



NAPIER
CITY COUNCIL
Te Kaunihera o Ahuriri

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ORDINARY MEETING OF COUNCIL

Open Agenda

Meeting Date:	Thursday 30 January 2020
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Time:	10.00am
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Venue:	Council Chambers Hawke's Bay Regional Council 159 Dalton Street Napier
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<i>Council Members</i>	Mayor Wise, Deputy Mayor Brosnan, Councillors Boag, Browne, Chrystal, Crown, Mawson, McGrath, Price, Simpson, Tapine, Taylor, Wright
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Officer Responsible	Chief Executive
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Administrator	Governance Team
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Next Council Meeting
Thursday 12 March 2020

ORDER OF BUSINESS

Apologies

Nil

Conflicts of interest

Public forum

Napier City Business Inc

Taradale Bridge Club

Announcements by the Mayor including any discussion of minor matters not on the agenda

Note: re minor matters only - refer LGOIMA s46A(7A) and Standing Orders s9.13

A meeting may discuss an item that is not on the agenda only if it is a minor matter relating to the general business of the meeting and the Chairperson explains at the beginning of the public part of the meeting that the item will be discussed. However, the meeting may not make a resolution, decision or recommendation about the item, except to refer it to a subsequent meeting for further discussion.

Announcements by the management

Confirmation of minutes

That the Draft Minutes of the Ordinary Meeting of Council held on Thursday, 19 December 2019 be confirmed as a true and accurate record of the meeting.193

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AGENDA ITEMS

1. 2019-2022 TRIENNIAL AGREEMENT - DRAFT FOR FEEDBACK

<i>Type of Report:</i>	Legal and Operational
<i>Legal Reference:</i>	Local Government Act 2002
<i>Document ID:</i>	885187
<i>Reporting Officer/s & Unit:</i>	Devorah Nicuarta-Smith, Team Leader Governance

1.1 Purpose of Report

To receive the draft 2019-2022 Triennial Agreement for adoption and provide feedback to the coordinating Council (Regional Council), so that a final version can be provided to Council for adoption

Officer's Recommendation

That Council:

- a. Adopt the draft 2019-2022 Triennial Agreement and provide feedback where necessary.

Mayor's Recommendation

That the Council resolve that the officer's recommendation be adopted.

1.2 Background Summary

Section 15 of the Local Government Act 2002 requires that all local authorities in a region must enter into an agreement by 1 March following a triennial election, which includes:

- protocols for communication and co-ordination among the local authorities
- a statement as to how the local authorities will comply with section 16 of the Local Government Act regarding proposals for new regional council activities (as these would potentially impact on all signatories), and
- processes and protocols through which all the local authorities can participate in identifying, delivering, and funding facilities and services of significance to more than one district.

For Hawke's Bay this Triennial Agreement must be considered, adopted and signed by the following councils:

Primary Parties

(those local authorities whose boundaries are completely encompassed within the Hawke's Bay Region)

- Central Hawke's Bay District Council
- Hastings District Council

- Hawke's Bay Regional Council
- Napier City Council
- Wairoa District Council

Non-Primary Parties

(those local authorities whose boundaries bisect the Hawke's Bay Region and whose principal identification is with another Region)

- Rangitikei District Council
- Taupo District Council

It is recognised that for Non-Primary Parties the degree of involvement in various aspects of the Agreement will be in proportion to the degree to which these parties assess how they will benefit or be affected by decisions, issues, proposals or other matters.

1.3 Issues

The Triennial Agreement has been reviewed by the senior leadership of the various party Councils to ensure that it accurately reflects and places appropriate emphasis on the regional priorities for the 2019-2022 triennium.

Hastings District Council and Central Hawke's Bay District Council have adopted the proposed agreement, and the further party councils are completing this process, however will be provided with an updated version subject to the other Councils input.

1.4 Significance and Engagement

Triennial Agreements are guided by the Local Government Act 2002 and do not trigger Council's Significance and Engagement Policy or any other public consultation requirements.

The various party councils have reviewed and commented on the proposed Agreement.

1.5 Implications

Financial

The Agreement outlines where shared services do or may occur, and these may have financial implications over the triennium which have been or will be negotiated amongst the party councils.

Social & Policy

Where a Council makes a decision which departs from anything agreed through this process, that Council must advise the other parties of the decision and reason for the departure.

Risk

N/A

1.6 Options

Council, along with its neighbouring councils, must adopt a Triennial Agreement outlining the information required under section 15 of the Local Government Act 2022 by 1 March 2020. This is an opportunity for Council to provide feedback into the final version for adoption

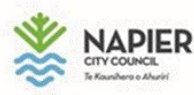
1.7 Development of Preferred Option

The Triennial Agreement has been reviewed and no substantive changes are proposed. As Hastings District Council and Central Hawke's Bay District Council have adopted the draft, it is recommended that Council also adopt the draft 2019-2022 Triennial Agreement.

1.8 Attachments

A 2019-2022 Triennial Agreement - draft for adoption [↓](#)

Hawke's Bay Region Triennial Agreement For the Triennium October 2019 – 2022



version 11 October 2019

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1. Parties

The parties to this Triennial Agreement (the Agreement) are:

1.1 Primary Parties

(those local authorities whose boundaries are completely encompassed within the Hawke's Bay Region)

- Central Hawke's Bay District Council
- Hastings District Council
- Hawke's Bay Regional Council
- Napier City Council
- Wairoa District Council

1.2 Non-Primary Parties

(those local authorities whose boundaries bisect the Hawke's Bay Region and whose principal identification is with another Region)

- Rangitikei District Council
- Taupo District Council

This Agreement applies to all local authorities in the Hawke's Bay Region. However, it is recognised that for Non-Primary Parties the degree of involvement in various aspects of the Agreement will be in proportion to the degree to which these parties assess how they will benefit or be affected by decisions, issues, proposals or other matters.

2. Purpose

The Triennial Agreement provides the framework for local government in the Hawke's Bay region to:

- 2.1 work collaboratively
- 2.2 improve communication and coordination at all levels
- 2.3 maximise effectiveness and efficiency

in order to meet the purposes of Local Government to:

- 2.4 enable democratic local decision-making by and on behalf of communities
- 2.5 promote the social, economic, environmental and cultural well-being of communities in the present and for the future.

This agreement is deemed to duly constitute fulfilment of the requirements of section 15 of the Local Government Act 2002.

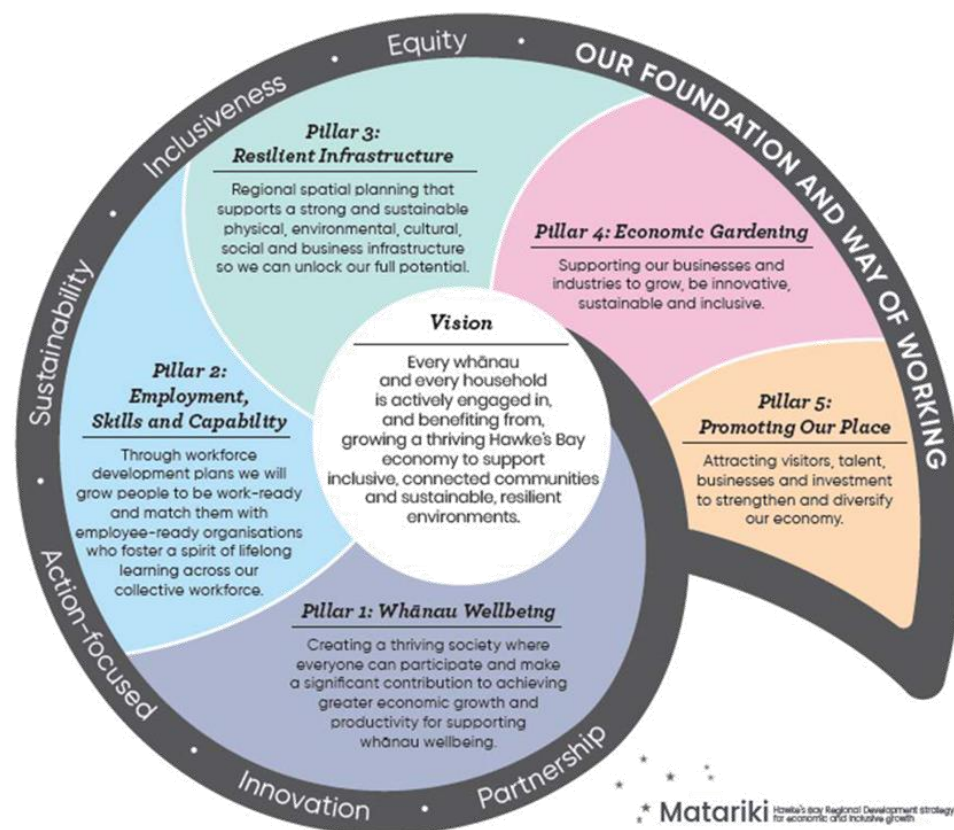
It should be noted that as well as the encouragement towards collaboration, the Local Government Act 2002, and other legislation including the Resource Management Act 1991, recognises that regional councils and territorial authorities have different responsibilities. These differences provide an important context for collaboration between the Councils. The requirements contained in legislation for collaboration between Local Authorities are contained in Appendix Two to this Agreement.

3. Principles

Parties to this Agreement agree to work together in good faith for the good governance of their local communities and the Region; to develop our collective strategic capacity from available resources and achieve our strategies by working together, through co-design and partnership so every whānau and every household is actively engaged in growing a thriving Hawke's Bay economy to support inclusive and connected communities and sustainable and resilient environments. In doing so, we:

- 3.1 acknowledge that the communities within the Region are diverse and encompass a range of desired outcomes and objectives
- 3.2 support the establishment of processes for communication and collaboration at both governance and management levels in ways that will enhance the overall performance and reputation of local government in the region
- 3.3 recognise that collaboration and co-operation between local authorities of the Region can bring efficiencies in terms of planning, administration costs and decision-making and consultation. There is also the potential to increase available resources and promote co-operative approaches in making strategic choices
- 3.4 will investigate further opportunities for collaboration, co-operation, regional funding and shared services between local authorities of the Region in addition to those prescribed by statute or already being undertaken
- 3.5 agree that collaborative or shared services opportunities may occur between two or more parties to this Agreement, but not in every case between all parties to this Agreement. Although collaboration and co-operation are outcomes that should be strived for, each local authority has the legislative mandate to govern their own area as appropriate
- 3.6 will make every effort to accommodate, acknowledge, or at least fairly represent the dissenting view where some parties to this Agreement have a significant disagreement with the position of other parties to the Agreement
- 3.7 will show leadership to ensure the implementation of this Agreement makes a positive difference for Hawke's Bay.

4. Strategic Priorities



4.1 Local Government priority areas for the 2019-22 triennium, aligned to the five pou of Matariki (above) and agreed by the Hawke's Bay Leaders' Forum on 25 November 2019, are (in no particular order):

- Water – *safety, security and planning*
- Climate Change – *adaptation and mitigation*
- Social Inclusion – *a thriving society where everyone can participate and make a significant contribution*
- Housing – *regionally focussed housing strategy*
- Economic Development and Tourism
- Transport.

4.2 Priority areas where cooperative approaches exist include:

- Water – Drinking Water safety and security response to Havelock North contamination Inquiry recommendations through Joint Working Group and HB Drinking Water Governance Joint Committee comprising elected representatives of the five local authorities, the District Health Board and Ngati Kahungunu
- Water – Regional Three Waters review of the provision of drinking, waste and storm water services

- Climate Change – Clifton to Tangoio Coastal Hazards Strategy development through the Joint Committee comprising representatives of NCC, HDC, HBRC and Tangata Whenua
 - Transport – Regional transport planning through the Regional Transport Committee comprising representatives of the five local authorities and the NZ Transport Agency
- 4.3 Priority areas to develop, or further develop, cooperative approaches include:
- Water – freshwater management issues, including Three Waters infrastructure and service delivery to meet requirements of Central Government reform
 - Climate change – the development of a coordinated regional response to a changing climate, including integration with regional transport and hazard management planning
 - Information sharing and strategy development – regional Elected Representatives' fora (workshops) on topics of regional priority held at least twice per year.
- 4.4 Any new priorities or services of significance to more than one district will be communicated to the Chief Executives by the Hawke's Bay Leaders' Forum for further development in accordance with the protocols in section 5 following.

5. Protocols for communication and coordination

It is recognised that a significant level of formal and informal cooperation already exists between Hawke's Bay's local authorities. Further to this existing cooperation, parties to this Agreement will:

- 5.1 Hold monthly meetings of the Mayors of the primary parties and the Regional Chairman (aligned to the other Committee meetings as appropriate) to formally communicate and coordinate on matters of mutual interest, in accordance with arrangements detailed in Appendix Two.
- 5.2 Invite the Chief Executives of the primary parties to attend every Forum for a period of time.
- 5.3 At the first meeting following the local body elections, elect a Chair of the Forum from among the attendees. The Council whom the elected Chair represents will provide the administrative support for the Forum for that triennium.
- 5.4 Share resources where feasible for the purposes of preparing information on the various communities in the region. These resources may include information on demographics, survey data, scientific studies and the analysis of social, economic, environmental and cultural trends.
- 5.5 Develop joint approaches, where appropriate, to engage Central Government, iwi governance bodies and tribal entities, national agencies and community organisations.
- 5.6 Provide early for notification of, and participation in, decisions that may affect other local authorities in the region.
- 5.7 Make draft strategies, policies, and plans available to other local authorities in the region for discussion and development, where they may have regional implications or implications beyond the boundaries of the decision-making council.
- 5.8 Apply a "no surprises" policy whereby early notice will be given over disagreements between local authorities concerning policy or programmes before the matter is put out to the public.
- 5.9 Review the performance of the Triennial Agreement and benefits realised in the priority areas at least quarterly, as outlined in section 6 following.
- 5.10 Establish, as necessary, other forums at both political and operational levels that will help enhance and achieve the purpose of this Agreement.
- 5.11 Provide a process for initiating reviews of regional forums that are not working optimally in the view of one or more parties.

6. Benefits Realisation

Achievements in each of the priority areas will be reported to the HB Leaders Forum quarterly, in a format to be agreed by the Forum.

7. Significant New Activities Proposed By Hawke's Bay Regional Council

If the Regional Council or a Regional Council controlled organisation proposes to undertake a significant new activity, and these activities are already undertaken or proposed to be undertaken by one or more territorial authorities within the region, Section 16 of the Local Government Act applies.

However, in the spirit of this Agreement, the parties agree to an expanded consultation and communication process which includes discussion of the issues involved at the first available monthly meeting (see 5.1 above), and to provide drafts of proposals to affected Councils for early comment in accordance with the requirements of sections 77-87 of the Local Government Act (decision-making and consultation).

The parties also agree that prior to implementing the formal provisions of section 16¹:

- 7.1 the Regional Council will inform all territorial authorities within the region of
 - 7.1.1 the nature of the activity proposed to be undertaken
 - 7.1.2 the scope of the proposal (including size, districts covered, and why) and
 - 7.1.3 the reasons for the proposal.
- 7.2 territorial authorities will be given a reasonable period of time, but no less than 40 working days, to respond to any such proposal. The Regional Council agrees to fully consider any submissions and representations on the proposal made by territorial authorities within the region.

8. Consultation in Relation to the Regional Policy Statement

The following consultation process will apply to any change, variation, or review of the Hawke's Bay Regional Policy Statement, and the preparation of any future Regional Policy Statement:

- 8.1 The Regional Council will seek the input of territorial authorities into the review of the Regional Policy Statement
- 8.2 The Regional Council will make available to all local authorities, for discussion and development, draft copies of:
 - 8.2.1 any change or variation of to the Regional Policy Statement
 - 8.2.2 any proposed Regional Policy Statement.
- 8.3 Territorial authorities will be given a reasonable period of time, but no less than [20] working days, to respond to any such proposal. The Regional Council agrees to consider fully any submissions and representations on the proposal made by territorial authorities within the Region.
- 8.4 The parties to this agreement acknowledge their obligation to act in accordance with the principles of collaboration set out in the Local Government Act 2002.

Nothing in this Agreement shall interfere with the rights, functions or duties given by statute to any party.

¹ Appendix Three

9. Dispute Resolution

In the event of a disagreement between the Councils as to the interpretation or implementation of this Agreement, and/ or that disagreement between the Councils as to the interpretation or implementation of this Agreement to vary the terms of this Agreement, then the matter in dispute will be referred to mediation.

If the Councils cannot agree on the appointment of a mediator, the President of the Hawke's Bay District Law Society will be requested to appoint the mediator. The costs of the mediation shall be borne by the Councils in equal shares.

10. Revision of the Agreement

- 10.1 The Agreement is effective from the date of signing until such time as the Agreement is either amended by the agreement of all parties or is renewed following the 2022 local authority elections (by 1 March 2023).
- 10.2 If a party to the Agreement requests a review of its terms within the triennium, such a review will begin within four weeks of the request being lodged. Otherwise the Agreement will be renewed following the local body elections as outlined in 10.1 above.
- 10.3 Hawke's Bay Regional Council will be the first Council responsible for servicing this Agreement.

11. Parties - Signatures

This Agreement is signed on this day of _____ 2020 by the following on behalf of their respective authorities.

Primary Parties:**Central Hawke's Bay District****Hastings District Council**.....
Mayor Alex Walker.....
Mayor Sandra Hazelhurst.....
Chief Executive Monique Davidson.....
Chief Executive Nigel Bickle.....
Hawke's Bay Regional Council.....
Napier City Council.....
Chairman Rex Graham.....
Mayor Kirsten Wise

Chief Executive James Palmer

Chief Executive Wayne Jack

Wairoa District Council

.....
Mayor Craig Little

.....
Chief Executive Steven May

Non-Primary Parties:
Rangitikei District Council

Taupo District Council

.....
Mayor

.....
Mayor

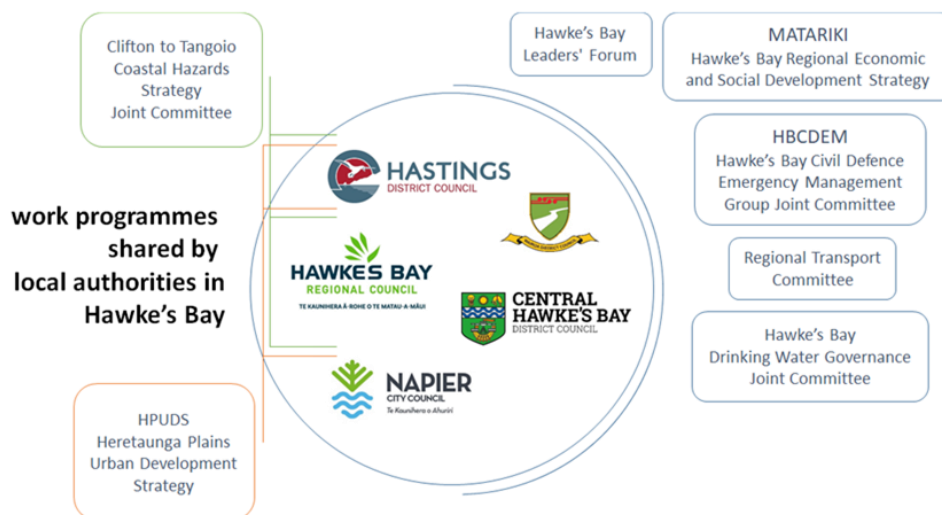
.....
Chief Executive

.....
Chief Executive

Appendix One: Reporting

Joint Committees

- Mayor/Chair ex-officio on all joint committees – to receive meeting invitations and copy of Agenda
- Meeting minutes and a Meeting Summary (prepared by the Technical Advisory Group (TAG) lead) will be provided to the Hawke's Bay Leaders' Forum Chair's executive assistant within 10 days of the meeting having been held for presentation to the next monthly meeting.
- A diagram of the current committee structure across Hawke's Bay is below.



Achievements

- A work programme for each of the priority areas will be developed and agreed, to enable strategic level reporting against milestones and projects (*examples following*).

Priority: Water – safety, security and planning

Activity	Lead	Achievements	Due for Completion
Regional Water Security Program (supported by PGF)	Tom Skerman (HBRC)	1.	
National Policy Statement on Freshwater Management (NPSFM)	Tom Skerman (HBRC)		
Three waters review			

Priority: Climate Change adaptation and mitigation

Activity	Lead	Achievements	Due for Completion
Regional Climate Response Strategy	Tom Skerman, Gavin Ide (HBRC)		

Appendix Two: Meetings

Hawke's Bay Leaders' Forum

Meetings will be arranged and minutes kept by the appointed Chair - elected each three-year term - and minutes distributed to all parties to the Agreement. This does not preclude meetings being arranged, on request, by Councils other than that of the appointed Chair.

Given the importance accorded to this Agreement each Council will be represented by its Mayor/ Chairperson and Chief Executive.

Where appropriate, and agreed, the Chief Executive of a Council Controlled Organisation (CCO) may attend an item related to that CCO's activities.

Media and communications contact (including the provision of information to the public on request) in relation to matters covered in the Agreement shall be shared on a rotating basis.

All public communications from these meetings shall be approved by all participants prior to their release.

Where a significant decision or issue affects a particular Council, or its community, it should, in partnership with the other Councils of the region, have the lead role in formulating the collective response of the region's local authorities to this issue or decision.

Responsibility for servicing, and making media comment on behalf of, existing specific regional and sub-regional forums, will lie within those specific forums.

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Appendix Three: Legislative Context**Local Government Act****Section 15 Triennial agreement**

- (1) Not later than 1 March after each triennial general election of members, all local authorities within each region must enter into an agreement under this section covering the period until the next triennial general election of members.
- (2) An agreement under this section must include—
 - (a) protocols for communication and co-ordination among the local authorities; and
 - (b) a statement of the process by which the local authorities will comply with section 16 in respect of proposals for new regional council activities; and
 - (c) processes and protocols through which all local authorities can participate in identifying, delivering, and funding facilities and services of significance to more than 1 district.
- (3) An agreement under this section may also include—
 - (a) commitments by local authorities within the region to establish or continue 1 or more joint committees or other joint governance arrangements to give better effect to 1 or more of the matters referred to in subsection (2); and
 - (b) the matters to be included in the terms of reference for any such committees or arrangements, including any delegations.
- (4) An agreement under this section may be varied by agreement between all the local authorities within the region.
- (5) An agreement under this section remains in force until it is replaced by another agreement.
- (6) If a decision of a local authority is significantly inconsistent with, or is expected to have consequences that will be significantly inconsistent with, the agreement under this section that is currently in force within the region, the local authority must, when making the decision, clearly identify—
 - (a) the inconsistency; and
 - (b) the reasons for the inconsistency; and
 - (c) any intention of the local authority to seek an amendment to the agreement under subsection (4).
- (7) As soon as practicable after making any decision to which subsection (6) applies, the local authority must give to each of the other local authorities within the region notice of the decision and of the matters specified in that subsection.

