Council meeting | Bruce Bay marae <i>(formal invitation to be received)</i> |
| Risk and Assurance Committee | Tuesday 7 February 2023 | 10:30am | WCRC |
| Resource Management Committee to be followed by Council meeting | Tuesday 14 March 2023 | 10:30am | WCRC |
| Resource Management Committee to be followed by Council meeting | Tuesday 11 April 2023 | 10:30am | WCRC |
| Infrastructure Governance Committee | Tuesday 11 April 2023 | Following Council meeting | WCRC |
| Risk and Assurance Committee | Tuesday 2 May 2023 | 10:30am | WCRC |
| Resource Management Committee to be followed by Council meeting | Tuesday 9 May 2023 | 10:30am | WCRC |
| Resource Management Committee to be followed by Council meeting | Tuesday 13 June 2023 | 10:30am | WCRC |
| Council meeting (adoption of the Annual Plan 2023/24) | Tuesday 27 June 2023 | 10:30am | WCRC |
| Resource Management Committee to be followed by Council meeting | Tuesday 11 July 2023 | 10:30am | WCRC |
| Infrastructure Governance Committee | Tuesday 11 July 2023 | Following Council meeting | WCRC |
| Risk and Assurance Committee | Tuesday 1 August 2023 | 10:30am | WCRC |
| Resource Management Committee to be followed by Council meeting | Tuesday 8 August 2023 | 10:30am | Arahura marae/ WCRC (TBC) |
| Resource Management Committee to be followed by Council meeting | Tuesday 12 September 2023 | 10:30am | WCRC |

| | | | |
|--|-----------------------------|------------------------------|------|
| Resource Management Committee to be followed by Council meeting | Tuesday 10 October 2023 | 10:30am | WCRC |
| Infrastructure Governance Committee | Tuesday 10 October 2023 | Following Council meeting | WCRC |
| Risk and Assurance Committee | Thursday 26 October 2023 | 10:30am | WCRC |
| Council meeting (adoption of the Annual Report 2022/23) | Tuesday 31 October 2023 | 10:30am | WCRC |
| Resource Management Committee to be followed by Council meeting | Tuesday 14 November 2023 | 10:30am | WCRC |
| Resource Management Committee to be followed by Council meeting | Tuesday 12 December 2023 | 10:30am | WCRC |