Section 14 Principles relating to local authorities

- (1) in performing its role, a local authority must act in accordance with the following principles:
 - (e) a local authority should actively seek to collaborate and cooperate with other local authorities and bodies to improve the effectiveness and efficiency with which it achieves its identified priorities and desired outcomes.

Section 16 Significant new activities proposed by regional council

- (1) This section applies if,—
 - (a) in the exercise of its powers under section 12(2), a regional council proposes to undertake a significant new activity; or
 - (b) a regional council-controlled organisation proposes to undertake a significant new activity; and

- (c) in either case, 1 or more territorial authorities in the region of the regional council—
 - (i) are already undertaking the significant new activity; or
 - (ii) have notified their intention to do so in their long-term plans or their annual plans.
- (2) When this section applies, the regional council—
 - (a) must advise all the territorial authorities within its region and the Minister of the proposal and the reasons for it; and
 - (b) must include the proposal in the consultation document referred to in section 93A.
- (3) A proposal included in the consultation document referred to in section 93A must include—
 - (a) the reasons for the proposal; and
 - (b) the expected effects of the proposal on the activities of the territorial authorities within the region; and
 - (c) the objections raised by those territorial authorities, if any.
- (4) If, after complying with subsection (2), the regional council indicates that it intends to continue with the proposal, but agreement is not reached on the proposal among the regional council and all of the affected territorial authorities, either the regional council or 1 or more of the affected territorial authorities may submit the matter to mediation.
- (5) Mediation must be by a mediator or a mediation process—
 - (a) agreed to by the relevant local authorities; or
 - (b) in the absence of an agreement, as specified by the Minister.
- (6) If mediation is unsuccessful, either the regional council or 1 or more affected territorial authorities may ask the Minister to make a binding decision on the proposal.
- (7) Before making a binding decision, the Minister must—
 - (a) seek and consider the advice of the Commission; and
 - (b) consult with other Ministers whose responsibilities may be affected by the proposal.
- (8) This section does not apply to—
 - (a) a proposal by a regional council to establish, own, or operate a park for the benefit of its region; or
 - (b) a proposal to transfer responsibilities; or
 - (c) a proposal to transfer bylaw-making powers; or
 - (d) a reorganisation application under Schedule 3; or
 - (e) a proposal to undertake an activity or enter into an undertaking jointly with the Crown.
- (9) For the purposes of this section,—

affected territorial authority means a territorial authority—

 - (a) the district of which is wholly or partly in the region of a regional council; and
 - (b) that undertakes, or has notified in its long-term plan or annual plan its intention to undertake, the significant new activity

annual plan—

 - (a) means a report adopted under section 223D of the Local Government Act 1974; and
 - (b) includes such a report that section 281 applies to

new activity—

 - (a) means an activity that, before the commencement of this section, a regional council was not authorised to undertake; but
 - (b) does not include an activity authorised by or under an enactment

regional council-controlled organisation means a council-controlled organisation that is—

- (a) a company—
 - (i) in which equity securities carrying 50% or more of the voting rights at a meeting of the shareholders of the company are—
 - (A) held by 1 or more regional councils; or
 - (B) controlled, directly or indirectly, by 1 or more regional councils; or
 - (ii) in which 1 or more regional councils have the right, directly or indirectly, to appoint 50% or more of the directors of the company; or
- (b) an organisation in respect of which 1 or more regional councils have, whether or not jointly with other regional councils or persons,—
 - (i) control, directly or indirectly, of 50% or more of the votes at any meeting of the members or controlling body of the organisation; or
 - (ii) the right, directly or indirectly, to appoint 50% or more of the trustees, directors, or managers (however described) of the organisation.

Resource Management Act 1991

Schedule 1 Preparation, change, and review of policy statements and plans

3A Consultation in relation to policy statements

- (1) A triennial agreement entered into under section 15(1) of the Local Government Act 2002 must include an agreement on the consultation process to be used by the affected local authorities in the course of—
 - (a) preparing a proposed policy statement or a variation to a proposed policy statement; and
 - (b) preparing a change to a policy statement; and
 - (c) reviewing a policy statement.
- (2) If an agreement on the consultation process required by subclause (1) is not reached by the date prescribed in section 15(1) of the Local Government Act 2002,—
 - (a) subclause (1) ceases to apply to that triennial agreement; and
 - (b) 1 or more of the affected local authorities—
 - (i) must advise the Minister and every affected local authority as soon as is reasonably practicable after the date prescribed in section 15(1) of the Local Government Act 2002; and
 - (ii) may submit the matter to mediation.
- (3) If subclause (2) applies, the parts of the triennial agreement other than the part relating to the consultative process referred to in subclause (1) may be confirmed before—
 - (a) an agreement on the consultative process is reached under subclauses (4) and (5)(a); or
 - (b) the Minister makes a binding determination under subclause (5)(b).
- (4) Mediation must be by a mediator or a mediation process agreed to by the affected local authorities.
- (5) If the matter is not submitted to mediation or if mediation is unsuccessful, the Minister may either—
 - (a) make an appointment under section 25 the purpose of determining a consultation process to be used in the course of preparing a proposed policy statement or reviewing a policy statement; or
 - (b) make a binding determination as to the consultation process that must be used.

- (6) The consultative process must form part of the triennial agreement, whether or not the other parts of the triennial agreement have been confirmed, in the event that—
 - (a) an agreement is reached under subclause (4) or subclause (5)(a) as to a consultative process, as required by subclause (1); or
 - (b) the Minister makes a binding determination under subclause (5)(b).
- (7) In this clause, **affected local authorities** means—
 - (a) the regional council of a region; and
 - (b) every territorial authority whose district is wholly or partly in the region of the regional council.

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2. 2019-2022 STANDING ORDERS

<i>Type of Report:</i>	Legal and Operational
<i>Legal Reference:</i>	Local Government Act 2002; Local Government Official Information and Meetings Act 1987
<i>Document ID:</i>	885125
<i>Reporting Officer/s & Unit:</i>	Devorah Nícuarta-Smith, Team Leader Governance

2.1 Purpose of Report

To present the 2019-2022 Standing Orders for adoption.

Officer's Recommendation

That Council:

- a. Confirm its position with regard to Standing Order 19.3 Casting Vote
- b. Adopt the 2019-2022 Standing Orders, noting the following departures from the 2019 Local Government New Zealand model template:
 - i. Standing Order 9.10:
The chief executive must send the agenda to every member of a meeting at least seven clear working days before the day of the meeting, except in the case of a Hearing of a Tender (for which an agenda must be circulated to the panel at least two clear working days in advance), an extraordinary meeting or an emergency meeting (see Standing Orders 8.4 and 8.10).
 - ii. Standing Order 15.1:
A period of up to 45 minutes, or such longer time as the meeting may determine, will be available for the public forum at each scheduled local authority meeting....
Speakers can speak for up to 10 minutes, with a further 5 minutes allowed for questions from elected members. No more than two speakers can speak on behalf of an organisation during a public forum. Where the number of speakers presenting in the public forum exceeds 3 in total, the Chairperson has discretion to restrict the speaking time permitted for all presenters.
 - iii. Standing Order 16.1:
Speakers can speak for up to 10 minutes...
 - iv. Standing Order 19.6:
When a division is called, the chief executive (or their delegate) must record the names of the members voting for and against the motion and abstentions and provide the names to the Chairperson to declare the result...
 - v. Standing Order 19.6:
Where a member or members have abstained or voted against a carried motion, the vote(s) or abstention will be immediately recorded for the accuracy of the record...

vi. Standing Order 22.1

... Option C applies unless, on the recommendation of the chairperson at the beginning of a meeting, the meeting resolves [by simple majority] to adopt either Option A or Option B for the meeting generally, or for any specified items on the agenda.

Mayor's Recommendation

That the Council resolve that the officer's recommendation be adopted.

2.2 Background Summary

Clause 27 of schedule 7, Local Government Act 2002 (October 2019 reprint) requires that a local authority adopt a set of Standing Orders for the conduct of its meetings and those of its committees.

Any amendment or adoption of new Standing Orders requires support from 75% or more of the members present when voting.

As all local authorities (councils) must adopt a set of Standing Orders, and the contents are often similar, in recent years Local Government New Zealand (LGNZ) have developed a model template which councils may use in part, in full or as a 'jumping off point' of things to consider when drafting their own. Most councils either adopt the model template as a whole or make some adjustments to reflect their specific needs.

Following review of the 2019 LGNZ model template, it is proposed that it be adopted with a number of adjustments made for Napier City Council, which are outlined below. As the selection of whether to use a casting vote or not may be less clear cut, this point is covered specifically in "Issues" below for consideration by Council.

Proposed Changes to Standing Orders 2019 Model Template for Napier City Council

- **Standing Order 9.10:**

The chief executive must send the agenda to every member of a meeting at least seven clear working days before the day of the meeting, except in the case of a Hearing of a Tender (for which an agenda must be circulated to the panel at least two clear working days in advance), an extraordinary meeting or an emergency meeting (see Standing Orders 8.4 and 8.10).

What's changed?

The template reflects the minimum legislative time frame for agendas circulation for ordinary meetings (two clear working days) – this has been extended to seven clear working days for Napier City Council, except in the instance of agendas for hearing of tenders which due to their nature require a shorter turnaround time.

- **Standing Orders 15.1 and 16.1:**

15.1

A period of up to 45 minutes, or such longer time as the meeting may determine, will be available for the public forum at each scheduled local authority meeting....

Speakers can speak for up to 10 minutes, with a further 5 minutes allowed for questions from elected members. No more than two speakers can speak on behalf of an organisation during a public forum. Where the number of speakers presenting in the public forum exceeds 3 in total, the Chairperson has discretion to restrict the speaking time permitted for all presenters.

16.1

Speakers can speak for up to 10 minutes...

What's changed?

The template provides for a default period of up to 30 minutes for public forum, and for 5 minutes per speaker which traditionally has included questions. The total number of speakers before any time restrictions may be required was therefore 6.

Deputation speakers have also been provided with 10 minutes in line with general public forum speakers.

- **Standing Order 19.6:**

When a division is called, the chief executive (or their delegate) must record the names of the members voting for and against the motion and abstentions and provide the names to the Chairperson to declare the result...

What's changed?

The template does not recognise that often a delegate of the chief executive records the results of a division; the update reflects actual practice where the count is usually undertaken by the Governance representative at a meeting.

- **Standing Order 19.6:**

Where a member or members have abstained or voted against a carried motion, the vote(s) or abstention will be immediately recorded for the accuracy of the record...

What's changed?

The template setting notes that members will be asked if they wish their vote against (or abstaining from) a motion be recorded; where it is not recorded it leaves an inaccurate historical record where a decision may appear to have been unanimous when it was not.

- **Standing Order 22.1**

... Option C applies unless, on the recommendation of the chairperson at the beginning of a meeting, the meeting resolves [by simple majority] to adopt either Option A or Option B for the meeting generally, or for any specified items on the agenda.

What's changed?

The template places Option A as the default. Option C is more informal and better meets the needs of Napier City Council.

2.3 Issues

Casting Vote

A casting vote is only a consideration where the number of voting members present at a meeting is even. For Napier this would mean one, three or five elected members were not present at a Council or Standing Committee meeting (any more, and the meeting would not be able to be held due to the lack of quorum). In essence, a second vote is provided to the presiding member of the meeting (usually the Chair or Deputy Chair) that they then use to break any tie in votes that would not have taken place with the presence of a further member of the council being at the meeting.

Clause 24, Schedule 7, Local Government Act 2002 states that the presiding member of a meeting does not have a casting vote unless the Local Government Act provides otherwise or the standing orders of the local authority expressly provide for one. The Local Government New Zealand (LGNZ) model template, which is updated triennially, does provide for a casting vote as its default position. Local Government New Zealand have advised that anecdotally about half, and probably closer to two-thirds or 66% of Councils do have a casting vote in place. A small proportion have a casting vote only available for certain types of decision (the example of adopting a Long Term Plan was used). The current Standing Orders for Napier City Council do allow for a casting vote.

Practically, there can be some difficulties in the absence of a casting vote, where a tie is reached and 'status quo' has been demonstrated as untenable; i.e. a specific and different position from the current state must be decided on for clear reasons, or where a clear decision is required to meet particular timeframes e.g. contractual obligations, meeting central government requirements, and so on. If Council adopts Standing Orders without a casting vote, or a casting vote only for particular decisions, there may be some other options it could also put in place to help ensure it does not create unintended consequences for future decisions.

One, which is already available and well-utilised by Council, is the proposal of an amendment to the existing recommendation. It should be noted that amendments cannot be a total structural change to a recommendation (if the recommendation is a picnic on Tuesday at 12noon, an amendment could be put forward to change the time to 1pm, but a change to dinner on Wednesday at 5pm would not be accepted). When used appropriately, an amendment may create a stronger level of support for the motion as a whole and no longer create a tied vote.

A second, which has also been used recently by Council, is to lay the matter on the table pending further information. This may create two immediate outcomes; firstly that clarity on the particular matter is increased and secondly the matter will be brought back to a future meeting where there may no longer be even number of members attending so a majority vote is achievable (noting that a majority vote of 1 is fully acceptable). It should be noted that this may not be appropriate where the decision is time bound.

A further option (which Council may wish to consider regardless of whether it maintains a casting vote or not) is that for certain decisions Council could set a majority required for a motion to be carried. There are already some decisions which the law requires this for – adopting Standing Orders being one (75% of the present members must be in support, or 10 of 13 if all are present). There may be some instances where Council feels that a higher majority than more than half of the members present is required, where a level of particular 'significance' is attributed to the decision. How this 'significance' is defined would need to be addressed by Council; some options might be that the decision is in relation to a major project as defined through the Long Term Plan, or has a certain budgetary impact. Council would also need to agree on the majority required to carry a

motion (i.e. the % of present members). It is important to note that a majority is still of present members, so where a meeting has only its quorum the decision may be passed even with less than half of the total members in support.

With regards to the casting vote specifically, there are three options between which Council could select:

a. Standing Order 19.3 (2019 model template):

The Mayor, Chairperson or any other person presiding at a meeting has a deliberative vote and, in the case of an equality of votes, **has a casting vote**.

This is the setting used by most Councils. It reflects that it may not be unusual for a decision to be passed by a majority of one elected member in the ordinary course of decision making, and may be a pragmatic approach towards decision making. It could be combined with a higher majority requirement set by Council for particular decisions if this is seen as desirable.

b. Standing Order 19.3 (LGA default)

The Mayor, Chairperson or any other person presiding at a meeting has a deliberative vote; and in the case of an equality of votes, **does not have a casting vote (and therefore the act or question is defeated and the status quo is preserved)**.

This is the default setting of the Local Government Act in the absence of a specific setting in a council's standing orders. There may be some challenges for particular decisions e.g. where the status quo is untenable, or a decision is required in a particular time frame not controlled by Council. If this is the option Council prefers, it is recommended that consideration be given as to how these types of issues may be addressed.

c. Standing Order 19.3 (set decisions)

The Mayor, Chairperson or any other person presiding at a meeting has a deliberative vote and, in the case of an equality of votes, **where the decision is in relation to X [X to be set by Council], has a casting vote**.

There is a small group of Councils that use a casting vote for particular decisions (LGNZ used adopting of the Long Term Plan as its example in discussion). Napier City could choose this option and set the particular instances where a casting vote may be used into its Standing Orders. Consideration would still need to be given to decisions that may not be covered by the pre-set position. Options such as a higher majority for certain decisions could also be considered alongside this option.

2.4 Significance and Engagement

The adoption of Standing Orders is guided by the Local Government Act 2002 and does not trigger Council's Significance and Engagement Policy or any other consultation requirements.

2.5 Implications

Financial

N/A

Social & Policy

Standing Orders are a public document and provide important information for elected members, officers and the public on the preparation for and running of formal meetings.

Council may wish to explore further options in relation to Standing Orders, for example in relation to voting as touched on above. This does not preclude Council from adopting the attached version at this meeting; any further amendment may be brought to a future meeting for consideration and adoption if supported by 75% of the members present at that meeting.

Risk

N/A

2.6 Options

The options available to Council are as follows:

- a. To adopt the 2019 Local Government New Zealand model template with the listed adjustments to better meet the requirements of Napier City Council, and advise of a preferred option in relation to Standing Order 19.3 (Casting Vote)
- b. To adopt the 2019 Local Government New Zealand model template with the listed adjustments to better meet the requirements of Napier City Council, advise of an interim option in relation to Standing Order 19.3 (Casting Vote) for immediate use, and undertake further review into the options for Standing Order 19.3 (Casting Vote)
- c. To maintain the current Standing Orders for the 2019-2022 triennium

2.7 Development of Preferred Option

Option A or B.

It is recommended that the 2019 Local Government New Zealand model template, with the current listed adjustments be adopted, to better meet the requirements of Napier City Council for the 2019-2022 triennium.

There must be a setting in relation to a casting vote that will be active from the point of adoption, but Council may also wish to further investigate options to be brought back through a future paper.

2.8 Attachments

A 2019-2022 Standing Orders - DRAFT [↓](#)



Standing Orders

Adopted on

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DRAFT

1. Introduction

These standing orders have been prepared to enable the orderly conduct of local authority meetings. They incorporate the legislative provisions relating to meetings, decision making and transparency. They also include practical guidance on how meetings should operate so that statutory provisions are complied with and the spirit of the legislation fulfilled.

To assist elected members and officials the document is structured in three parts:

- Part 1 deals with general matters.
- Part 2 deals with pre-meeting procedures.
- Part 3 deals with meeting procedures.

The Appendix, which follows Part 3, provides templates and additional guidance for implementing provisions within the standing orders. Please note, the Appendix is an attachment to the standing orders and not part of the standing orders themselves, consequently amendments to the Appendix do not require the agreement of 75% of those present. In addition the 'Guide to Standing Orders' provides additional advice on the application of the standing orders and are also not part of the standing orders.

1.1 Principles

Standing orders are part of the framework of processes and procedures designed to ensure that our system of local democracy and in particular decision-making within local government is transparent and accountable. They are designed to give effect to the principles of good governance, which include that a local authority should:

- Conduct its business in an open, transparent and democratically accountable manner;
- Give effect to its identified priorities and desired outcomes in an efficient and effective manner;
- Make itself aware of, and have regard to, the views of all of its communities;
- Take account, when making decisions, of the diversity of the community, its interests and the interests of future communities as well;
- Ensure that any decisions made under these standing orders comply with the decision-making provisions of Part 6 of the LGA; and
- Ensure that decision-making procedures and practices meet the standards of natural justice.

These principles are reinforced by the requirement that all local authorities act so that "governance structures and processes are effective, open and transparent" (s. 39 LGA 2002).

1.2 Statutory references

The Standing Orders consist of statutory provisions about meetings along with guidance on how those provisions should be applied in practice. Where a statutory provision has been augmented with advice on how it might be implemented the advice (so as not to confuse it with the statutory obligation) is placed below the relevant legislative reference. In some cases the language in the statutory provision has been modernised for ease of interpretation or amended to ensure consistency with more recently enacted statutes.

It is important to note that statutory references in the standing orders apply throughout the period of a meeting, regardless of whether or not parts or all of the Standing Orders have been suspended. These provisions must also be carried through into any amendment of the

standing orders that might be made. Please note, where it is employed the word 'must', unless otherwise stated, identifies a mandatory legislative requirement.

1.3 Acronyms

LGA 2002 Local Government Act 2002

LGOIMA Local Government Official Information and Meetings Act 1987

LAMIA Local Authorities (Members' Interests) Act 1968

1.4 Application

For the removal of any doubt these standing orders do not apply to workshops or meetings of working parties and advisory groups unless specifically included in their terms of reference.

2. Definitions

Adjournment means a break in the proceedings of a meeting. A meeting, or discussion on a particular business item, may be adjourned for a brief period, or to another date and time.

Advisory group means a group of people convened by a local authority for the purpose of providing advice or information that is not a committee or subcommittee. These standing orders do not apply to such groups. This definition also applies to workshops, working parties, working group, panels, forums, portfolio groups, briefings and other similar bodies.

Agenda means the list of items for consideration at a meeting together with reports and other attachments relating to those items in the order in which they will be considered. It is also referred to as an 'order paper'.

Amendment means any change of proposed change to the original or substantive motion.

Audio link means facilities that enable audio communication between participants at a meeting when one or more of the participants is not physically present at the place of the meeting.

Audio visual link means facilities that enable audiovisual communication between participants at a meeting when one or more of them is not physically present at the place of the meeting.

Chairperson means the person presiding at a meeting – the presiding member.

Chief executive means the chief executive of a territorial authority or regional council appointed under section 42 of the LGA 2002, and includes, for the purposes of these standing orders, any other officer authorized by the chief executive.

Clear working days means the number of working days (business hours) prescribed in these standing orders for giving notice and excludes the date of the meeting and date on which the notice is served.

Committee includes, in relation to a local authority:

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

Community board means a community board established under s.49 of the LGA 2002.

Contempt means being disobedient to, or disrespectful of, the chair of a meeting, or disrespectful to any members, officers or the public.

Council means, in the context of these standing orders, the governing body of a local authority.

Deputation means a request from any person or group to make a presentation to the local authority which is approved by the Chairperson and which may be made in English, te reo Māori or New Zealand Sign Language.

Electronic link means both an audio and audio visual link.

Emergency meeting has the same meaning as defined in cl. 22A of Schedule 7 of the LGA 2002.

Extraordinary meeting has the same meaning as defined in cl. 22 of Schedule 7 of the LGA 2002.

Foreshadowed motion means a motion that a member indicates their intention to move once the debate on a current motion or amendment is concluded.

Internet site means, in relation to a local authority or other person or entity, an Internet site that is maintained by, or on behalf of, the local authority, person, or entity and to which the public has free access.

Joint committee means a committee in which the members are appointed by more than one local authority in accordance with clause 30A of Schedule 7 of the LGA 2002.

Karakia timatanga means an opening prayer.

Karakia whakamutunga means a closing prayer.

Lawfully excluded means a member of a local authority who has been removed from a meeting due to behaviour that a Chairperson has ruled to be contempt.

Leave of absence means a pre-approved absence for a specified period of time consistent with the council policy should one be in place.

Local authority means in the context of these standing orders a regional council or territorial authority, as defined in s. 5 of the LGA 2002, which is named in these standing orders, and any subordinate decision-making bodies established by the local authority.

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

Meeting means any first, inaugural, ordinary, or extraordinary meeting of a local authority, subordinate decision-making bodies and any community or local board of the local authority convened under the provisions of LGOIMA.

Member means any person elected or appointed to the local authority.

Mihi whakatau means a brief welcome typically delivered by one person without any further formalities.

Minutes means the record of the proceedings of any meeting of the local authority.

Motion means a formal proposal to a meeting.

Mover means the member who initiates a motion.

Newspaper means a periodical publication published (whether in New Zealand or elsewhere) at intervals not exceeding 40 days, or any copy of, or part of any copy of, any such publications; and this includes every publication that at any time accompanies and is distributed along with any newspaper.

Notice of motion means a motion given in writing by a member in advance of a meeting in accordance with, and as provided for, in these standing orders.

Open voting means voting that is conducted openly and in a transparent manner (i.e. enables an observer to identify how a member has voted on an issue) and may be conducted by electronic means. The result of the vote must be announced immediately it has concluded. Secret ballots are specifically excluded.

Order paper means the list of items for consideration at a meeting together with reports and other attachments relating to those items set out in the order in which they will be considered. An order paper is also referred to as an agenda.

Ordinary meeting means any meeting, other than the first meeting, of a local authority publicly notified in accordance with sections 46(1) and (2) of LGOIMA.

Petition means a request to a local authority which contains at least 20 signatures.

Powhiri means a formal welcome involving a Karanga from the Tangata Whenua (the home people) followed by formal speech making. A Powhiri is generally used for formal occasions of the highest significance.

Present at the meeting to constitute quorum means the member is to be physically present in the room.

Presiding member means the person chairing a meeting.

Procedural motion means a motion that is used to control the way in which a motion or the meeting is managed as specified in standing orders 24.1 – 24.7.

Public excluded information refers to information which is currently before a public excluded session, is proposed to be considered at a public excluded session, or had previously been considered at a public excluded session and not yet been released as publicly available information. It includes:

- Any minutes (or portions of minutes) of public excluded sessions which have not been subsequently released by the local authority; and
- Any other information which has not been released by the local authority as publicly available information.

Public excluded session, also referred to as confidential or in-committee session, refers to those meetings or parts of meetings from which the public is excluded by the local authority as provided for in LGOIMA.

Public forum refers to a period set aside usually at the start of a meeting for the purpose of public input.

Public notice in relation to a notice given by a local authority, means one that is made publicly available, until any opportunity for review or appeal in relation to the matter notified has lapsed, on the local authority's Internet site. And in addition, is published in at least one daily newspaper circulating in the region or district of the local authority, or one or more other newspapers that have a combined circulation in that region or district which is at least equivalent to that of a daily newspaper circulating in that region or district.

Publicly notified means notified to members of the public by a notice contained in a newspaper circulating in the district of the local authority, or where there is no such newspaper, by notice displayed in a public place. The notice may also be replicated on a council's website.

Qualified privilege means the privilege conferred on member by s. 52 and s. 53 of LGOIMA.

Quasi-judicial means a meeting involving the consideration of issues requiring the evaluation of evidence, the assessment of legal argument and/or the application of legal principles.

Quorum means the minimum number of members required to be present in order to constitute a valid meeting.

Regional Council Chairperson means the member of the governing body of a regional council elected as Chairperson of that regional council under cl.25 Schedule 7 LGA 2002.

Resolution means a motion that has been adopted by the meeting.

Right of reply means the right of the mover of a motion to reply to those who have spoken to the motion. (The right does not apply to an amendment).

Second means the member who seconds a motion.

Sub judice means under judicial consideration and therefore prohibited from public discussion elsewhere.

Subordinate decision-making body means committees, subcommittees, and any other bodies established by a local authority that have decision-making authority, but not local or community boards or joint committees.

Substantive motion means the original motion. In the case of a motion that is subject to an amendment, the substantive motion is the original motion incorporating any amendments adopted by the meeting.

Substantive resolution means the substantive motion that has been adopted by the meeting or a restatement of a resolution that has been voted on in parts.

Subcommittee means a subordinate decision-making body established by a council, or a committee of a council, local board or community board. See definition of "Committee".

Working day means a day of the week other than:

- a) Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign's birthday, and Waitangi Day. If Waitangi Day or Anzac Day falls on a Saturday or a Sunday, then the following Monday;
- b) The day observed in the appropriate area as the anniversary of the province of which the area forms a part; and
- c) A day in the period commencing with 20 December in any year and ending with 10 January in the following year.

Should a local authority wish to meet between the 20th of December and the 10th of January of the following year any meeting must be notified as an extraordinary meeting, unless there is sufficient time to notify an ordinary meeting before the commencement of the period.

Working party means a group set up by a local authority to achieve a specific objective that is not a committee or subcommittee and to which these standing orders do not apply.

Workshop, means in the context of these standing orders, a gathering of elected members for the purpose of considering matters of importance to the local authority at which no decisions are made and to which these standing orders do not apply. Workshops may include non-elected members. See definition of "advisory group". Workshops are also described as briefings.

General matters

3. Standing orders

3.1 Obligation to adopt standing orders

A council is required to operate in accordance with standing orders for the conduct of its meetings and the meetings of its committees and subcommittees. Local boards and community boards must also adopt standing orders. Standing orders must not contravene any Act.

cl. 27(1) & (2), Schedule 7, LGA 2002.

3.2 Process for adoption and alteration of standing orders

The adoption of standing orders and any amendment to standing orders must be made by the Council and by a vote of not less than 75% of the members present. Similarly, in the case of a local and community board the adoption of standing orders and any amendments also requires a vote of not less than 75% of the members of the specific board.

cl. 27(3) Schedule 7, LGA 2002.

3.3 Members must obey standing orders

All members of the local authority, including members of committees and subcommittees, must obey these standing orders. Local boards and community boards which have adopted these standing orders must also comply with them.

cl. 16(1) Schedule 7, LGA 2002.

3.4 Application of standing orders

These standing orders apply to all meetings of the local authority, its committees, subcommittees and subordinate decision-making bodies. They will also apply to any local boards and community boards unless stated otherwise. This includes meetings and parts of meetings that the public are excluded from.

3.5 Temporary suspension of standing orders

Any member of a council, committee, subcommittee and subordinate body, and local and community board, may move a motion to suspend specified standing orders at a meeting of which they are a member. Any such motion must also include the reason for the suspension. If seconded, the Chairperson must put the motion without debate and at least 75 per cent of the members present and voting must support the motion for it to be carried.

cl. 27(4), Schedule 7, LGA 2002.

A motion to suspend standing orders may also identify the specific standing orders to be suspended. In the event of suspension those standing orders prescribed in statute will continue to apply, such as the quorum requirements.

3.6 Quasi-judicial proceedings

For quasi-judicial proceedings the local authority or a local or community board may amend meeting procedures. For example, committees hearing applications under the RMA 1991 have additional powers under the Commissions of Inquiry Act 1908.

3.7 Physical address of members

Every member of a local authority, local board and community board must give to the chief executive a physical residential or business address within the district or region of the local authority and, if desired, an electronic or other address, to which notices and material relating to meetings and local authority business may be sent or delivered. Members are to provide their address within 5 working days of the publication of the declaration of the election results.

4. Meetings

4.1 Legal requirement to hold meetings

The local authority must hold meetings for the good government of its city, district or region. The same requirement applies to local boards and community boards in respect of their communities. Meetings must be called and conducted in accordance with:

- a) Schedule 7 of the LGA 2002;
- b) Part 7 of LGOIMA; and
- c) These standing orders.

A meeting can be adjourned to a specified time and day if required by resolution of the meeting.

4.2 Meeting duration

A meeting cannot continue more than six hours from when it starts (including any adjournments) or after 10.30pm, unless the meeting resolves to continue. If there is no such resolution any business on the agenda that has not been dealt with must be adjourned, transferred to the next meeting or transferred to an extraordinary meeting.

No meeting can sit for more than two hours continuously without a break of at least ten minutes unless the meeting resolves to extend the time before a break.

4.3 Language

A member may address a meeting in English, te reo Māori or New Zealand Sign Language. A Chairperson may require that a speech is translated and printed in English or te reo Māori.

If a member intends to address the meeting in New Zealand Sign Language, or in te reo Māori when the normal business of the meeting is conducted in English, they must give prior notice to the Chairperson not less than 2 working days before the meeting.

Where the normal business of the meeting is conducted in te reo Māori then prior notice of the intention to address the meeting in English must also be given to the Chairperson not less than 2 working days before the meeting.

4.4 Webcasting meetings

Webcast meetings should be provided in accordance with the protocols contained in Appendix 5.

4.5 First meeting (inaugural)

The first meeting of a local authority following a local authority triennial general election must be called by the chief executive as soon as practicable after the results of the election are known. The chief executive must give elected members not less than 7 days' notice of the meeting. However in the event of an emergency the chief executive may give notice of the meeting as soon as practicable.

cl. 21(1) - (4), Schedule 7, LGA 2002.

4.6 Requirements for the first meeting

The chief executive (or, in the absence of the chief executive, their nominee) must chair the first meeting until the Chairperson has made an oral declaration and attested the declaration (see cl. 21(4), Schedule 7 (LGA 2002)).

The business to be conducted at the first meeting following a general election must include the following:

- a) The making and attesting of the declarations required of the mayor (if any) and members under cl.14, Schedule7, (LGA 2002);
- b) The election of the Chairperson (if any) and the making and attesting of the declaration required of the Chairperson under cl. 14 Schedule7, (LGA 2002);
- c) A general explanation, given or arranged by the chief executive, of:
 - i. LGOIMA; and
 - ii. Other laws affecting members, including the appropriate provisions of the Local Authorities (Members Interests) Act 1968; and sections 99, 105, and 105A of the Crimes Act 1961; and the Secret Commissions Act 1910; and the Financial Markets Conduct Act 2013.
- d) The fixing of the date and time of the first meeting of the local authority, or the adoption of a schedule of meetings; and
- e) The election of the deputy Mayor or deputy Chairperson in accordance with cl.17 Schedule7, (LGA 2002).

cl. 21(5), Schedule 7, LGA 2002.

It is common for councils to adopt standing orders at the first meeting; however this is not always necessary as, if not amended, standing orders will remain in force after each triennial election.

Please note that the election of a deputy mayor is not required if the Mayor has already made the appointment under s. 41A (3)(a) of the LGA 2002 prior to the meeting. Nothing limits a territorial authority from removing a deputy Mayor from office in accordance with cl.18 of Schedule 7 LGA 2002.

5. Appointments and elections

5.1 Mayoral appointment of deputy Mayor, committee chairs and members

A Mayor may appoint the deputy Mayor, the Chairperson and the members of each committee of the territorial authority. The names of any appointments made by the Mayor must be tabled at the first meeting of the council after the appointments are made. The Mayor may also appoint him or herself.

s. 41A (3) LGA 2002.

5.2 Council Discharge of a Mayoral Appointment

Nothing, however, limits or prevents a territorial authority from discharging deputy Mayor, a Chairperson or a member of a committee appointed by the Mayor. Any decision by the territorial authority to discharge a deputy Mayor shall follow the procedure in Standing Order 5.5.

If the Mayor declines to appoint a deputy Mayor or committee Chairpersons in accordance with s.41A LGA 2002, the council (or a committee, if so directed by the council) must elect those positions in accordance with standing order 5.4.

cl. 31, Schedule 7 LGA 2002.

5.3 Establishment of committees by the Mayor

The Mayor may establish committees of the territorial authority. Where a Mayor exercises this right a list of the committees and their terms of reference must be tabled at the next following meeting of the Council. Should the Mayor decline to establish committees under s. 41A then any decision to establish committees must follow the processes set out in these standing orders.

Nothing, however, limits or prevents a territorial authority from discharging or reconstituting, in accordance with cl. 30 of Schedule 7, LGA 2002, a committee established by the Mayor or appointing, more committees in addition to any established by the Mayor.

Please note that a Mayor is a member of every committee unless specific legislation provides otherwise, for example a committee established under s. 189 of the Sale and Supply of Alcohol Act 2012.

s. 41A (3) and (4) LGA 2002.

5.4 Elections of regional Chairpersons, deputy Mayors and deputy Chairpersons

The council (or a committee responsible for making the appointment) must decide by resolution to use one of two voting systems (see standing order 5.6) when electing people to the following positions:

- The Chairperson and deputy Chairperson of a regional council;
- The deputy Mayor;
- The Chairperson and deputy Chairperson of a committee; and
- A representative of a local authority.

Please note, this provision does not apply in situations where a mayor has used their appointment powers under s.41A to appoint a deputy Mayor or committee chairs. See Appendix 9.

cl. 25 Schedule 7, LGA 2002.

5.5 Removal of a deputy Mayor

A deputy Mayor, whether appointed by the Mayor under standing order 5.1 or elected by the council, can only be removed in accordance with cl. 18, Schedule 7, of the LGA 2002. See Appendix 10.

cl. 18, Schedule 7, LGA 2002.

5.6 Voting system for chairs, deputy Mayors and committee chairs

When electing a regional council chair, a deputy Mayor or a committee chair the local authority must resolve to use one of the following two voting systems.

System A

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

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

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

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.

cl. 25 Schedule 7, LGA 2002.

6. Delegations

6.1 Limits on delegations

Unless clearly stated in the LGA or any other Act, a council may, for the purposes of efficiency and effectiveness, delegate to a committee, subcommittee, subordinate decision-making body, community board, local board, member, or officer of the local authority, any of its responsibilities, duties, or powers except:

- a) The power to make a rate;
- b) The power to make a bylaw;
- c) The power to borrow money, or purchase or dispose of assets, other than in accordance with the long-term plan;
- d) The power to adopt a long-term plan, annual plan, or annual report;

- e) The power to appoint a chief executive;
 - f) The power to adopt policies required to be adopted and consulted on under the LGA in association with the long-term plan or developed for the purpose of the local governance statement;
 - g) Repealed; and
 - h) The power to adopt a remuneration and employment policy.
- cl. 32 (1) Schedule 7, LGA 2002.

6.2 Committees may delegate

A committee, subcommittee, subordinate decision-making body, local board, community board, member, or officer of the local authority, may delegate any of its responsibilities, duties, or powers to a subcommittee or person, subject to any conditions, limitations, or prohibitions imposed by the body that made the original delegation.

cl. (2) & (3), Schedule 7, LGA 2002.

6.3 Use of delegated powers

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

cl. 32(2) & (3)(4) Schedule 7, LGA 2002.

6.4 Decisions made under delegated authority cannot be rescinded or amended

Nothing in these standing orders allows a council, committee and subcommittee to rescind or amend a lawfully made decision of a subordinate decision-making body carried out under a delegation authorising the making of that decision. The same requirement applies to a local board and community board in relation to any committees or subcommittees with delegated authority.

cl. 30 (6), Schedule 7, LGA 2002.

6.5 Committees and sub committees subject to the direction of the local authority

A committee, subcommittee or other subordinate decision-making body is subject in all things to the control of the local authority, and must carry out all general and special directions of the local authority given to them.

cl. 30 (3) & (4), Schedule 7, LGA 2002.

6.6 Duty to consider delegations to community boards

The council of a territorial authority must consider whether or not to delegate to a community board if the delegation will enable the community board to best achieve its role.

cl. 32(6) Schedule 7, LGA 2002.

Please note: A council is advised to delegate a range of decision-making responsibilities to its chief executive to cover the period from the day following the Electoral Office's declaration

until the new council is sworn in. See the 2019 Guide to Standing Orders for further information.

7. Committees

7.1 Appointment of committees and subcommittees

A council may appoint the committees, subcommittees, and other subordinate decision-making bodies that it considers appropriate. A committee may appoint the subcommittees that it considers appropriate, unless it is prohibited from doing so by the council.

cl. 30(1) & (2), Schedule 7, LGA 2002.

7.2 Discharge or reconstitution of committees and subcommittees

Unless expressly provided otherwise in legislation or regulation:

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

A committee, subcommittee, or other subordinate decision-making body is, unless a council resolves otherwise, discharged when members elected at a subsequent triennial general election come into office.

cl. 30 (5) & (7), Schedule 7, LGA 2002.

Please note: s.12 (2) of the Civil Defence and Emergency Management Act 2002 states that a Civil Defence and Emergency Management Group is not deemed to be discharged following a triennial election. This also applies to District Licensing Committees.

7.3 Appointment or discharge of committee members and subcommittee members

A council may appoint or discharge any member of a committee and, if established by the council, a subcommittee. A committee may appoint or discharge any member of a subcommittee appointed by the committee unless directed otherwise by the council.

cl. 31 (1) & (2), Schedule 7, LGA 2002.

7.4 Elected members on committees and subcommittees

The members of a committee or subcommittee may be, but are not required to be, elected members of a local authority. A council or committee may appoint a person who is not a member of the local authority to a committee or subcommittee if, in the opinion of the council or committee, the person has the skills, attributes or knowledge to assist the committee or subcommittee.

At least one member of a committee must be an elected member of the council. In the case of a committee established by a local board or community board at least one member must be a member of that board. A staff member of the local authority, in the course of their employment, can be a member of a subcommittee but not a committee.

cl. 31(4) Schedule 7, LGA 2002.

7.5 Local authority may replace members if committee not discharged

If a local authority resolves that a committee, subcommittee or other subordinate decision-making body is not to be discharged under cl. 30 (7) Schedule 7, LGA 2002, the local authority may replace the members of that committee, subcommittee or subordinate decision-making body after the next triennial general election of members.

cl. 31(5) Schedule 7, LGA 2002.

7.6 Membership of Mayor

The Mayor is a member of every committee of the local authority unless specific legislation provides otherwise, such as a committee established under s. 189 of the Sale and Supply of Alcohol Act 2012.

s. 41A (5), LGA 2002.

7.7 Decision not invalid despite irregularity in membership

For the purpose of these standing orders a decision of a local authority, committee, local board and community board is not invalidated if:

1. There is a vacancy in the membership of the local authority, committee, local or community board at the time of the decision; or
2. Following the decision some defect in the election or appointment process is discovered and/or that the membership of a person on the committee at the time is found to have been ineligible.

cl. 29, Schedule 7, LGA 2002.

7.8 Appointment of joint committees

A local authority may appoint a joint committee with another local authority or other public body if it has reached agreement with each local authority or public body. The agreement must specify:

- a) The number of members each party may appoint;
- b) How the Chairperson and deputy Chairperson are to be appointed;
- c) The terms of reference of the committee;
- d) What responsibilities, if any, are to be delegated to the committee by each party; and
- e) How the agreement may be varied.

The agreement may also specify any other matter relating to the appointment, operation, or responsibilities of the committee agreed by the parties.

cl. 30A (1) & (2), Schedule 7, LGA 2002.

7.9 Status of joint committees

A joint committee is deemed to be both a committee of a council and a committee of each other participating local authority or public body.

cl. 30A (5), Schedule 7, LGA 2002.

7.10 Power to appoint or discharge individual members of a joint committee

The power to discharge any individual member of a joint committee and appoint another member in their stead must be exercised by the council or public body that made the appointment.

cl. 30A (6)(a), Schedule 7, LGA 2002.

Pre-meeting

8. Giving notice

Please note; the processes described in this section (standing orders 8.1 – 8.13) apply as appropriate to local boards and community boards.

8.1 Public notice – ordinary meetings

All meetings scheduled for the following month must be publicly notified not more than 14 days and not less than 5 days before the end of the current month, together with the dates, the times and places on and at which those meetings are to be held. In the case of meetings held on or after the 21st day of the month public notification may be given not more than 10 nor less than 5 working days before the day on which the meeting is to be held. (See Guide to Standing Orders for more information).

s. 46, LGOIMA.

8.2 Notice to members - ordinary meetings

The chief executive must give notice in writing to each member of the local authority of the date, time and place of any meeting. Notice must be given at least 14 days before the meeting unless the council has adopted a schedule of meetings, in which case notice must be given at least 14 days before the first meeting on the schedule.

cl. 19 (5), Schedule 7, LGA 2002.

8.3 Extraordinary meeting may be called

An extraordinary council meeting may be called by:

- a) Resolution of the council, or
- b) A requisition in writing delivered to the chief executive which is signed by:
 - i. The Mayor; or
 - ii. Not less than one third of the total membership of the council (including vacancies).

cl. 22 (1) Schedule 7, LGA 2002.

8.4 Notice to members - extraordinary meetings

The chief executive must give notice, in writing, of the time and place of an extraordinary meeting called under standing order 8.3, as well as the general nature of business to be considered to each member of the council at least 3 working days before the day appointed

for the meeting. If the meeting is called by a resolution then notice must be provided within such lesser period as is specified in the resolution, as long as it is not less than 24 hours.

cl. 22 (3), Schedule7, LGA 2002.

8.5 Emergency meetings may be called

If the business a council needs to deal with requires a meeting to be held at a time earlier than is allowed by the notice requirements for holding an extraordinary meeting and it is not practicable to call the meeting by resolution, an emergency meeting may be called by:

- a) The Mayor; or
- b) If the Mayor is unavailable, the chief executive.

cl. 22A(1), Schedule7 LGA 2002.

8.6 Process for calling an emergency meeting

The notice of the time and place of an emergency meeting, and of the matters in respect of which the emergency meeting is being called, must be given by the person calling the meeting or by another person on that person's behalf.

The notice must be given, by whatever means is reasonable in the circumstances, to each member of the local authority, and to the chief executive, at least 24 hours before the time appointed for the meeting.

cl. 22A (2), Schedule7 LGA 2002.

8.7 Public notice – emergency and extraordinary meetings

Where an emergency or extraordinary meeting of a local authority is called but the notice of the meeting is inconsistent with these standing orders, due to the manner in which it was called, the local authority must cause that meeting and the general nature of business to be transacted at that meeting:

- a) To be publicly notified as soon as practicable before the meeting is to be held; or
- b) If it is not practicable to publish a notice in newspapers before the meeting, to be notified as soon as practicable on the local authority's Internet site and in any other manner that is reasonable in the circumstances.

s. 46 (3) LGOIMA.

8.8 Meetings not invalid

The failure to notify a public meeting under these standing orders does not of itself make that meeting invalid. However, where a local authority becomes aware that a meeting has been incorrectly notified it must, as soon as practicable, give public notice stating:

- That the meeting occurred without proper notification;
- The general nature of the business transacted; and
- The reasons why the meeting was not properly notified.

s. 46 (6), LGOIMA.

8.9 Resolutions passed at an extraordinary meeting

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

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

s. 51A, LGOIMA.

8.10 Meeting schedules

Where the local authority adopts a meeting schedule it may cover any period that the council considers appropriate and may be amended. Notification of the schedule, or an amendment, will constitute notification to members of every meeting on the schedule or the amendment. This does not replace the requirements under LGOIMA to also publicly notify each meeting.

cl. 19 (6) Schedule 7, LGA 2002.

8.11 Non-receipt of notice to members

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

- a) It is proved that the person responsible for giving notice of the meeting acted in bad faith or without reasonable care; and
- b) The member concerned did not attend the meeting.

A member of a local authority may waive the need to be given notice of a meeting.

cl. 20 (1) & (2) Schedule 7, LGA 2002.

8.12 Meeting cancellations

The Chairperson of a scheduled meeting may cancel the meeting if, in consultation with the chief executive, they consider this is necessary for reasons that include lack of business, lack of quorum or clash with another event.

The chief executive must make a reasonable effort to notify members and the public as soon as practicable of the cancellation and the reasons behind it.

9. Meeting agenda

9.1 Preparation of the agenda

It is the chief executive's responsibility to prepare an agenda for each meeting listing and attaching information on the items of business to be brought before the meeting so far as is known, including the names of the relevant members.

When preparing business items for an agenda the chief executive should consult the Chairperson.

9.2 Process for raising matters for a decision

Requests for reports may be made by a resolution of the council, committee, subcommittee, subordinate decision-making body, local boards or community board and, in the case of all decision-making bodies other than the council, must also fall within the scope of their specific delegations. A process for requesting reports is described in Appendix 13.

9.3 Chief executive may delay or refuse request

The chief executive may delay commissioning any reports that involve significant cost or are beyond the scope of the committee that made the request. In such cases the chief executive will discuss options for meeting the request with the respective Chairperson and report back to a subsequent meeting with an estimate of the cost involved and seek direction on whether the report should still be prepared.

If a member makes a direct request to a chief executive asking that a report is prepared the chief executive may refuse. In such cases an explanation should be provided to the member.

9.4 Order of business

At the meeting the business is to be dealt with in the order in which it stands on the agenda unless the Chairperson, or the meeting, decides otherwise. An example of a default order of business is set out in Appendix 12.

The order of business for an extraordinary meeting must be limited to items that are relevant to the purpose for which the meeting has been called.

9.5 Chairperson's recommendation

A Chairperson, either prior to the start of the meeting and/or at the meeting itself, may include a recommendation regarding any item on the agenda brought before the meeting. Where a Chairperson's recommendation varies significantly from an officer's recommendation the reason for the variation must be explained.

9.6 Chairperson's report

The Chairperson of a meeting has the right, through a report, to direct the attention of a meeting to any matter which is on the agenda or which falls within the responsibilities of that meeting, as described in its terms of reference.


9.7 Public availability of the agenda

All information provided to members at a local authority, or local or community board, meeting must be publicly available except where an item included in the agenda refers to a matter reasonably expected to be discussed with the public excluded.

s. 5 & 46A, LGOIMA.

9.8 Public inspection of agenda

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

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

s. 46A (1), LGOIMA.

9.9 Withdrawal of agenda items

If justified by circumstances an agenda item may be withdrawn by the chief executive. In the event of an item being withdrawn the chief executive should inform the Chairperson.

9.10 Distribution of the agenda

The chief executive must send the agenda to every member of a meeting at least **seven** clear working days before the day of the meeting, **except in the case of a Hearing of a Tender (for which an agenda must be circulated to the panel at least two clear working days in advance)**, an extraordinary meeting or an emergency meeting (see Standing Orders 8.4 and 8.10).

The chief executive may send the agenda, and other materials relating to the meeting or other council business, to members by electronic means.

9.11 Status of agenda

No matter on a meeting agenda, including recommendations, may be considered final until determined by formal resolution of that meeting.

9.12 Items of business not on the agenda which cannot be delayed

A meeting may deal with an item of business that is not on the agenda where the meeting resolves to deal with that item and the Chairperson provides the following information during the public part of the meeting:

- a) The reason the item is not on the agenda; and
- b) The reason why the discussion of the item cannot be delayed until a subsequent meeting.

s. 46A (7), LGOIMA.

Items not on the agenda may be brought before the meeting through a report from either the chief executive or the Chairperson.

Please note that nothing in this standing order removes the requirement to meet the provisions of Part 6, LGA 2002 with regard to consultation and decision-making.

9.13 Discussion of minor matters not on the agenda

A meeting may discuss an item that is not on the agenda only if it is a minor matter relating to the general business of the meeting and the Chairperson explains at the beginning of the public part of the meeting that the item will be discussed. However, the meeting may not make a resolution, decision or recommendation about the item, except to refer it to a subsequent meeting for further discussion.

s. 46A (7A), LGOIMA.

9.14 Public excluded business on the agenda

Items that are likely to be discussed under public excluded must be indicated on each agenda and state the general subject of the item. The chief executive, however, may exclude public access to any reports, or parts of reports, which are reasonably expected to be discussed with the public excluded.

s. 46A (9), LGOIMA.

9.15 Qualified privilege relating to agenda and minutes

Where any meeting is open to the public and a member of the public is supplied with a copy of the agenda, or the minutes of that meeting, the publication of any defamatory matter included in the agenda or in the minutes is privileged. This does not apply if the publication is proved to have been made with ill will or improper advantage has been taken of the publication.

s. 52, LGOIMA.

Meeting Procedures

10. Opening and closing

Local authorities, local boards and community boards may, at the start of a meeting, choose to recognise the civic importance of the occasion through some form of reflection. This could be an expression of community values, a reminder of the contribution of members who have gone before or a formal welcome, such as a mihi whakatau.

Options for opening a meeting could include a karakia timitanga, mihi whakatau, or powhiri as well as a karakia whakamutunga to close a meeting where appropriate.

11. Quorum

11.1 Council meetings

The quorum for a meeting of the council is:

- a) Half of the members physically present, where the number of members (including vacancies) is even; and
- b) A majority of the members physically present, where the number of members (including vacancies) is odd.

cl. 23 (3)(a) Schedule 7, LGA 2002.

11.2 Committees and subcommittee meetings

A council sets the quorum for its committees and subcommittees, either by resolution or by stating the quorum in the terms of reference. Committees may set the quorums for their subcommittees by resolution provided that it is not less than two members. (See also 7.4).

In the case of subcommittees the quorum will be two members unless otherwise stated. In the case of committees at least one member of the quorum must be a member of the council, or if established by a local board or community board, the relevant board.

cl. 23 (3)(b) Schedule 7, LGA 2002.

11.3 Joint Committees

The quorum at a meeting of a joint committee must be consistent with Standing Order 11.1. Local authorities participating in the joint committee may decide, by agreement, whether or not the quorum includes one or more members appointed by each local authority or any party.

cl. 30A (6)(c) Schedule 7, LGA 2002.

11.4 Requirement for a quorum

A meeting is constituted where a quorum of members is present, whether or not they are all voting or entitled to vote. In order to conduct any business at a meeting, a quorum of members must be present for the whole time that the business is being considered.

cl. 23(1) & (2) Schedule 7, LGA 2002.

11.5 Meeting lapses where no quorum

A meeting must lapse, and the Chairperson vacate the chair, if a quorum is not present within 30 minutes of the advertised start of the meeting. Where members are known to be travelling to the meeting, but are delayed due to extraordinary circumstance, the Chairperson has discretion to wait for a longer period.

No business may be conducted while waiting for the quorum to be reached. Minutes will record when a meeting lapses due to a lack of a quorum, along with the names of the members who attended.

Should a quorum be lost the meeting will lapse if the quorum is not present within 15 minutes.

11.6 Business from lapsed meetings

Where meetings lapse the remaining business will be adjourned and be placed at the beginning of the agenda of the next ordinary meeting, unless the Chairperson sets an earlier meeting and this is notified by the chief executive.

12. Public access and recording

12.1 Meetings open to the public

Except as otherwise provided by Part 7 of LGOIMA, every meeting of the local authority, its committees, subcommittees, local boards and community boards, must be open to the public.

s.47 & 49(a), LGOIMA.

12.2 Grounds for removing the public

The Chairperson may require any member of the public whose conduct is disorderly, or who is creating a disturbance, to be removed from the meeting.

12.3 Local authority may record meetings

Meeting venues should contain clear signage indicating and informing members, officers and the public that proceedings may be recorded by the local authority and may be subject to direction by the Chairperson.

12.4 Public may record meetings

Members of the public may make electronic or digital recordings of meetings which are open to the public. Any recording of meetings must be notified to the Chairperson at the commencement of the meeting to ensure that the recording does not distract the meeting from fulfilling its business.

Where circumstances require the Chairperson may stop the recording for a period of time.

13. Attendance

13.1 Members right to attend meetings

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

cl. 19(2), Schedule 7, LGA 2002.

If the member of the local authority is not an appointed member of the meeting at which they are in attendance they may not vote on any matter at that meeting. However, they may, with the leave of the chair, take part in the meeting's discussions.

A member attending a meeting of which they are not an appointed member is not a member of the public for the purpose of s.48 LGOIMA. Consequently, if the meeting resolves to exclude the public any members of the local authority who are present may remain unless they are lawfully excluded.

Please note: this section does not confer any rights to non-elected members appointed to committees of a local authority.

13.2 Attendance when a committee is performing judicial or quasi-judicial functions

When a committee is performing judicial or quasi-judicial functions members of the local authority who are not members of that committee are not entitled to take part in the proceedings.

13.3 Leave of absence

A council may grant a member leave of absence following an application from that member. The council may delegate the power to grant a leave of absence to the Mayor in order to protect a members' privacy.

The Mayor may approve a members' application, and the Council may approve an application from the Mayor. The Mayor will advise all members of the council whenever a member has been granted leave of absence under delegated authority. Meeting minutes will record that a member has leave of absence as an apology for that meeting.

13.4 Apologies

A member who does not have leave of absence may tender an apology should they be absent from all or part of a meeting. The Mayor (or acting chair) must invite apologies at the beginning of each meeting, including apologies for lateness and early departure. The meeting may accept or decline any apologies. Members may be recorded as absent on council business where their absence is a result of a commitment made on behalf of the council.

For clarification, the acceptance of a member's apology constitutes a grant of 'leave of absence' for that meeting.

13.5 Recording apologies

The minutes will record any apologies tendered before or during the meeting, including whether they were accepted or declined and the time of arrival and departure of all members.

13.6 Absent without leave

Where a member is absent from four consecutive meetings of the council, local board or community board without leave of absence or an apology being accepted (not including extraordinary or emergency meetings) then the office held by the member will become vacant. A vacancy created in this way is treated as an extraordinary vacancy.

cl. 5 (d) Schedule 7, LGA 2002.

13.7 Right to attend by audio or audio visual link

Provided the conditions in standing orders 13.11 and 13.12 are met members of the local authority and its committees (and members of the public for the purpose of a deputation approved by the Chairperson), have the right to attend meetings by means of an electronic link, unless they have been lawfully excluded.

13.8 Member's status: quorum

Members who attend meetings by electronic link will not be counted as present for the purposes of a quorum.

cl. 25A (4), Schedule 7, LGA 2002.

13.9 Member's status: voting

Where a meeting has a quorum, determined by the number physically present, the members attending by electronic link can vote on any matters raised at the meeting.

13.10 Chairperson's duties

Where the technology is available and a member is attending a meeting by audio or audio visual link, the Chairperson must ensure that:

- a) The technology for the link is available and of suitable quality; and
- b) Procedures for using the technology in the meeting will ensure that:
 - i. Everyone participating in the meeting can hear each other;
 - ii. The member's attendance by audio or audio visual link does not reduce their accountability or accessibility of that person in relation to the meeting;
 - iii. The requirements of Part 7 of LGOIMA are met; and
 - iv. The requirements in these standing orders are met.

If the Chairperson is attending by audio or audio visual link then chairing duties will be undertaken by the deputy chair or a member who is physically present.

cl. 25A (3) schedule 7, LGA 2002.

13.11 Conditions for attending by audio or audio visual link

Noting standing order 13.7, the Chairperson may give approval for a member to attend meetings by electronic link, either generally or for a specific meeting. Examples of situations where approval can be given include:

- a) Where the member is at a place that makes their physical presence at the meeting impracticable or impossible;
- b) Where a member is unwell; and
- c) Where a member is unable to attend due to an emergency.

13.12 Request to attend by audio or audio visual link

Where possible, a member will give the Chairperson and the chief executive at least 2 working days' notice when they want to attend a meeting by audio or audio visual link. Should, due to illness or emergency, this is not possible the member may give less notice.

Where such a request is made and the technology is available, the chief executive must take reasonable steps to enable the member to attend by audio or audio-visual link. However, the council has no obligation to make the technology for an audio or audio-visual link available.

If the member's request cannot be accommodated, or there is a technological issue with the link, this will not invalidate any acts or proceedings of the local authority or its committees.

13.13 Chairperson may terminate link

The Chairperson may direct that an electronic link should be terminated where:

- a) Use of the link is increasing, or may unreasonably increase, the length of the meeting;
- b) The behaviour of the members using the link warrants termination, including the style, degree and extent of interaction between members;
- c) It is distracting to the members who are physically present at the meeting; and
- d) The quality of the link is no longer suitable.

13.14 Giving or showing a document

A person attending a meeting by audio or audio visual link may give or show a document by:

- a) Transmitting it electronically;
- b) Using the audio visual link; or
- c) Any other manner that the Chairperson thinks fit.

cl. 25(A) (6) schedule 7, LGA 2002.

13.15 Link failure

Where an audio or audio visual link fails, or there are other technological issues that prevent a member who is attending by link from participating in a meeting, that member must be deemed to be no longer attending the meeting.

13.16 Confidentiality

A member who is attending a meeting by audio or audio visual link must ensure that the meeting's proceedings remain confidential during any times that the public are excluded. At

such times, the Chairperson may require the member to confirm that no unauthorised people are able to view or hear the proceedings.

14. Chairperson's role in meetings

14.1 Council meetings

The Mayor must preside at meetings of the council unless they vacate the chair for a part or all of a meeting. If the Mayor is absent from a meeting or vacates the chair, the deputy Mayor must act as chairperson. If the deputy Mayor is also absent the local authority members who are present must elect a member to be the Chairperson at that meeting. This person may exercise the meeting responsibilities, duties and powers of the Mayor for that meeting.

cl. 26(1), (5) & (6) Schedule 7, LGA 2002.

14.2 Other meetings

In the case of committees, subcommittees and subordinate decision-making bodies, the appointed Chairperson must preside at each meeting unless they vacate the chair for all or part of a meeting. If the Chairperson is absent from a meeting or vacates the chair, the deputy Chairperson (if any) will act as Chairperson. If the deputy Chairperson is also absent, or has not been appointed, the committee members who are present must elect a member to act as Chairperson. This person may exercise the meeting responsibilities, duties and powers of the Chairperson.

cl. 26(2), (5) & (6), schedule 7 LGA 2002.

14.3 Addressing the Chairperson

Members will address the Chairperson in a manner that the Chairperson has determined.

14.4 Chairperson's rulings

The Chairperson will decide all procedural questions where insufficient provision is made by these standing orders and with regard to all points of order. Any refusal to obey a Chairperson's ruling or direction constitutes contempt.

14.5 Chairperson standing

Whenever the Chairperson stands during a debate members are required to sit down (if required to stand to address the meeting) and be silent so that they can hear the Chairperson without interruption.

14.6 Member's right to speak

Members are entitled to speak in accordance with these standing orders. Members should address the Chairperson when speaking. They may not leave their place while speaking, unless they have the leave of the Chairperson.

14.7 Chairperson may prioritise speakers

When two or more members want to speak the Chairperson will name the member who may speak first. Other members who wish to speak have precedence where they intend to:

- a) Raise a point of order, including a request to obtain a time extension for the previous speaker; and/or
- b) Move a motion to terminate or adjourn the debate; and/or
- c) Make a point of explanation; and/or
- d) Request the chair to permit the member a special request.

15. Public Forums

Public forums are a defined period of time, usually at the start of an ordinary meeting, which, at the discretion of a meeting, is put aside for the purpose of public input. Public forums are designed to enable members of the public to bring matters, not necessarily on the meeting's agenda, to the attention of the local authority.

In the case of a committee, subcommittee, local or community board, any issue, idea or matter raised in a public forum must fall within the terms of reference of that body.

15.1 Time limits

A period of up to 45 minutes, or such longer time as the meeting may determine, will be available for the public forum at each scheduled local authority meeting. Requests must be made to the chief executive (or their delegate) at least one clear day before the meeting; however this requirement may be waived by the Chairperson. Requests should also outline the matters that will be addressed by the speaker(s).

Speakers can speak for up to 10 minutes, with a further 5 minutes allowed for questions from elected members. No more than two speakers can speak on behalf of an organisation during a public forum. Where the number of speakers presenting in the public forum exceeds 3 in total, the Chairperson has discretion to restrict the speaking time permitted for all presenters.

15.2 Restrictions

The Chairperson has the discretion to decline to hear a speaker or to terminate a presentation at any time where:

- A speaker is repeating views presented by an earlier speaker at the same public forum;
- The speaker is criticising elected members and/or staff;
- The speaker is being repetitious, disrespectful or offensive;
- The speaker has previously spoken on the same issue;
- The matter is subject to legal proceedings; and
- The matter is subject to a hearing, including the hearing of submissions where the local authority or committee sits in a quasi-judicial capacity.

15.3 Questions at public forums

At the conclusion of the presentation, with the permission of the Chairperson, elected members may ask questions of speakers. Questions are to be confined to obtaining information or clarification on matters raised by a speaker.

15.4 No resolutions

Following the public forum no debate or decisions will be made at the meeting on issues raised during the forum unless related to items already on the agenda. (See the 2019 Guide to Standing Orders for suggestions of good practice in dealing with issues raised during a forum).

16. Deputations

The purpose of a deputation is to enable a person, group or organisation to make a presentation to a meeting on a matter or matters covered by that meeting's terms of reference. Deputations should be approved by the Chairperson, or an official with delegated authority, five working days before the meeting. Deputations may be heard at the commencement of the meeting or at the time that the relevant agenda item is being considered.

16.1 Time limits

Speakers can speak for up to 10 minutes, or longer at the discretion of the Chairperson. No more than two speakers can speak on behalf of an organisation's deputation.

16.2 Restrictions

The Chairperson has the discretion to decline to hear or terminate a deputation at any time where:

- A speaker is repeating views presented by an earlier speaker at the meeting;
- The speaker is criticising elected members and/or staff;
- The speaker is being repetitious, disrespectful or offensive;
- The speaker has previously spoken on the same issue;
- The matter is subject to legal proceedings; and
- The matter is subject to a hearing, including the hearing of submissions where the local authority or committee sits in a quasi-judicial capacity.

16.3 Questions of a deputation

At the conclusion of the deputation members may, with the permission of the Chairperson, ask questions of any speakers. Questions are to be confined to obtaining information or clarification on matters raised by the deputation.

16.4 Resolutions

Any debate on a matter raised in a deputation must occur at the time at which the matter is scheduled to be discussed on the meeting agenda and once a motion has been moved and seconded.

17. Petitions

17.1 Form of petitions

Petitions may be presented to the local authority or any of its committees, local boards or community boards, as long as the subject matter falls within the terms of reference of the intended meeting.

Petitions must contain at least 20 signatures and consist of fewer than 150 words (not including signatories). They must be received by the chief executive at least 5 working days before the date of the meeting at which they will be presented.

Petitions must not be disrespectful, use offensive language or include malicious statements (see standing order 19.9 on qualified privilege). They may be written in English or te reo Māori. Petitioners planning to present their petition in te reo or sign language should advise the chief executive in time to allow translation services to be arranged.

17.2 Petition presented by petitioner

A petitioner who presents a petition to the local authority or any of its committees and subcommittees, local boards or community boards, may speak for 5 minutes (excluding questions) about the petition, unless the meeting resolves otherwise. The Chairperson must terminate the presentation of the petition if he or she believes the petitioner is being disrespectful, offensive or making malicious statements.

Where a petition is presented as part of a deputation or public forum the speaking time limits relating to deputations or public forums shall apply. The petition must be received by the chief executive at least 5 working days before the date of the meeting concerned.

17.3 Petition presented by member

Members may present petitions on behalf of petitioners. In doing so, members must confine themselves to presenting:

- a) The petition;
- b) The petitioners' statement; and
- c) The number of signatures.

18. Exclusion of public

18.1 Motions and resolutions to exclude the public

Members of a meeting may resolve to exclude the public from a meeting. The grounds for exclusion are those specified in section 48 of LGOIMA (see Appendix 1).

Every motion to exclude the public must be put while the meeting is open to the public, and copies of the motion must be available to any member of the public who is present. If the motion is passed the resolution to exclude the public must be in the form set out in schedule 2A of LGOIMA (see Appendix 2). The resolution must state:

- a) The general subject of each matter to be excluded;
- b) The reason for passing the resolution in relation to that matter; and
- c) The grounds on which the resolution is based.

The resolution will form part of the meeting's minutes.

s. 48 LGOIMA.

18.2 Specified people may remain

Where a meeting resolves to exclude the public, the resolution may provide for specified persons to remain if, in the opinion of the meeting, they will assist the meeting to achieve its purpose. Any such resolution must state, in relation to the matter to be discussed, how the knowledge held by the specified people is relevant and be of assistance.

No such resolution is needed for people who are entitled to be at the meeting, such as relevant staff and officials contracted to the council for advice on the matter under consideration.

s.48 (6) LGOIMA.

18.3 Public excluded items

The chief executive must place in the public-excluded section of the agenda any items that he or she reasonably expects the meeting to consider with the public excluded. The public excluded section of the agenda must indicate the subject matter of the item and the reason the public are excluded.

s.46A (8) LGOIMA.

18.4 Non-disclosure of information

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

This restriction does not apply where a meeting has resolved to make the information publicly available or where the chief executive has advised, in writing, that one or both of the following apply:

- a) There are no grounds under LGOIMA for withholding the information; and
- b) The information is no longer confidential.

18.5 Release of information from public excluded session

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

Each public excluded meeting must consider and agree by resolution, what, if any, information will be released to the public. In addition the chief executive may release information which has been considered at a meeting from which the public has been excluded

where it is determined the grounds to withhold the information no longer exist. The chief executive will inform the subsequent meeting of the nature of the information released.

19. Voting

19.1 Decisions by majority vote

Unless otherwise provided for in the LGA 2002, other legislation or standing orders, the acts of and questions before a local authority (or local and community boards) must be decided at a meeting through a vote exercised by the majority of the members of that meeting voting.

cl. 24 (1), Schedule 7, LGA 2002.

19.2 Open voting

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

cl. 24 (3) Schedule 7, LGA 2002.

19.3 Casting vote

The Mayor, Chairperson or any other person presiding at a meeting has a deliberative vote; and in the case of an equality of votes, does not have a casting vote (and therefore the act or question is defeated and the status quo is preserved).

cl. 24 (2) Schedule 7, LGA 2002.

19.4 Method of voting

The method of voting must be as follows:

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

19.5 Calling for a division

When a division is called, the chief executive (or their delegate) must record the names of the members voting for and against the motion and abstentions and provide the names to the Chairperson to declare the result. The result of the division must be entered into the minutes and include members' names and the way in which they voted.

The Chairperson may call a second division where there is confusion or error in the original division.

19.6 Recording of votes

Where a member or members have abstained or voted against a carried motion, the vote(s) or abstention will be immediately recorded for the accuracy of the record.

Recording any other matters e.g. reason for the vote or abstention is not permitted.

19.7 Members may abstain

Any member may abstain from voting.

20. Conduct

20.1 Calling to order

When the Chairperson calls members to order they must be seated and stop speaking. If the members fail to do so, the Chairperson may direct that they should leave the meeting immediately for a specified time.

20.2 Behaviour consistent with Code of Conduct

No member, at any meeting, may act inconsistently with their Code of Conduct or speak or act in a manner which is disrespectful of other members, staff or the public.

20.3 Retractions and apologies

In the event of a member or speaker who has been disrespectful of another member or contravened the council's Code of Conduct, the Chairperson may call upon that member or speaker to withdraw the offending comments, and may require them to apologise. If the member refuses to do so the Chairperson may direct that they should leave the meeting immediately for a specified time and/or make a complaint under the Code of Conduct.

20.4 Disorderly conduct

Where the conduct of a member is disorderly or is creating a disturbance the Chairperson may require that member to leave the meeting immediately for a specified time.

If the disorder continues the Chairperson may adjourn the meeting for a specified time. At the end of this time the meeting must resume and decide, without debate, whether the meeting should proceed or be adjourned.

The Chairperson may also adjourn the meeting if other people cause disorder or in the event of an emergency.

20.5 Contempt

Where a member is subject to repeated cautions by the Chairperson for disorderly conduct the meeting may, should it so decide, resolve that the member is in contempt. Any such resolution must be recorded in the meeting's minutes.

20.6 Removal from meeting

A member of the police or authorised security personnel may, at the Chairperson's request, remove or exclude a member from a meeting.

This standing order will apply where the Chairperson has ruled that the member should leave the meeting and the member has refused or failed to do so; or has left the meeting and attempted to re-enter it without the Chairperson's permission.

20.7 Financial conflicts of interests

Every member present at a meeting must declare any direct or indirect financial interest that they hold in any matter being discussed at the meeting, other than an interest that they hold in common with the public.

No member may vote on, or take part in, a discussion about any matter in which they have a direct or indirect financial interest unless an exception set out in s.6 LAMIA applies to them, or the Auditor-General has granted them an exemption or declaration under s.6.

Members with a financial interest should physically withdraw themselves from the table unless the meeting is in public excluded in which case they should leave the room.

Neither the Chairperson nor the meeting may rule on whether a member has a financial interest in the matter being discussed. The minutes must record any declarations of financial interests and the member's abstention from any discussion and voting on the matter.

s. 6 & 7 LAMIA.

20.8 Non-financial conflicts of interests

Non-financial interests always involve questions of judgement and degree about whether the responsibility of a member of a local authority (or local or community board) could be affected by some other separate interest or duty of that member in relation to a particular matter. If a member considers that they have a non-financial conflict of interest in a matter they must not take part in the discussions about that matter or any subsequent vote.

The member must leave the table when the matter is considered, but does not need to leave the room. The minutes must record the declaration and member's subsequent abstention from discussion and voting.

Neither the Chairperson nor the meeting may rule on whether a member has a non-financial interest in the matter being discussed.

20.9 Qualified privilege for meeting proceedings

Any oral statement made at any meeting of the local authority in accordance with the rules adopted by the local authority for guiding its proceedings is privileged, unless the statement is proved to have been made with ill will or took improper advantage of the occasion of publication.

s. 53, LGOIMA.

20.10 Qualified privilege additional to any other provisions

The privilege referred to above is in addition to any other privilege, whether absolute or qualified, that applies as a result of any other enactment or rule of law applying to any meeting of the local authority.

s. 53, LGOIMA.

20.11 Electronic devices at meetings

Electronic devices and phones can only be used to advance the business of a meeting.

Personal use may only occur at the discretion of the chair. A Chairperson may require that an electronic device is switched off if its use is likely to distract a meeting from achieving its business or a member is found to be receiving information or advice from sources not present at the meeting which may affect the integrity of the proceedings.

21. General rules of debate

21.1 Chairperson may exercise discretion

The application of any procedural matters in this section of the standing orders, such as the number of times a member may speak or when a chair can accept a procedural motion to close or adjourn a debate, is subject to the discretion of the Chairperson.

21.2 Time limits on speakers

The following time limits apply to members speaking at meetings:

- a) Movers of motions when speaking to the motion – not more than 5 minutes;
- b) Movers of motions when exercising their right of reply – not more than 5 minutes; and
- c) Other members – not more than 5 minutes.

Time limits can be extended if a motion to that effect is moved, seconded and supported by a majority of members present.

21.3 Questions to staff

During a debate members can ask staff questions about the matters being discussed. Questions must be asked through the Chairperson and how the question should be dealt with is at the Chairperson's discretion.

21.4 Questions of clarification

At any point of a debate a member may ask the Chairperson for clarification about the nature and content of the motion which is the subject of the debate and the particular stage the debate has reached.

21.5 Members may speak only once

A member may not speak more than once to a motion at a meeting of the council, except with permission of the Chairperson. Members can speak more than once to a motion at a committee or subcommittee meeting with the chairperson's permission.

21.6 Limits on number of speakers

If three speakers have spoken consecutively in support of, or in opposition to, a motion, the Chairperson may call for a speaker to the contrary. If there is no speaker to the contrary, the Chairperson must put the motion after the mover's right of reply.

Members speaking must, if requested by the Chairperson, announce whether they are speaking in support of, or opposition to, a motion.

21.7 Seconder may reserve speech

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

21.8 Speaking only to relevant matters

Members may speak to any matter before the meeting; a motion or amendment which they propose; and to raise a point of order arising out of debate, but not otherwise. Members must confine their remarks strictly to the motion or amendment they are speaking to.

The Chairperson's rulings on any matters arising under this standing order are final and not open to challenge.

21.9 Restating motions

At any time during a debate a member may ask, for their information, that the Chairperson restate a motion and any amendments; but not in a manner that interrupts a speaker.

21.10 Criticism of resolutions

A member speaking in a debate may not unduly criticise the validity of any resolution except by a notice of motion to amend or revoke the resolution.

21.11 Objecting to words

When a member objects to any words used by another member in a speech and wants the minutes to record their objection, they must object at the time when the words are used and before any other member has spoken. The Chairperson must order the minutes to record the objection.

21.12 Right of reply

The mover of an original motion has a right of reply. A mover of an amendment to the original motion does not. In their reply, the mover must confine themselves to answering previous speakers and not introduce any new matters.

A mover's right of reply can only be used once. It can be exercised either at the end of the debate on the original, substantive or substituted motion or at the end of the debate on a proposed amendment.

However, the original mover may reserve their right of reply and speak once to the principal motion and once to each amendment without losing that right of reply. If a closure motion is carried the mover of the motion has the right of reply before the motion or amendment is put to the vote.

21.13 No other member may speak

In exercising a right of reply, no other member may speak:

- a) After the mover has started their reply;
- b) After the mover has indicated that they want to forego this right; and
- c) Where the mover has spoken to an amendment to the original motion and the Chairperson has indicated that he or she intends to put the motion.

21.14 Adjournment motions

The carrying of any motion to adjourn a meeting must supersede other business still remaining to be disposed of. Any such business must be considered at the next meeting. Business referred to, or referred back to, a specified committee or local or community board, is to be considered at the next ordinary meeting of that committee or board, unless otherwise specified.

21.15 Chairperson's acceptance of closure motions

The Chairperson may only accept a closure motion where there have been at least two speakers for and two speakers against the motion that is proposed to be closed, or the Chairperson considers it reasonable to do so.

However, the Chairperson must put a closure motion if there are no further speakers in the debate. When the meeting is debating an amendment, the closure motion relates to the amendment. If a closure motion is carried, the mover of the motion under debate has the right of reply after which the Chairperson puts the motion or amendment to the vote.

22. General procedures for speaking and moving motions

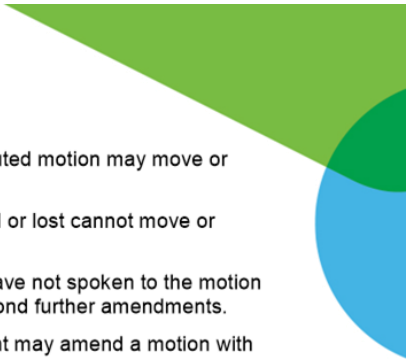
22.1 Options for speaking and moving

This subsection provides three options for speaking and moving motions and amendments at a meeting of a local authority, its committees and subcommittees, and any local or community boards.

Option C applies unless, on the recommendation of the chairperson at the beginning of a meeting, the meeting resolves [by simple majority] to adopt either Option A or Option B for the meeting generally, or for any specified items on the agenda.

22.2 Option A

- The mover and seconder of a motion cannot move or second an amendment. (This does not apply when the mover or seconder of a motion to adopt a report of a committee wants to amend an item in the report. In this case the original mover or seconder may also propose or second the suggested amendment).

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- Only members who have not spoken to the original or substituted motion may move or second an amendment to it.
 - The mover or seconder of an amendment whether it is carried or lost cannot move or second a subsequent amendment.
 - Members can speak to any amendment and, provided they have not spoken to the motion or moved or seconded an amendment, they can move or second further amendments.
 - The meeting by agreement of the majority of members present may amend a motion with the agreement of the mover and seconder.

22.3 Option B

- The mover and seconder of a motion cannot move or second an amendment. (This does not apply when the mover or seconder of a motion to adopt a report of a committee wants to amend an item in the report. In this case the original mover or seconder may also propose or second the suggested amendment).
- Any members, regardless of whether they have spoken to the original or substituted motion, may move or second an amendment to it.
- The mover or seconder of an amendment that is carried can move or second a subsequent amendment. A mover or seconder of an amendment which is lost cannot move or second a subsequent amendment.
- Members can speak to any amendment.
- The meeting by agreement of the majority of members present may amend a motion with the agreement of the mover and seconder.

22.4 Option C

- The mover and seconder of a motion can move or second an amendment.
- Any members, regardless of whether they have spoken to the original or substituted motion, may move or second an amendment to it.
- The mover or seconder of an amendment whether it is carried or lost can move or second further amendments.
- Members can speak to any amendment.
- The meeting by agreement of the majority of members present may amend a motion with the agreement of the mover and seconder.

22.5 Procedure if no resolution reached

If no resolution is reached the Chairperson may accept a new motion to progress the matter under discussion.

23. Motions and amendments

23.1 Proposing and seconding motions

All motions and amendments moved during a debate must be seconded (including notices of motion). The Chairperson may then state the motion and propose it for discussion.

Amendments and motions that are not seconded are not valid and are not entered in the minutes.

23.2 Motions in writing

The Chairperson may require movers of motions and amendments to provide them in writing, signed by the mover.

23.3 Motions expressed in parts

The Chairperson, or any member, can require a motion that has been expressed in parts to be decided part by part.

23.4 Substituted motion

Where a motion is subject to an amendment the meeting may substitute the motion with the amendment, provided the mover and seconder of the original motion agree to its withdrawal. All members may speak to the substituted motion.

23.5 Amendments to be relevant and not direct negatives

Every proposed amendment must be relevant to the motion under discussion. Proposed amendments cannot be similar to an amendment that has already been lost. An amendment cannot be a direct negative to the motion or the amended motion.

Please note that amendments that are significantly different must comply with the decision-making provisions of the Part 6, LGA 2002.

23.6 Chairperson may recommend amendment

A Chairperson, when moving the adoption of a recommendation from a committee or sub-committee to the council can include in the motion an amendment to the committee or sub-committee's recommendation.

23.7 Foreshadowed amendments

The meeting must dispose of an existing amendment before a new amendment can be foreshadowed. However, members may notify the Chairperson that they intend to move further amendments as well as the nature of the content of those amendments.

23.8 Lost amendments

Where an amendment is lost, the meeting will resume the debate on the original or substituted motion. Any member who has not spoken to that motion may speak to it, and may move or second a further amendment.

23.9 Carried amendments

Where an amendment is carried the meeting will resume the debate on the original motion as amended. This will now be referred to as the substantive motion. Members who have not spoken to the original motion may speak to the substantive motion, and may move or second a further amendment to it.

23.10 Where a motion is lost

In a situation where a motion that recommends a course of action is lost a new motion, with the consent of the Chairperson, may be proposed to provide direction.

23.11 Withdrawal of motions and amendments

Once a motion or amendment which has been seconded has been put to the meeting by the Chairperson the mover cannot withdraw it without the consent of the majority of the members who are present and voting.

The mover of an original motion, which has been subject to an amendment that has been moved and seconded, cannot withdraw the original motion until the amendment has either been lost or withdrawn by agreement, as above.

23.12 No speakers after reply or motion has been put

A member may not speak to any motion once:

- a) The mover has started their right of reply in relation to the motion; and
- b) The Chairperson has started putting the motion.

24. Revocation or alteration of resolutions**24.1 Member may move revocation of a decision**

A member may give the chief executive a notice of motion for the revocation or alteration of all or part of a previous resolution of the council, subordinate body, local or community board. The notice must set out:

- a) The resolution or part of the resolution which the member proposes to revoke or alter;
- b) The meeting date when the resolution was passed;
- c) The motion, if any, which the member proposes to replace it with; and
- d) Sufficient information to satisfy the decision-making provisions of sections 77-82 of the LGA 2002.

If the mover of the notice of motion is unable to provide this information, or the decision is likely to be deemed a significant decision, the notice of motion should provide that the proposal is referred to the chief executive for consideration and report.

24.2 Revocation must be made by the body responsible for the decision

If a resolution is made under delegated authority by a committee, subcommittee or subordinate decision-making body, or a local or community board, only that body may revoke or amend the resolution, assuming the resolution is legally made.

This provision does not prevent the body that made the delegation from removing or amending a delegation given to a subordinate body or local board or community board.

cl. 30 (6) Schedule 7, LGA 2002.

24.3 Requirement to give notice

A member must give notice to the chief executive at least 5 working days before the meeting at which it is proposed to consider the motion. The notice is to be signed by not less than one

third of the members of the local authority, including vacancies. Notice can be sent via email and include the scanned electronic signatures of members. If the notice of motion is lost, no similar notice of motion which is substantially the same in purpose and effect may be accepted within the next twelve months.

24.4 Restrictions on actions under the affected resolution

Once a notice of motion to revoke or alter a previous resolution has been received no irreversible action may be taken under the resolution in question until the proposed notice of motion has been dealt with.

Exceptions apply where, in the opinion of the Chairperson:

- a) The practical effect of delaying actions under the resolution would be the same as if the resolution had been revoked;
- b) By reason of repetitive notices, the effect of the notice is an attempt by a minority to frustrate the will of the local authority or the committee that made the previous resolution.

In either of these situations, action may be taken under the resolution as though no notice of motion had been given to the chief executive.

24.5 Revocation or alteration by resolution at same meeting

A meeting may revoke or alter a previous resolution made at the same meeting where, during the course of the meeting, it receives fresh facts or information concerning the resolution. In this situation 75 per cent of the members present and voting must agree to the revocation or alteration.

24.6 Revocation or alteration by recommendation in report

The local authority, on a recommendation in a report by the Chairperson, chief executive, or any committee or subcommittee, local or community board, may revoke or alter all or part of a resolution passed by a previous meeting. The chief executive must give at least two clear working days' notice of any meeting that will consider a revocation or alteration recommendation.

cl. 30 (6) Schedule 7, LGA 2002.

25. Procedural motions

25.1 Procedural motions must be taken immediately

A procedural motion to close or adjourn a debate will take precedence over other business, except points of order and rights of reply. If the procedural motion is seconded the Chairperson must put it to the vote immediately, without discussion or debate. A procedural motion to close or adjourn debate can be taken after two speakers have spoken for the motion and two against or, in the chairperson's opinion, it is reasonable to accept the closure motion.

25.2 Procedural motions to close or adjourn a debate

Any member who has not spoken on the matter under debate may move any one of the following procedural motions to close or adjourn a debate:

- a) That the meeting be adjourned to the next ordinary meeting (unless the member states an alternative time and place);
- b) that the motion under debate should now be put (a closure motion);
- c) That the item being discussed should be adjourned to a specified time and place and not be further discussed at the meeting;
- d) That the item of business being discussed should lie on the table and not be further discussed at this meeting; (items lying on the table at the end of the triennium will be deemed to have expired); and
- e) That the item being discussed should be referred (or referred back) to the relevant committee or local or community board.

A member seeking to move a procedural motion must not interrupt another member who is already speaking.

25.3 Voting on procedural motions

Procedural motions to close or adjourn a debate must be decided by a majority of all members who are present and voting. If the motion is lost no member may move a further procedural motion to close or adjourn the debate within the next 15 minutes.

25.4 Debate on adjourned items

When debate resumes on items of business that have been previously adjourned all members are entitled to speak on the items.

25.5 Remaining business at adjourned meetings

Where a resolution is made to adjourn a meeting, the remaining business will be considered at the next meeting.

25.6 Business referred to the council, committee or local or community board

Where an item of business is referred (or referred back) to a committee or a local or community board, the committee or board will consider the item at its next meeting unless the meeting resolves otherwise.

25.7 Other types of procedural motions

The Chairperson has discretion about whether to allow any other procedural motion that is not contained in these standing orders.

26. Points of order

26.1 Members may raise points of order

Any member may raise a point of order when they believe these standing orders have been breached. When a point of order is raised, the member who was previously speaking must stop speaking and sit down (if standing).

26.2 Subjects for points of order

A member who is raising a point of order must state precisely what its subject is. Points of order may be raised for the following subjects:

- a) Disorder – to bring disorder to the attention of the Chairperson;
- b) Language – to highlight use of disrespectful, offensive or malicious language;
- c) Irrelevance – to inform the chair that the topic being discussed is not the matter currently before the meeting;
- d) Misrepresentation – to alert the chair of a misrepresentation in a statement made by a member, an officer or a council employee;
- e) Breach of standing order – to highlight a possible breach of a standing order while also specifying which standing order is subject to the breach; and
- f) Recording of words – to request that the minutes record any words that have been the subject of an objection.

26.3 Contradictions

Expressing a difference of opinion or contradicting a statement by a previous speaker does not constitute a point of order.

26.4 Point of order during division

A member may not raise a point of order during a division, except with the permission of the Chairperson.

26.5 Chairperson's decision on points of order

The Chairperson may decide a point of order immediately after it has been raised, or may choose to hear further argument about the point before deciding. The Chairperson's ruling on any point of order, and any explanation of that ruling, is not open to any discussion and is final.

27. Notices of motion

27.1 Notice of intended motion to be in writing

Notice of intended motions must be in writing signed by the mover, stating the meeting at which it is proposed that the intended motion be considered, and must be delivered to the chief executive at least 5 clear working days before such meeting. [Notice of an intended motion can be sent via email and include the scanned electronic signature of the mover].

Once the motion is received the chief executive must give members notice in writing of the intended motion at least 2 clear working days' notice of the date of the meeting at which it will be considered.

27.2 Refusal of notice of motion

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

- a) Is disrespectful or which contains offensive language or statements made with malice; or

- b) Is not related to the role or functions of the local authority or meeting concerned; or
- c) Contains an ambiguity or a statement of fact or opinion which cannot properly form part of an effective resolution, and where the mover has declined to comply with such requirements as the chief executive officer may make; or
- d) Is concerned with matters which are already the subject of reports or recommendations from a committee to the meeting concerned; or
- e) Fails to include sufficient information as to satisfy the decision-making provisions of s.77-82 LGA 2002; or
- f) Concerns a matter where decision-making authority has been delegated to a subordinate body or a local or community board.

Reasons for refusing a notice of motion should be provided to the mover. Where the refusal is due to (f) the notice of motion may be referred to the appropriate committee or board.

27.3 Mover of notice of motion

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

27.4 Alteration of notice of motion

Only the mover, at the time the notice of motion is moved and with the agreement of a majority of those present at the meeting, may alter a proposed notice of motion. Once moved and seconded no amendments may be made to a notice of motion.

27.5 When notices of motion lapse

Notices of motion that are not moved when called for by the Chairperson must lapse.

27.6 Referral of notices of motion

Any notice of motion received that refers to a matter ordinarily dealt with by a committee of the local authority or a local or community board must be referred to that committee or board by the chief executive.

Where notices are referred the proposer of the intended motion, if not a member of that committee, must have the right to move that motion and have the right of reply, as if a committee member.

27.7 Repeat notices of motion

When a motion has been considered and rejected by the local authority or a committee, no similar notice of motion which, in the opinion of the Chairperson, may be accepted within the next 12 months, unless signed by not less than one third of all members, including vacancies.

Where a notice of motion has been adopted by the local authority no other notice of motion which, in the opinion of the Chairperson has the same effect, may be put while the original motion stands.

28. Minutes

28.1 Minutes to be evidence of proceedings

The local authority, its committees, subcommittees and any local and community boards must keep minutes of their proceedings. These minutes must be kept in hard or electronic copy, authorised by a Chairperson's manual or electronic signature once confirmed by resolution at a subsequent meeting. Once authorised the minutes are the prima facie evidence of the proceedings they relate to.

cl. 28 Schedule 7, LGA 2002.

28.2 Matters recorded in minutes

The chief executive must keep the minutes of meetings. The minutes must record:

- a) The date, time and venue of the meeting;
- b) The names of the members present;
- c) The Chairperson;
- d) Any apologies or leaves of absences;
- e) The arrival and departure times of members;
- f) Any failure of a quorum;
- g) A list of any external speakers and the topics they addressed;
- h) A list of the items considered;
- i) The resolutions and amendments related to those items including those that were lost, provided they had been moved and seconded in accordance with these standing orders;
- j) The names of all movers, and seconders;
- k) Any objections made to words used;
- l) All divisions taken and, if taken, a record of each members' vote;
- m) The names of any members requesting that their vote or abstention be recorded;
- n) Any declarations of financial or non-financial conflicts of interest;
- o) The contempt, censure and removal of any members;
- p) Any resolutions to exclude members of the public;
- q) The time at which the meeting concludes or adjourns; and
- r) The names of people permitted to stay in public excluded.

Please Note: hearings under the RMA, Dog Control Act 1996 and Sale and Supply of Alcohol Act 2012 may have special requirements for minute taking.

28.3 No discussion on minutes

The only topic that may be discussed at a subsequent meeting, with respect to the minutes, is their correctness.

28.4 Minutes of last meeting before election

The chief executive and the relevant Chairpersons must sign, or agree to have their digital signature inserted, the minutes of the last meeting of the local authority and any local and community boards before the next election of members.

29. Keeping a record

29.1 Maintaining accurate records

A local authority must create and maintain full and accurate records of its affairs, in accordance with normal, prudent business practice, including the records of any matter that is contracted out to an independent contractor.

All public records that are in its control must be maintained in an accessible form, so as to be able to be used for subsequent reference.

s. 17 Public Records Act 2005.

29.2 Method for maintaining records

Records of minutes may be kept in hard copy (Minute Books) and/or in electronic form. If minutes are stored electronically the repository in which they are kept must meet the following requirements:

- a) The provision of a reliable means of assuring the integrity of the information is maintained; and
- b) The information is readily accessible so as to be usable for subsequent reference.

s. 229(1) of the Contract and Commercial Law Act 2017.

29.3 Inspection

Whether held in hard copy or in electronic form minutes must be available for inspection by the public.

s. 51 LGOIMA.

29.4 Inspection of public excluded matters

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

Referenced documents

- Commissions of Inquiry Act 1908
- Crimes Act 1961
- Contract and Law Act 2017
- Financial Markets Conduct Act 2013
- Local Authorities (Members' Interests) Act 1968 (LAMIA)
- Local Electoral Act 2001 (LEA)
- Local Government Act 1974 and 2002 (LGA)
- Local Government Official Information and Meetings Act 1987 (LGOIMA)
- Marine Farming Act 1971
- Public Records Act 2005
- Resource Management Act 1991 (RMA)
- Sale and Supply of Alcohol Act 2012
- Secret Commissions Act 1910
- Securities Act 1978

Appendix 1: Grounds to exclude the public

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

A1 That good reason exists for excluding the public from the whole or any part of the proceedings of any meeting as the public disclosure of information would be likely:

- a) To prejudice the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial; or
- b) To endanger the safety of any person.

A2 That the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information where the withholding of the information is necessary to:

- a) Protect the privacy of natural persons, including that of deceased natural persons; or
- b) Protect information where the making available of the information would:
 - i. Disclose a trade secret; or
 - ii. Be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information.

In the case only of an application for a resource consent, or water conservation order, or a requirement for a designation or heritage order, under the Resource Management Act 1991, to avoid serious offence to tikanga Māori, or to avoid the disclosure of the location of waahi tapu; or

- c) Protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information would:
 - i. Be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied; or
 - ii. Be likely otherwise to damage the public interest.
- d) Avoid prejudice to measures protecting the health or safety of members of the public; or
- e) Avoid prejudice to measures that prevent or mitigate material loss to members of the public; or
- f) Maintain the effective conduct of public affairs through –the protection of such members, officers, employees, and persons from improper pressure or harassment; or
- g) Maintain legal professional privilege; or
- h) Enable any Council holding the information to carry out, without prejudice or disadvantage, commercial activities; or
- i) Enable any Council holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations); or
- j) Prevent the disclosure or use of official information for improper gain or improper advantage.

See s.7 LGOIMA 1987.

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

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

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

A4 That the purpose of the whole or the relevant part of the proceedings of the meeting is to consider a recommendation made to that Council by an Ombudsman under section 30(1) or section 38(3) of this Act (in the case of a Council named or specified in Schedule 1 to this Act).

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

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

See s. 48 LGOIMA.

Appendix 2: Sample resolution to exclude the public


In accordance with section 48(1) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by section 6 or section 7 of that Act (or sections 6, 7 or 9 of the Official Information Act 1982, as the case may be), it is moved:

1. that the public is excluded from:

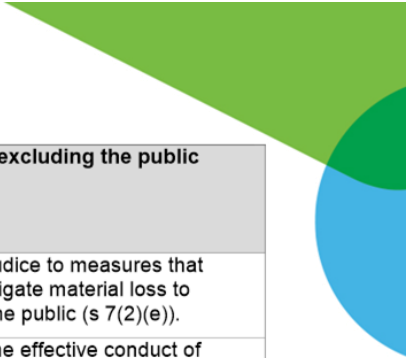
- The whole of the proceedings of this meeting; (deleted if not applicable)
- The following parts of the proceedings of this meeting, namely; (delete if not applicable)

The general subject of the matters to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds for excluding the public, as specified by s 48(1) of the Local Government Official Information and Meetings Act 1987, are set out below:

Meeting Item No. and subject	Reason for excluding the public	Grounds for excluding the public
		To prevent the disclosure of information which would— <ul style="list-style-type: none"> i. be contrary to the provisions of a specified enactment; or ii. constitute contempt of court or of the House of Representatives (s.48(1)(b)).
		To consider a recommendation made by an Ombudsman (s. 48(1)(c)).
		To deliberate on matters relating to proceedings where: <ul style="list-style-type: none"> i. a right of appeal lies to a court or tribunal against the final decision of the councils in those proceedings; or ii. the council is required, by an enactment, to make a recommendation in respect of the matter that is the subject of those proceedings (s.48(1)(d)).
		To deliberate on proceedings in relation to an application or objection under the Marine Farming Act 1971 (s.48(1)(d)).
		To carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations) (s 7(2)(i)).



Meeting Item No. and subject	Reason for excluding the public	Grounds for excluding the public
		To protect the privacy of natural persons, including that of deceased natural persons (s 7(2)(a)).
		To maintain legal professional privilege (s 7(2)(g)).
		To prevent the disclosure or use of official information for improper gain or advantage (s. 7(2)(j)).
		To protect information which if public would; <ul style="list-style-type: none"> i. disclose a trade secret; or ii. unreasonably prejudice the commercial position of the person who supplied or who is the subject of the information (s 7(2)(b)).
		To avoid serious offence to Tikanga Māori, or the disclosure of the location of waahi tapu in relation to an application under the RMA 1991 for; <ul style="list-style-type: none"> • a resource consent, or • a water conservation order, or • a requirement for a designation or • an heritage order, (s 7(2)(ba)).
		To protect information which is subject to an obligation of confidence where the making available of the information would be likely to: <ul style="list-style-type: none"> i. prejudice the supply of similar information, or information from the same source, where it is in the public interest that such information should continue to be supplied; or ii. would be likely otherwise to damage the public interest (s 7(2)(c)).
		To avoid prejudice to measures protecting the health or safety of members of the public (s 7(2)(d)).

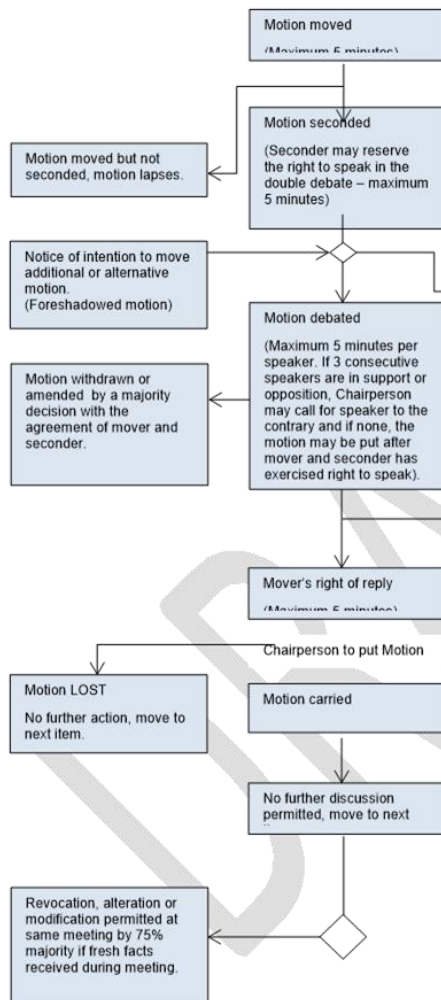


Meeting Item No. and subject	Reason for excluding the public	Grounds for excluding the public
		To avoid prejudice to measures that prevent or mitigate material loss to members of the public (s 7(2)(e)).
		To maintain the effective conduct of public affairs by protecting members or employees of the Council in the course of their duty, from improper pressure or harassment (s 7(2)(f)(ii)).
		To enable the council to carry out, without prejudice or disadvantage, commercial activities (s 7(2)(h)).

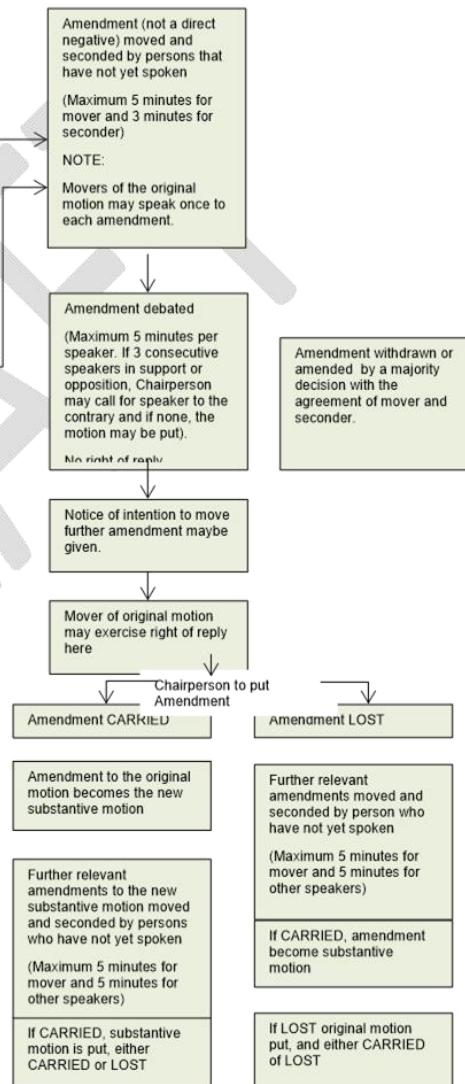
2. That (name of person(s)) is permitted to remain at this meeting after the public has been excluded because of their knowledge of (specify topic under discussion). This knowledge, which will be of assistance in relation to the matter to be discussed, is relevant to that matter because (specify). (Delete if inapplicable.)

Appendix 3: Motions and amendments (Option A)

Motions without amendments

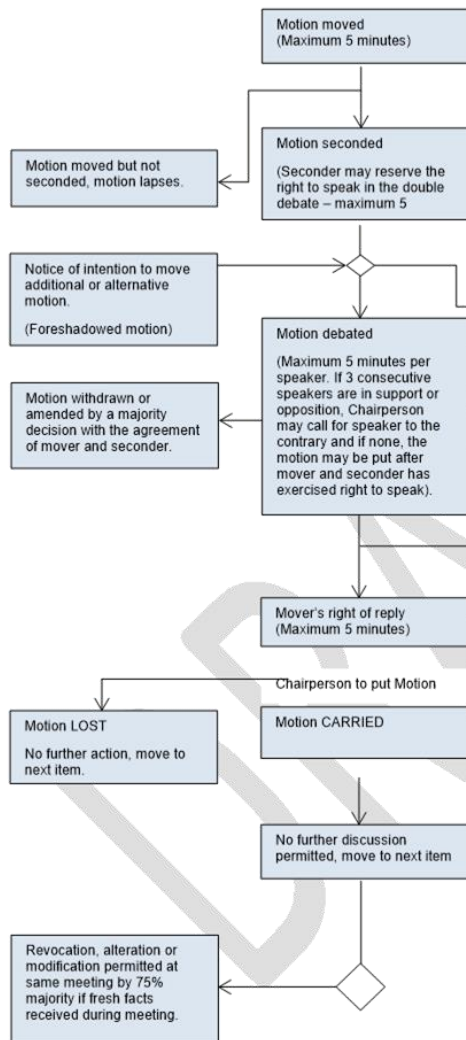


Motions with amendments

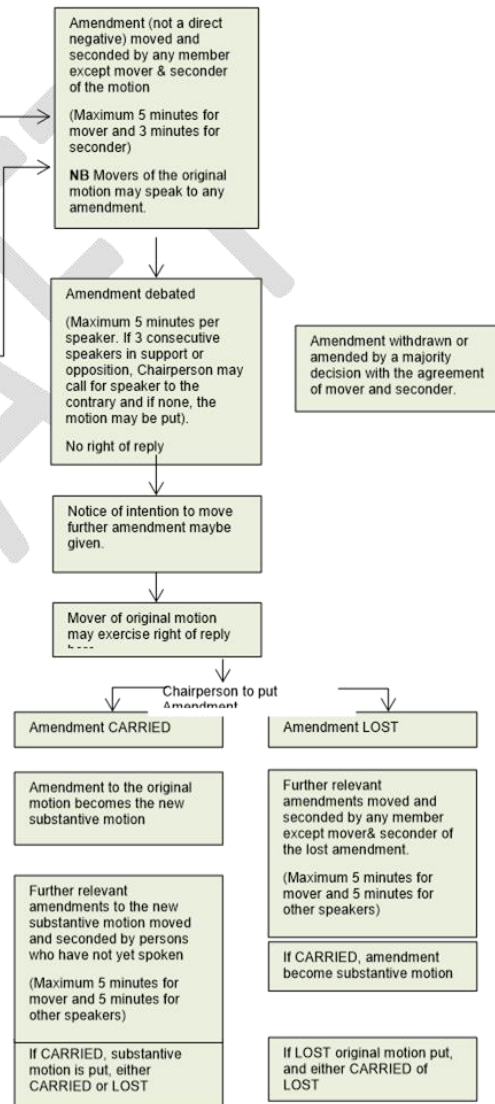


Appendix 4: Motions and amendments (Option B)

Motions without amendments

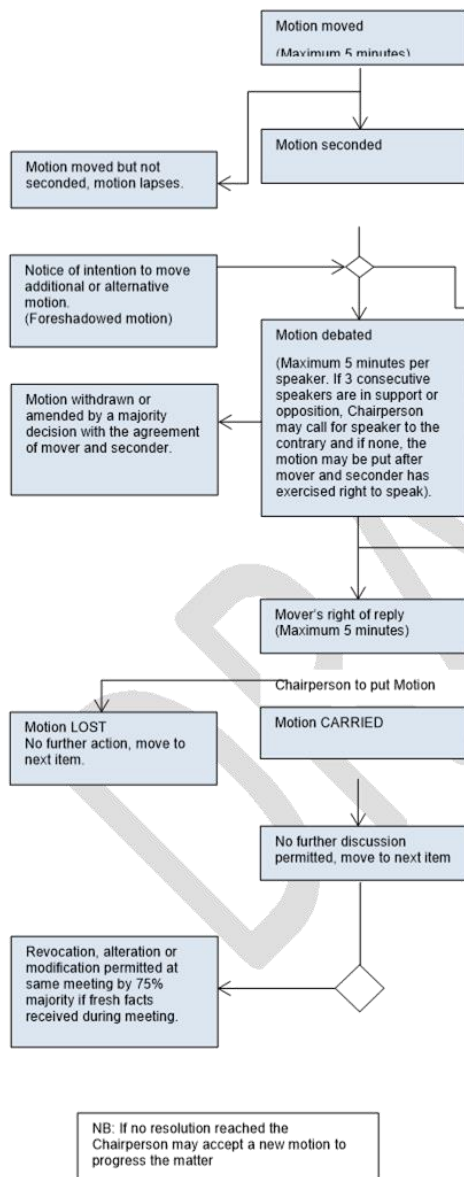


Motions with amendments

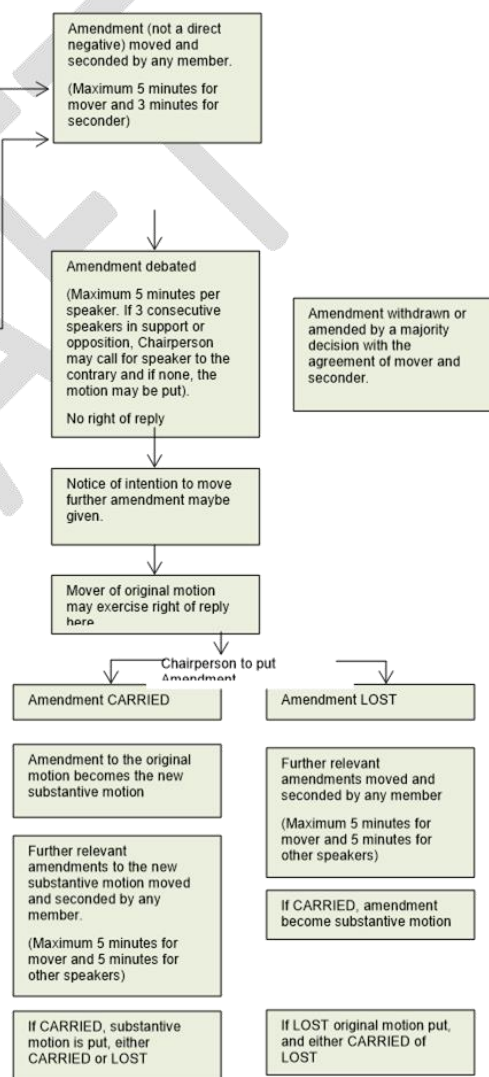


Appendix 5: Motions and amendments (Option C)

Motions without amendments



Motions with amendments



Appendix 6: Table of procedural motions

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

Motion	Has the Chair discretion to refuse this Motion?	Is seconder required?	Is discussion in order?	Are amendments in order?	Is mover of procedural motion entitled to reply?	Are previous participants in debate entitled to move this motion?	Can a speaker be interrupted by the mover of this motion?	If lost, can motion be moved after an interval?	Position if an amendment is already before the Chair	Position if a procedural motion is already before the Chair	Remarks
the local authority or to the relevant committee"				back etc only					referred to the committee		
f) "Points of order"	No – but may rule against	No	Yes – at discretion of Chairperson	No	No	Yes	Yes	No	Point of order takes precedence	Point of order takes precedence	See standing order 3.14

Appendix 7: Webcasting protocols

The provisions are intended as a good practice guide to local authorities that are webcasting meetings or planning to do so.

1. The default shot will be on the Chairperson or a wide-angle shot of the meeting room.
2. Cameras will cover a member who is addressing the meeting. Cameras will also cover other key participants in a meeting, including staff when giving advice and members of the public when addressing the meeting during the public input time.
3. Generally interjections from other members or the public are not covered. However if the Chairperson engages with the interjector, the interjector's reaction can be filmed.
4. PowerPoint presentations, recording of votes by division and other matters displayed by overhead projector may be shown.
5. Shots unrelated to the proceedings, or not in the public interest, are not permitted.
6. If there is general disorder or a disturbance from the public gallery, coverage will revert to the Chairperson.
7. Appropriate signage will be displayed both in and outside the meeting room alerting people that the proceedings are being web cast.

Appendix 8: Powers of a Chairperson

This Appendix sets out the specific powers given to the Chairperson contained in various parts of these Standing Orders.

Chairperson to decide all questions

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

Chairperson to decide points of order

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

Items not on the agenda

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

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

Chairperson's report

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

Chairperson's recommendation

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

Chairperson's voting

The Chairperson at any meeting has a deliberative vote and, in the case of equality of votes, has a casting vote where standing orders make such provision.

Motion in writing

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

Motion in parts

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

Notice of motion

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

- a) Is disrespectful or which contains offensive language or statements made with malice; or
- b) Is not within the scope of the role or functions of the local authority; or
- c) Contains an ambiguity or statement of fact or opinion which cannot properly form part of an effective resolution, and the mover has declined to comply with such requirements as the chief executive may have made; or

- d) Is concerned with matters which are already the subject of reports or recommendations from a committee to the meeting concerned.

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

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

Action on previous resolutions

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

Repeat notice of motion

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

Revocation or alteration of previous resolution

A Chairperson may recommend in a report to the local authority the revocation or alteration of all or part of any resolution previously passed, and the local authority meeting may act on such a recommendation in accordance with the provisions in these standing orders.

Chairperson may call a meeting

The Chairperson:

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

Irrelevant matter and needless repetition

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

Taking down words

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

Explanations

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

Chairperson rising

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

Members may leave places

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

Priority of speakers

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

Minutes

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

Questions of speakers

The Chairperson may permit members to ask questions of speakers under public forum or deputations/presentations by appointment, for the purpose of obtaining information or clarification on matters raised by the speaker.

Withdrawal of offensive or malicious expressions

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

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

Chairperson's rulings

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

Disorderly behaviour

The Chairperson may:

- a) Require any member or member of the public whose conduct is disorderly or who is creating a disturbance, to withdraw immediately from the meeting for a time specified by the Chairperson.
- b) Ask the meeting to hold in contempt, any member whose conduct is grossly disorderly and where the meeting resolves to find the member in contempt, that resolution must be recorded in the minutes.

Failure to leave meeting

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

Audio or audio visual attendance

Where the technology is available and a member is attending a meeting by audio or audio-visual link, the Chairperson must ensure that:

- a) The technology for the link is available and of suitable quality; and
- b) Procedures for using the technology in the meeting will ensure that:
 - i. Everyone participating in the meeting can hear each other;
 - ii. The member's attendance by audio or audio-visual link does not reduce their accountability or accessibility in relation to the meeting;

- iii. The requirements of Part 7 of LGOIMA are met; and
- iv. The requirements in these standing orders are met.

If the Chairperson is attending by audio or audio visual link then chairing duties will undertaken by the deputy chair or a member who is physically present.

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Appendix 9: Mayors' powers to appoint under s.41A

The role of a Mayor is:

- a) To provide leadership to councillors and the people of the city or district.
- b) To lead development of the council's plans (including the long-term and annual plans), policies and budgets for consideration by councillors.

The Mayor has authority to:

- a) Appoint the deputy Mayor.
- b) Establish Council committees, their terms of reference, appoint the Chairperson of each of those committees and the members.
- c) Appoint themselves as the Chairperson of a committee.
- d) Decline to exercise the powers under clause a) and b) above but may not delegate those powers to another person.

The Council retains the ability to:

- a) Remove a deputy Mayor appointed by the Mayor.
- b) Discharge or reconstitute a committee established by the Mayor.
- c) Discharge a committee Chairperson who has been appointed by the Mayor.

The Mayor is a member of each committee of the Council.

Appendix 10: Process for removing a Chairperson or deputy Mayor from office

1. At a meeting that is in accordance with this clause, a territorial authority or regional council may remove its Chairperson, deputy Chairperson, or deputy Mayor from office.
 2. If a Chairperson, deputy Chairperson, or deputy mayor is removed from office at that meeting, the territorial authority or regional council may elect a new Chairperson, deputy Chairperson, or deputy mayor at that meeting.
 3. A meeting to remove a Chairperson, deputy Chairperson, or deputy Mayor may be called by:
 - a) A resolution of the territorial authority or regional council; or
 - b) A requisition in writing signed by the majority of the total membership of the territorial authority or regional council (excluding vacancies).
 4. A resolution or requisition must:
 - a) Specify the day, time, and place at which the meeting is to be held and the business to be considered at the meeting; and
 - b) Indicate whether or not, if the Chairperson, deputy Chairperson, or deputy Mayor is removed from office, a new Chairperson, deputy Chairperson, or deputy Mayor is to be elected at the meeting if a majority of the total membership of the territorial authority or regional council (excluding vacancies) so resolves.
 5. A resolution may not be made and a requisition may not be delivered less than 21 days before the day specified in the resolution or requisition for the meeting.
 6. The chief executive must give each member notice in writing of the day, time, place, and business of any meeting called under this clause not less than 14 days before the day specified in the resolution or requisition for the meeting.
 7. A resolution removing a Chairperson, deputy Chairperson, or deputy Mayor carries if a majority of the total membership of the territorial authority or regional council (excluding vacancies) votes in favour of the resolution.
- cl. 18 Schedule 7, LGA 2002.

Appendix 11: Workshops

Definition of workshop

Workshops, however described, provide opportunities for members to discuss particular matters, receive briefings and provide guidance for officials. Workshops are not meetings and cannot be used to either make decisions or come to agreements that are then confirmed without the opportunity for meaningful debate at a formal meeting.

Application of standing orders to workshops

Standing orders do not apply to workshops and briefings. The Chairperson or workshop organisers will decide how the workshop, briefing or working party should be conducted.

Calling a workshop

Workshops, briefings and working parties may be called by:

- a) A resolution of the local authority or its committees
- b) The Mayor,
- c) A committee Chairperson or
- d) The chief executive.

Process for calling workshops

The chief executive will give at least 24 hours' notice of the time and place of the workshop and the matters to be discussed at it. Notice may be given by whatever means are reasonable in the circumstances. Any notice given must expressly:

- a) State that the meeting is a workshop;
- b) Advise the date, time and place; and
- c) Confirm that the meeting is primarily for the provision of information and discussion, and will not make any decisions or pass any resolutions.

Public notice of a workshop is not required and workshops can be either open to the public or public excluded.

Record of workshop

A written record of the workshop should be kept and include:

- Time, date, location and duration of workshop;
- Person present; and
- General subject matter covered.

Appendix 12: Sample order of business

Open section

- a) Apologies
- b) Declarations of interest
- c) Confirmation of minutes
- d) Leave of absence
- e) Acknowledgements and tributes
- f) Petitions
- g) Public input
- h) Local and/or community board input
- i) Extraordinary business
- j) Notices of motion
- k) Reports of committees
- l) Reports of local and/or community boards
- m) Reports of the chief executive and staff
- n) Mayor, deputy Mayor and elected members' reports (information)

Public excluded section

- o) Reports of committees
- p) Reports of the chief executive and staff
- q) Mayor, deputy Mayor and elected members' reports (information)

Appendix 13: Process for raising matters for a decision

Matters requiring a decision may be placed on an agenda of a meeting by a:

- Report of chief executive;
- Report of a Chairperson;
- Report of a committee;
- Report of a community and/or local board; or
- Notice of motion from a member.

Where a matter is urgent and has not been placed on an agenda, it may be brought before a meeting as extraordinary business by a:

- Report of chief executive; or
- Report of Chairperson.

Although out of time for a notice of motion, a member may bring an urgent matter to the attention of the meeting through the meeting chair.

3. 2019-2022 ELECTED MEMBERS' CODE OF CONDUCT

<i>Type of Report:</i>	Legal and Operational
<i>Legal Reference:</i>	Local Government Act 2002
<i>Document ID:</i>	885122
<i>Reporting Officer/s & Unit:</i>	Devorah Nicuarta-Smith, Team Leader Governance

3.1 Purpose of Report

To present the 2019-2022 Elected Member's Code of Conduct for adoption.

Officer's Recommendation

That Council:

- a. Adopt the 2019-2022 Elected Members' Code of Conduct

Mayor's Recommendation

That the Council resolve that the officer's recommendation be adopted.

3.2 Background Summary

Under clause 15, schedule 7 of the Local Government Act 2002 (October 2019 reprint) a local authority must adopt a code of conduct for its members; this may be replaced or amended, but cannot be revoked without a replacement.

The amendment or adoption of a new code of conduct requires the support by vote of at least 75% of those members present at the meeting.

The elected members' code of conduct outlines the understandings and expectations on all members as to how they will conduct themselves, and must be complied with (clause 15(2) and 15(3), schedule 7, Local Government Act 2002). It also outlines the procedure that will be followed where it is believed that a member may not have followed the code.

3.3 Issues

As all local authorities (councils) must have a code of conduct in place, and many of the expectations held of elected members are similar across the country, in recent years Local Government New Zealand (LGNZ) have begun preparing a model template that can be used by councils for this purpose.

The latest iteration of the model code was released by LGNZ in 2019. This has been reviewed by the incoming elected members and no changes posited. The model code is now brought to Council for formal adoption

3.4 Significance and Engagement

The amendment or adoption of a code of conduct is directed by the Local Government Act 2002 and does not trigger Council's Significance and Engagement Policy or any other consultation requirements.

3.5 Implications

Financial

N/A

Social & Policy

The adoption of a code of conduct for elected members is required by law. It is a public document, and contributes towards the ability of Council to meet its requirements under section 39 of the Local Government Act 2002 that the expected conduct of elected member be understood both by the members and the community.

Risk

N/A

3.6 Options

The options available to Council are as follows:

- a. To adopt the 2019 LGNZ model template for the elected members' code of conduct as the 2019-2022 code of conduct
- b. To maintain the current code of conduct for the 2019-2022 triennium

3.7 Development of Preferred Option

It is recommended that the 2019 LGNZ template be adopted for the 2019-2022; significant work is always undertaken by LGNZ in their document reviews to ensure they are refined, clear, and reflect contemporary matters of importance.

3.8 Attachments

A 2019-2022 Code of Conduct - DRAFT [↓](#)



Elected Members' Code of Conduct

Adopted on

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1. Introduction

The Code of Conduct (the Code) sets out the standards of behaviour expected from elected members in the exercise of their duties. Its purpose is to:

- Enhance the effectiveness of the local authority and the provision of good local government of the community, city, district or region;
- Promote effective decision-making and community engagement;
- Enhance the credibility and accountability of the local authority to its communities; and
- Develop a culture of mutual trust, respect and tolerance between the members of the local authority and between the members and management.
- This purpose is given effect through the values, roles, responsibilities and specific behaviours agreed in the code.

2. Scope

The Code has been adopted in accordance with clause 15(1) of Schedule 7 of the Local Government Act 2002 (LGA 2002) and applies to all members, including the members of any local boards as well as the members of any community boards that have agreed to adopt it. The Code is designed to deal with the behaviour of members towards:

- Each other;
- The Chief Executive and staff;
- The media; and
- The general public.


It is also concerned with the disclosure of information that members receive in their capacity as elected members and information which impacts on the ability of the local authority to give effect to its statutory responsibilities.

The Code can only be amended (or substituted by a replacement Code) by a vote of at least 75 per cent of members present at a meeting when amendment to the Code is being considered. The Code should be read in conjunction with the Council's Standing Orders.

3. Values

The Code is designed to give effect to the following values:

1. Public interest: members will serve the best interests of the people within their community, district or region and discharge their duties conscientiously, to the best of their ability.
2. Public trust: members, in order to foster community confidence and trust in their Council, will work together constructively in an accountable and transparent manner;
3. Ethical behaviour: members will act with honesty and integrity at all times and respect the impartiality and integrity of officials;
4. Objectivity: members will make decisions on merit; including appointments, awarding contracts, and recommending individuals for rewards or benefits.
5. Respect for others: will treat people, including other members, with respect and courtesy, regardless of their race, age, religion, gender, sexual orientation, or disability.

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6. Duty to uphold the law: members will comply with all legislative requirements applying to their role, abide by the Code of Conduct and act in accordance with the trust placed in them by the public.
 7. Equitable contribution: members will take all reasonable steps to fulfil the duties and responsibilities of office, including attending meetings and workshops, preparing for meetings, attending civic events, and participating in relevant training seminars.
 8. Leadership: members will actively promote and support these principles and ensure they are reflected in the way in which the Council operates, including a regular review and assessment of the Council's collective performance.¹

These values complement, and work in conjunction with, the principles of s14 of the LGA 2002 and the governance principles of s39 of the LGA 2002.

4. Role and responsibilities

The Code of Conduct is designed to strengthen the good governance of your city, district or region. Good governance requires that the complementary roles of the governing body and the administration are understood and respected. These roles involve:

4.1 Members

The role of the governing body includes:

- Representing the interests of the people of the city, district or region;
- Developing and adopting plans, policies and budgets;
- Monitoring the performance of the Council against stated goals and objectives set out in its long term plan;
- Providing prudent stewardship of the Council's resources;
- Employing and monitoring the performance of the Chief Executive; and
- Ensuring the Council fulfils its responsibilities to be a 'good employer' and meets the requirements of the Health and Safety at Work Act 2015.

4.2 Chief Executive

The role of the Chief Executive includes:

- Implementing the decisions of the Council;
- Ensuring that all responsibilities delegated to the Chief Executive are properly performed or exercised;
- Ensuring the effective and efficient management of the activities of the local authority;
- Maintaining systems to enable effective planning and accurate reporting of the financial and service performance of the local authority;
- Providing leadership for the staff of the Council; and
- Employing, on behalf of the Council, the staff of the local authority, (including negotiation of the terms of employment for those staff).

¹ See Code of Conduct Guide for examples.

The Chief Executive is the only person directly employed by the Council itself (s.42 LGA 2002). All concerns about the performance of an individual member of staff must, in the first instance, be referred to the Chief Executive.

5. Relationships

This section of the Code sets out agreed standards of behaviour between members; members and staff; and members and the public. Any failure by a member to comply with the provisions of this section can represent a breach of the Code.

5.1 Relationships between members

Given the importance of relationships to the effective performance of the Council, members will conduct their dealings with each other in a manner that:

- Maintains public confidence;
- Is open, honest and courteous;
- Is focused on issues rather than personalities;
- Avoids abuse of meeting procedures, such as a pattern of unnecessary notices of motion and/or repetitious points of order; and
- Avoids aggressive, bullying or offensive conduct, including the use of disrespectful or malicious language.

Please note, nothing in this section of the Code is intended to limit robust debate.

5.2 Relationships with staff

An important element of good governance involves the relationship between a Council, its chief executive and its staff. Members will respect arrangements put in place to facilitate this relationship, and:

- Raise any concerns about employees, officers or contracted officials with the Chief Executive;
- Raise any concerns about the performance or behaviour of the Chief Executive with the Mayor/Chair or the chairperson of the Chief Executive Performance Review Committee (however described);
- Make themselves aware of the obligations that the Council and the Chief Executive have as employers and observe these requirements at all times, such as the duty to be a good employer;
- Treat all employees with courtesy and respect and not publicly criticise any employee; and
- Observe any protocols put in place by the Chief Executive concerning contact between members and employees.

Please note, elected members should be aware that failure to observe this portion of the Code may compromise the Council's obligations to be a good employer and consequently expose the Council to civil litigation or affect the risk assessment of Council's management and governance control processes undertaken as part of the Council's annual audit.

5.3 Relationship with the public

Given the vital role that democratic local government plays in our communities it is important that Councils have the respect and trust of their citizens. To facilitate trust and respect in their Council members will:

- Ensure their interactions with citizens are fair, honest and respectful;
- Be available to listen and respond openly and honestly to citizens' concerns;
- Represent the views of citizens and organisations accurately, regardless of the member's own opinions of the matters raised; and
- Ensure their interactions with citizens and communities uphold the reputation of the local authority.

6. Media and social media

The media play an important role in the operation and efficacy of our local democracy. In order to fulfil this role the media needs access to accurate and timely information about the affairs of Council. Any failure by member to comply with the provisions of this section can represent a breach of the Code.

In dealing with the media elected members must clarify whether they are communicating a view endorsed by their Council, committee or community board, or are expressing a personal view.

Members are free to express a personal view to the media or social media at any time, provided the following rules are observed:

- Comments shall be consistent with the Code;
- Comments must not purposefully misrepresent the views of the Council or the views of other members;
- Social media pages controlled by members and used for making observations relevant to their role as an elected members should be open and transparent, except where abusive or inflammatory content is being posted; and
- Social media posts about other members, council staff or the public must be consistent with section five of this Code. (See Appendix A for guidelines on the personal use of social media).

7. Information

Access to information is critical to the trust in which a local authority is held and its overall performance. A failure to comply with the provisions below can represent a breach of the Code.

7.1 Confidential information

In the course of their duties members will receive information, whether in reports or through debate, that is confidential. This will generally be information that is either commercially sensitive or is personal to a particular individual or organisation. Accordingly, members agree not to use or disclose confidential information for any purpose other than the purpose for which the information was supplied to the member.

7.2 Information received in capacity as an elected member

Occasionally members will receive information from external parties which is pertinent to the ability of their Council to properly perform its statutory duties. Where this occurs, and the information does not contravene the privacy of natural persons, the member will disclose such information to other members and/or the chief executive as soon as practicable.

8. Conflicts of Interest

Elected members will maintain a clear separation between their personal interests and their duties as elected members in order to ensure that they are free from bias (whether real or perceived). Members therefore must familiarise themselves with the provisions of the Local Authorities (Members' Interests) Act 1968 (LAMIA).

Members will not participate in any Council discussion or vote on any matter in which they have a pecuniary interest, other than an interest in common with the general public. This rule also applies where the member's spouse/partner has a pecuniary interest, such as through a contract with the Council. Members shall make a declaration of interest as soon as practicable after becoming aware of any such interests.

If a member is in any doubt as to whether or not a particular course of action (including a decision to take no action) raises a conflict of interest, then the member should seek guidance from the Chief Executive immediately. Members may also contact the Office of the Auditor-General for guidance as to whether they have a pecuniary interest, and if so, may seek an exemption to allow that member to participate or vote on a particular issue in which they may have a pecuniary interest. The latter must be done before the discussion or vote.

Please note: Failure to observe the requirements of LAMIA could potentially invalidate a decision made, or the action taken, by the Council. Failure to observe these requirements could also leave the elected member open to prosecution (see Appendix B). In the event of a conviction elected members can be ousted from office.

9. Register of Interests

Members shall, at least annually, make a declaration of interest. These declarations are recorded in a public Register of Interests maintained by the Council. The declaration must include information on the nature and extent of any interest, including:

- a) Any employment, trade or profession carried on by the member or the members' spouse/partner for profit or gain;
- b) Any company, trust, partnership etc for which the member or their spouse/partner is a director, business partner or trustee;
- c) A description of any land in which the member has a beneficial interest within the jurisdiction of the local authority; and
- d) A description of any land owned by the local authority in which the member or their spouse/partner is:
 - o A tenant; or
 - o The land is tenanted by a firm in which the member or spouse/partner is a business partner; a company of which the member or spouse/partner is a director; or a trust of which the member or spouse/partner is a trustee.

- e) Any other matters which the public might reasonably regard as likely to influence the member's actions during the course of their duties as a member (if the member is in any doubt on this, the member should seek guidance from the Chief Executive).

Please note: where a member's circumstances change they must ensure that the Register of Interests is updated as soon as practicable.

10. Ethical behaviour

Members will seek to promote the highest standards of ethical conduct. Accordingly members will:

- Claim only for legitimate expenses as determined by the Remuneration Authority and any lawful policy of the Council developed in accordance with that determination;
- Not influence, or attempt to influence, any Council employee, officer or member in order to benefit their own, or families, personal or business interests;
- Only use the Council's resources (such as facilities, staff, equipment and supplies) in the course of their duties and not in connection with any election campaign or personal interests; and
- Not solicit, demand, or request any gift, reward or benefit by virtue of their position and notify the Chief Executive if any such gifts are accepted. Where a gift to the value of \$50 or more is accepted by a member, that member must immediately disclose this to the Chief Executive for inclusion in the publicly available register of interests.

Any failure by members to comply with the provisions set out in this section represents a breach of the code.

11. Creating a supportive and inclusive environment

In accordance with the purpose of the Code, members agree to take all reasonable steps in order to participate in activities scheduled to promote a culture of mutual trust, respect and tolerance. These include:

- Attending post-election induction programmes organised by the Council for the purpose of facilitating agreement on the Council's vision, goals and objectives and the manner and operating style by which members will work.
- Taking part in any assessment or evaluation of the Council's performance and operating style during the triennium.²
- Taking all reasonable steps to acquire the required skills and knowledge to effectively fulfill their Declaration of Office (the Oath) and contribute to the good governance of the city, district or region.

² A self-assessment template is provided in the Guidance of the code.

12. Breaches of the Code

Members must comply with the provisions of the code (LGA 2002, schedule 7, cl. 15(4)). Any member, or the Chief Executive, who believes that the Code has been breached by the behaviour of a member may make a complaint to that effect. All complaints will be considered in a manner that is consistent with the following principles.

12.1 Principles

The following principles will guide any processes for investigating and determining whether or not a breach under the code has occurred:

- That the approach for investigating and assessing a complaint will be proportionate to the apparent seriousness of the alleged breach;
- That the processes of complaint, investigation, advice and decision-making will be kept separate as appropriate to the nature and complexity of the alleged breach; and
- That the concepts of natural justice and fairness will apply in the determination of any complaints made under the Code. This includes, conditional on the nature of an alleged breach, directly affected parties:
 - Have a right to know that an investigation process is underway;
 - Are given due notice and are provided with an opportunity to be heard;
 - Have confidence that any hearing will be impartial;
 - Have a right to seek appropriate advice and be represented; and
 - Have their privacy respected.

12.2 Complaints

All complaints made under the code must be made in writing and forwarded to the Chief Executive. On receipt of a complaint the Chief Executive must forward the complaint to the Mayor/Chair or, where the Mayor/Chair is a party to the complaint, an independent investigator, drawn from a pool of names or agency agreed in advance.

Please note, only members and the Chief Executive may make a complaint under the code.

Complaint referred to Mayor/Chair

On receipt of a complaint made under the provisions of the Council's Code of Conduct the Mayor/Chair will, as the situation allows:

- Interview the complainant to assess the full extent of the complaint.
- Interview the member(s) subject to the complaint.
- Assess the complaint to determine materiality.
- Where a complaint is assessed by the Mayor/Chair to be trivial, frivolous or minor, either dismiss the complaint, require an apology or other course of action, or assist the relevant parties to find a mutually agreeable solution.
- Where a complaint is found to be material, or no mutually agreed solution can be reached, the Mayor/Chair will refer the complaint back to the Chief Executive who will forward it,

along with any recommendations made by the Mayor/Chair, to the Council or an adjudicative body established by the Council to assess and rule on complaints made under the Code.³

If the Mayor/Chair chooses they may, instead of undertaking an initial assessment, immediately refer the complaint to the independent investigator, via the Chief Executive.

Complaint referred to Independent Investigator

On receipt of a complaint from a member which concerns the Mayor/Chair, or from the Mayor/Chair after initial consideration, the Chief Executive will forward that complaint to an independent investigator for a preliminary assessment to determine whether the issue is sufficiently serious to be referred, with recommendations if necessary, to the Council or an adjudicative body for assessing and ruling on complaints.⁴ The process, following receipt of a complaint, will follow the steps outlined in Appendix C.

12.3 Materiality

An alleged breach under the Code is material if, in the opinion of the Mayor/Chair or independent investigator, it would bring the Council into disrepute or, if not addressed, adversely affect the reputation of a member.

An alleged breach under this Code is non-material if, in the opinion of the Mayor/Chair or independent investigator, any adverse effects are minor and no investigation or referral is warranted.

13. Penalties and actions

Where a complaint is determined to be material and referred to the Council or an adjudicative body established to consider complaints, the nature of any penalty or action will depend on the seriousness of the breach.


13.1 Material breaches

In the case of material breaches of the Code, the Council, or the adjudicative body with delegated authority, may require one of the following:

1. A letter of censure to the member;
2. A request (made either privately or publicly) for an apology;
3. Removal of certain Council-funded privileges (such as attendance at conferences);
4. Removal of responsibilities, such as committee chair, deputy committee chair or portfolio holder;
5. Restricted entry to Council offices, such as no access to staff areas (where restrictions may not previously have existed);
6. Limitation on any dealings with Council staff other than the Chief Executive or identified senior manager;

³ Advice on establishing adjudication bodies can be found in the Guide to the Code of Conduct.

⁴ On behalf of the Council the Chief Executive will, shortly after the start of a triennium, prepare, in consultation with the Mayor or Chairperson, a list of investigators for this purpose of undertaking a preliminary assessment. The Chief Executive may prepare a list specifically for his or her Council, prepare a list jointly with neighbouring Councils or contract with an agency capable of providing appropriate investigators, such as Equip.

- 
7. A vote of no confidence in the member;
 8. Suspension from committees or other bodies to which the member has been appointed; or
 9. Invitation to the member to consider resigning from the Council.

A Council or adjudicative body with delegated authority may decide that instead of a penalty, one or more of the following may be required:

- Attend a relevant training course; and/or
- Work with a mentor for a period of time; and/or
- Participate in voluntary mediation (if the complaint involves a conflict between two members); and/or
- Tender an apology.

The process is based on the presumption that the outcome of a complaints process will be made public unless there are grounds, such as those set out in the Local Government Official Information and Meetings Act 1987 (LGOIMA), for not doing so.

13.2 Statutory breaches

In cases where a breach of the Code is found to involve regulatory or legislative requirements, the complaint will be referred to the relevant agency. For example:

- Breaches relating to members' interests (where members may be liable for prosecution by the Auditor-General under LAMIA);
- Breaches which result in the Council suffering financial loss or damage (where the Auditor-General may make a report on the loss or damage under s.44 LGA 2002 which may result in the member having to make good the loss or damage); or
- Breaches relating to the commission of a criminal offence which will be referred to the Police (which may leave the elected member liable for criminal prosecution).

14. Review

Once adopted, the Code continues in force until amended by the Council. The Code can be amended at any time but cannot be revoked unless the Council replaces it with another Code. Amendments to the Code require a resolution supported by 75 per cent of the members of the Council present at the Council meeting at which the amendment is considered.

Councils are encouraged to formally review their existing Code and either amend or re-adopt it as soon as practicable after the beginning of each triennium in order to ensure that all members have the opportunity to provide their views on the Code's provisions.

Appendix A: Guidelines on the personal use of social media⁵

There's a big difference in speaking "on behalf of Council" and speaking "about" the Council. While your rights to free speech are respected, please remember that citizens and colleagues have access to what you post. The following principles are designed to help you when engaging in personal or unofficial online communications that may also refer to your Council.

1. Adhere to the Code of Conduct and other applicable policies. Council policies and legislation, such as LGOIMA and the Privacy Act 1993, apply in any public setting where you may be making reference to the Council or its activities, including the disclosure of any information online.
2. You are responsible for your actions. Anything you post that can potentially damage the Council's image will ultimately be your responsibility. You are encouraged to participate in the social media but in so doing you must exercise sound judgment and common sense.
3. Be an "advocate" for compliments and criticism. Even if you are not an official online spokesperson for the Council, you are one of its most important advocates for monitoring the social media landscape. If you come across positive or negative remarks about the Council or its activities online that you believe are important you are encouraged to share them with the governing body.
4. Let the subject matter experts respond to negative posts. Should you come across negative or critical posts about the Council or its activities you should consider referring the posts to the Council's authorised spokesperson, unless that is a role you hold, in which case consider liaising with your communications staff before responding.
5. Take care mixing your political (Council) and personal lives. Elected members need to take extra care when participating in social media. The public may find it difficult to separate personal and Council personas. Commenting online in any forum, particularly if your opinion is at odds with what Council is doing, can bring you into conflict with the Code should it not be clear that they are your personal views.
6. Never post sensitive and confidential information provided by the Council, such as confidential items, public excluded reports and/or commercially sensitive information. Such disclosure will contravene the requirements of the Code.
7. Elected Members' social media pages should be open and transparent. When commenting on matters related to the local authority no members should represent themselves falsely via aliases or differing account names or block. Neither should they block any post on any form of social media that they have control over unless there is clear evidence that the posts are actively abusive. Blocking constructive debate or feedback can be seen as bringing the whole Council into disrepute.

⁵ Based on the Ruapehu District Council Code of Conduct.

Appendix B: Legislation bearing on the role and conduct of elected members

This is a summary of the legislative requirements that have some bearing on the duties and conduct of elected members. The full statutes can be found at www.legislation.govt.nz.

The Local Authorities (Members' Interests) Act 1968

The Local Authorities (Members' Interests) Act 1968 (LAMIA) provides rules about members discussing and voting on matters in which they have a pecuniary interest and about contracts between members and the Council.

A pecuniary interest is likely to exist if a matter under consideration could reasonably give rise to an expectation of a gain or loss of money for a member personally (or for their spouse/partner or a company in which they have an interest). In relation to pecuniary interests the LAMIA applies to both contracting and participating in decision-making processes.

With regard to pecuniary or financial interests, a person is deemed to be "concerned or interested" in a contract or interested "directly or indirectly" in a decision when:

- A person, or spouse/partner, is "concerned or interested" in the contract or where they have a pecuniary interest in the decision; or
- A person, or their spouse/partner, is involved in a company that is "concerned or interested" in the contract or where the company has a pecuniary interest in the decision.

There can also be additional situations where a person is potentially "concerned or interested" in a contract or have a pecuniary interest in a decision, such as where a contract is between an elected members' family trust and the Council.

Determining whether a pecuniary interest exists

Elected members are often faced with the question of whether or not they have a pecuniary interest in a decision and if so whether they should participate in discussion on that decision and vote. When determining if this is the case or not the following test is applied:

"...whether, if the matter were dealt with in a particular way, discussing or voting on that matter could reasonably give rise to an expectation of a gain or loss of money for the member concerned." (OAG, 2001)

In deciding whether you have a pecuniary interest, members should consider the following factors:

- What is the nature of the decision being made?
- Do I have a financial interest in that decision - do I have a reasonable expectation of gain or loss of money by making that decision?
- Is my financial interest one that is in common with the public?
- Do any of the exceptions in the LAMIA apply to me?
- Could I apply to the Auditor-General for approval to participate?

Members may seek assistance from the Mayor/Chair or other person, to determine if they should discuss or vote on an issue, but ultimately it is their own judgment as to whether or not they have pecuniary interest in the decision. Any member who is uncertain as to whether they have a pecuniary interest is advised to seek legal advice. Where uncertainty exists members may adopt a least-risk approach which is to not participate in discussions or vote on any decisions.

Members who do have a pecuniary interest will declare the pecuniary interest to the meeting and not participate in the discussion or voting. The declaration and abstention needs to be recorded in the meeting minutes. (Further requirements are set out in the Council's Standing Orders.)

The contracting rule

A member is disqualified from office if he or she is "concerned or interested" in contracts with their Council if the total payments made, or to be made, by or on behalf of the Council exceed \$25,000 in any financial year. The \$25,000 limit includes GST. The limit relates to the value of all payments made for all contracts in which you are interested during the financial year. It does not apply separately to each contract, nor is it just the amount of the profit the contractor expects to make or the portion of the payments to be personally received by you.

The Auditor-General can give prior approval, and in limited cases, retrospective approval for contracts that would otherwise disqualify you under the Act. It is an offence under the Act for a person to act as a member of the Council (or committee of the Council) while disqualified.

Non-pecuniary conflicts of interest

In addition to the issue of pecuniary interests, rules and common law govern conflicts of interest more generally. These rules apply to non-pecuniary conflicts of interest, including common law rules about bias. In order to determine if bias exists or not members need to ask:

"Is there a real danger of bias on the part of the member of the decision-making body, in the sense that he or she might unfairly regard with favour (or disfavour) the case of a party to the issue under consideration?"

The question is not limited to actual bias, but relates to the appearance or possibility of bias reflecting the principle that justice should not only be done, but should be seen to be done. Whether or not members believe they are not biased is irrelevant.

Members focus should be on the nature of the conflicting interest or relationship and the risk it could pose for the decision-making process. The most common risks of non-pecuniary bias are where:

- Members' statements or conduct indicate that they have predetermined the decision before hearing all relevant information (that is, members have a "closed mind"); and
- Members have a close relationship or involvement with an individual or organisation affected by the decision.

In determining whether or not they might be perceived as biased, members must also take into account the context and circumstance of the issue or question under consideration. For example, if a member has stood on a platform and been voted into office on the promise of implementing that platform, then voters would have every expectation that the member would give effect to that promise, however he/she must still be seen to be open to considering new information (this may not apply to decisions made in quasi-judicial settings, such as an RMA hearing).

Local Government Official Information and Meetings Act 1987

The Local Government Official Information and Meetings Act 1987 sets out a list of meetings procedures and requirements that apply to local authorities and local/community boards. Of particular importance for the roles and conduct of elected members is the fact that the chairperson has the responsibility to maintain order at meetings, but all elected members

should accept a personal responsibility to maintain acceptable standards of address and debate. No elected member should:

- Create a disturbance or a distraction while another Councillor is speaking;
- Be disrespectful when they refer to each other or other people; or
- Use offensive language about the Council, other members, any employee of the Council or any member of the public.

See Standing Orders for more detail.

Secret Commissions Act 1910

Under this Act it is unlawful for an elected member (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 two years, and/or fines up to \$1000. A conviction would therefore trigger the ouster provisions of the LGA 2002 and result in the removal of the member from office.

Crimes Act 1961

Under this Act it is unlawful for an elected member (or officer) to:

- Accept or solicit for themselves (or anyone else) any gift or reward for acting or not acting in relation to the business of Council; and
- Use information gained in the course of their duties for their, or another person's, monetary gain or advantage.

Elected members convicted of these offences will automatically cease to be members.

Financial Markets Conduct Act 2013

Financial Markets Conduct Act 2013 (previously the Securities Act 1978) essentially places elected members in the same position as company directors whenever Council offers stock to the public. Elected members may be personally liable if investment documents such as a prospectus contain untrue statements and may be liable for criminal prosecution if the requirements of the Act are not met.

The Local Government Act 2002

The Local Government Act 2002 (LGA 2002) sets out the general powers of local government, its purpose and operating principles, and details the personal liability of members.

Although having qualified privilege, elected members can be held personally accountable for losses incurred by a local authority where, following a report from the Auditor General under s44 LGA 2002, it is found that one of the following applies:

- a) Money belonging to, or administered by, a local authority has been unlawfully expended; or
- b) An asset has been unlawfully sold or otherwise disposed of by the local authority; or
- c) A liability has been unlawfully incurred by the local authority; or

- d) A local authority has intentionally or negligently failed to enforce the collection of money it is lawfully entitled to receive.890

Members will not be personally liable where they can prove that the act or failure to act resulting in the loss occurred as a result of one of the following:

- a) Without the member's knowledge;
- b) With the member's knowledge but against the member's protest made at or before the time when the loss occurred;
- c) Contrary to the manner in which the member voted on the issue; and
- d) In circumstances where, although being a party to the act or failure to act, the member acted in good faith and relied on reports, statements, financial data, or other information from professional or expert advisers, namely staff or external experts on the matters.

In certain situation members will also be responsible for paying the costs of proceedings (s47 LGA 2002).

Appendix C: Process where a complaint is referred to an independent investigator

The following process is a guide only and Councils are encouraged to adapt this to their own specific circumstances.

Step 1: Chief Executive receives complaint

On receipt of a complaint under the Code, whether from a member (because the complaint involves the Mayor/Chair) or from the Mayor/Chair after an initial assessment, the Chief Executive will refer the complaint to an investigator selected from a list agreed at the start of the triennium. The Chief Executive will also:

- Inform the complainant that the complaint has been referred to the independent investigator and the name of the investigator, and refer them to the process for dealing with complaints as set out in the Code; and
- Inform the respondent that a complaint has been made against them, the name of the investigator and remind them of the process for dealing with complaints as set out in the Code.

Step 2: Investigator makes preliminary assessment

On receipt of a complaint the investigator will assess whether:

1. The complaint is trivial or frivolous and should be dismissed;
2. The complaint is outside the scope of the Code and should be re-directed to another agency or institutional process;
3. The complaint is minor or non-material; or
4. The complaint is material and a full assessment is required.

In making the assessment the investigator may make whatever initial inquiry is necessary to determine their recommendations, including interviewing relevant parties, which are then forwarded to the Council's Chief Executive. On receiving the investigator's preliminary assessment the Chief Executive will:

1. Where an investigator determines that a complaint is trivial or frivolous, inform the complainant, respondent and other members (if there are no grounds for confidentiality) of the investigator's decision.
2. In cases where the investigator finds that the complaint involves a potential legislative breach and outside the scope of the Code, forward the complaint to the relevant agency and inform the Chief Executive who will then inform the complainant, the respondent and members.

Step 3: Actions where a breach is found to be non-material

If the subject of a complaint is found to be non-material, but more than trivial or frivolous, the investigator will inform the chief executive and, if they choose, recommend a course of action appropriate to the breach, such as:

- That the respondent is referred to the Mayor/Chair for guidance; and/or
- That the respondent attend appropriate courses or programmes to increase their knowledge and understanding of the matters resulting in the complaint.

The Chief Executive will advise both the complainant and the respondent of the investigator's decision and any recommendations, neither of which are open to challenge. Any recommendations made in response to a non-material breach are non-binding on the respondent and the Council.

Step 4: Actions where a breach is found to be material

If the subject of a complaint is found to be material, the investigator will inform the Chief Executive, who will inform the complainant and respondent. The investigator will then prepare a report for the Council on the seriousness of the breach. In preparing that report, the investigator may:

- Consult with the complainant, respondent and any directly affected parties; and/or
- Undertake a hearing with relevant parties; and/or
- Refer to any relevant documents or information.

On receipt of the investigator's report, the Chief Executive will prepare a report for the relevant Council body charged with assessing and ruling on material complaints, which will meet to consider the findings and determine whether or not a penalty, or some other form of action, will be imposed. The Chief Executive's report will include the investigator's full report.

Step 5: Process for considering the investigator's report

The investigator's report will be considered by the Council or adjudicative body established for considering reports on Code of Conduct complaints, or any other body that the Council may resolve, noting that the process will meet the principles set out in section 12.1 of the Code.

The Council, or adjudicative body, will consider the Chief Executive's report in open meeting, except where the alleged breach concerns matters that justify, in accordance with LGOIMA, the exclusion of the public. Before making any decision on a specific complaint, the relevant body will give the respondent an opportunity to appear and speak in their own defense. Members with an interest in the proceedings, including the complainant and the respondent, should not take part in these proceedings in a decision-making capacity.

The form of penalty that might be applied will depend on the nature of the breach and may include actions set out in clause 13.1 of the Code.

The report, including recommendations from the adjudicative body, should that body have no formal delegations, will be heard and accepted by the Council in open session, unless grounds for excluding the public exist, without debate.

4. NAPIER CITY FLAG

<i>Type of Report:</i>	Legal and Operational
<i>Legal Reference:</i>	Her Majesty's College of Arms; Heraldry
<i>Document ID:</i>	885209
<i>Reporting Officer/s & Unit:</i>	Devorah Nicuarta-Smith, Team Leader Governance

4.1 Purpose of Report

To present the correct formal Napier City flag design for adoption.

Officer's Recommendation

That Council:

- a. Adopt the correct formal flag for Napier City
- b. Direct officers to lodge the Napier City heraldic flag design with an appropriate flag maker for future production as required.

Mayor's Recommendation

That the Council resolve that the officer's recommendation be adopted.

4.2 Background Summary

The current Napier City flag is unusual in that it contains the full Coat of Arms of Napier. A Coat of Arms is granted to an individual or entity (such as a city or municipality) for their express use. Each component of a Coat of Arms is specially selected and combined to represent its bearer. The Grant of Arms also conveys limitations on use of the Arms; for example typically the use of the Coat of Arms by a third party cannot be authorised even by the individual or entity to which they have been granted. Display of a Coat of Arms may be authorised following formal application by the person wishing to display them. The difference is that 'display' requires a suitable inscription which clearly shows whose Arms that are. One example of this are the mugs and souvenir items one may purchase in Britain which display a Coat of Arms – somewhere clearly on every item a clear inscription specifying whose Coat of Arms is shown must be included. This is very difficult in the case of a full sized flag for public display.

Further to the rules around appropriate use and display of a Coat of Arms, Napier City Council received advice in 1995 in relation to the City flag from the New Zealand Herald of Arms Extraordinary to her Majesty the Queen (the representative in New Zealand of the royal College of Arms in England), which clearly states that a full Coat of Arms should not be included on a flag.

It is important to distinguish between Napier City (the entity to which the Coat of Arms has been granted), and Napier City Council (which provides governance and management to the functions and services of Napier City on behalf of its residents). If it is wished to have a City flag which residents may be authorised to purchase and display, then the correct and traditional presentation of the flag, as defined through heraldic

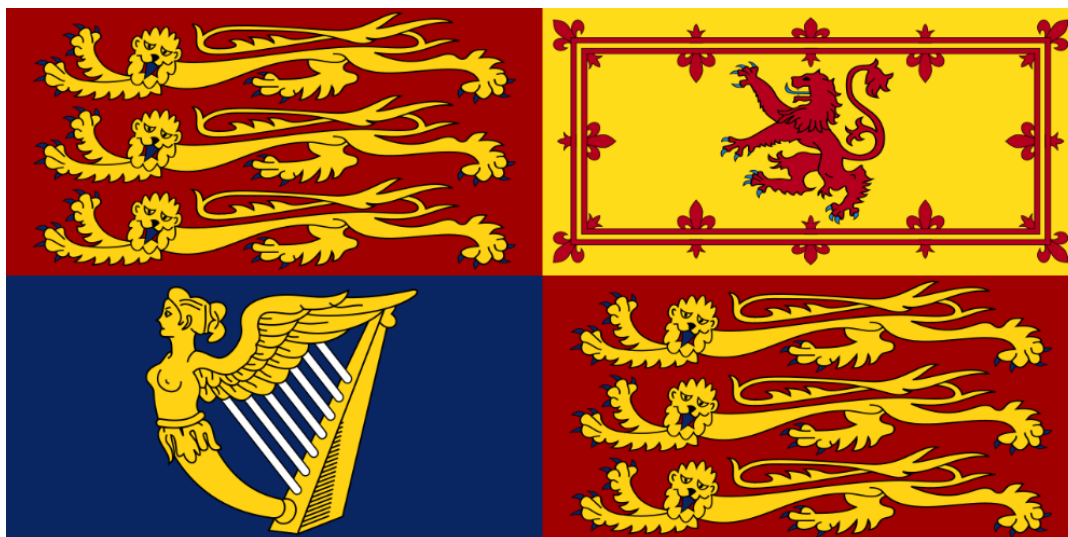
practice, is the elements of the shield of the Coat of Arms bled out into a square or an oblong. Napier City Council developed its own branding (the Norfolk pine) relatively recently and this design is used for Council related flags and banners. If Council wished to develop its own flag rather than using the current branding this could be done. However the formal flag for Napier City should be presented based correctly on the Coat of Arms, uniquely and formally granted to the City.

The British Royal Coat of Arms and Royal Standard are presented below as an example of a Coat of Arms and the corresponding flag demonstrating the expansion of the shield elements:

Royal Coat of Arms



Royal Standard



It is unclear as to why the process of correcting the Napier City flag was not undertaken at the time the advice was received in the mid-1990s.

The matter became topical again more recently when a member of the public requested authorisation to purchase and display the Napier flag which was unable to be given due to the flag's current inclusion of the entire Coat of Arms. Following conversation with the Ministry of Culture and Heritage and review of Council's archival records in relation to the flag, a correct City flag design is now brought to Council for adoption.

Once in place, Council would be able to authorise members of the public to procure for themselves a City flag which they could display. It is recommended that Council also procure several copies of the correct City flag for its own use in preference to the flag bearing the full Coat of Arms. It is important to note that should it wish to, Napier City Council could use the flag with the full Coat of Arms on behalf of the City, and it would always be retained for historical purposes.

4.3 Issues

The arms of the City of Napier, together with the crest and supporters, were granted to the City on 31 August 1951.



The arms are made up of a shield and crest, supporters and a motto scroll.

- **The Shield**

The three red roses are taken from the coat of arms of Lord Napier and Ettrick, a direct descendant of Sir Charles Napier, after whom Napier was named. The wavy undulated blue bands on the shield are the accepted heraldic symbols for coastal

towns and denote tourist resorts and ports. The Golden Fleece is the heraldic symbol of the wool industry, of which Napier is one of the largest centres in New Zealand.

- **The Crest**

The crest depicts the inverted wing and claw of a hawk, taken from the arms of Lord Hawke, a former First Lord of the Admiralty after which the province of Hawke's Bay was named. In the claw of the hawk is a Māori waihaka (bone club), representative of the Māori of the district. The full crest is mounted on the usual wreath, which is coloured blue and white.

- **The Supporters**

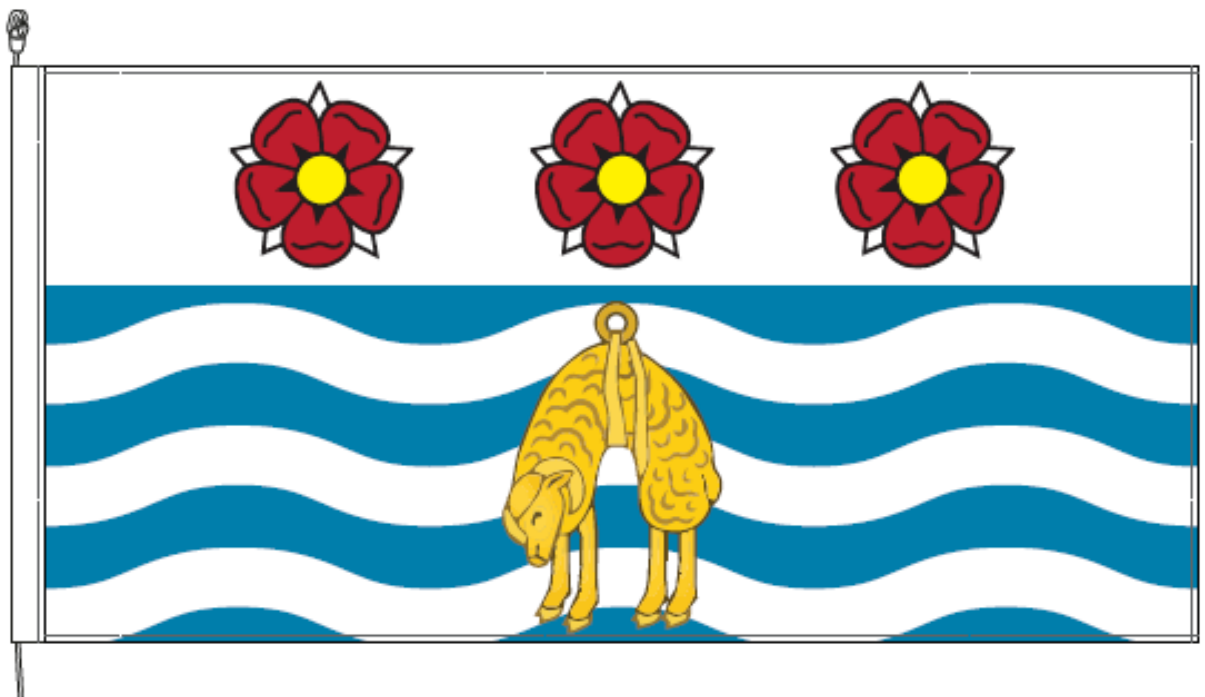
The supporters are a golden kiwi and lion, which represent Napier's dependence on New Zealand and England.

- **The Motto**

The motto "Faith and Courage" was adopted, as it was felt it reflected the courage and faith present during and after the 1931 earthquake.

Flag for the City of Napier

Based on the correct structure advised by the New Zealand Herald of Arms, the City of Napier flag should be the following design, incorporating the roses, waves and golden fleece of the shield from the Coat of Arms:



It captures the origin of the City's name of "Napier", the city's coastal presence, and the history of our community as a thriving contributor to the wool industry.

4.4 Significance and Engagement

The correct design of a heraldic flag is a specialised matter and does not trigger Council's Significance and Engagement Policy or any other consultation requirements.

4.5 Implications

Financial

Indicative quotes from a national specialist in flag making suggest that a single printed flag of 1.8m x 0.9m in size (suitable for a 5m flagpole) would be \$208 per flag for a polyknit fabric or \$292 for polybunting fabric, with a print setup charge of about \$65.

Once receiving authorisation from Council, members of the public would liaise directly with the flag maker the design is lodged with to procure their flag(s).

Social & Policy

Correcting the City flag of Napier will allow members of the public who wish to display one to receive authorisation from Council and go on to procure the flag. Currently there are limits on the ways the community can interact with this formal representation of our city.

Risk

N/A

4.6 Options

The options available to Council are as follows:

- a. To adopt the correct heraldic flag of the City of Napier, providing the option for members of the public to procure and display the flag if they wish
- b. To maintain the current flag only, with the full Coat of Arms, for Council use only.

4.7 Development of Preferred Option

It is recommended that the heraldic flag be adopted and the design lodged with an appropriate flag maker. This ensures the city is provided for correctly and that members of the public can be authorised to procure and display the flag if they wish.

4.8 Attachments

Nil

5. EMBLEM AND ENSIGN POLICY

<i>Type of Report:</i>	Operational
<i>Legal Reference:</i>	N/A
<i>Document ID:</i>	885371
<i>Reporting Officer/s & Unit:</i>	Devorah Nícuarta-Smith, Team Leader Governance

5.1 Purpose of Report

To present the Emblem and Ensign Policy for adoption

Officer's Recommendation

That Council:

- a. Adopt the Emblem and Ensign Policy, noting that this updates and replaces
 - i. Napier City Council Logo and Coat of Arms Policy 2003
 - ii. Flying of NZ & City Flags Policy 1987

Mayor's Recommendation

That the Council resolve that the officer's recommendation be adopted.

5.2 Background Summary

Although the existing logo and flag related policies were not due for review in 2019, the identification that Napier required a correction to its City flag triggered an early review as part of the wider body of work.

The Ensign and Emblem Policy incorporates, updates and builds on the information in the previous policies, and will replace them once adopted.

The Policy is intended to provide information on the heraldry of the City of Napier, rules for the appropriate use and display of the Coat of Arms and the flags of the City. The Policy also outlines the appropriate display of the New Zealand and rules in relation to half-masting.

5.3 Issues

No issues.

5.4 Significance and Engagement

This Policy reflects heraldic, cultural and legal requirements and does not trigger Council's Significance and Engagement Policy or any other consultation requirements.

5.5 Implications

Financial

N/A

Social & Policy

The Policy outlines rules and guidelines for the appropriate display of the Napier City flags and the New Zealand ensign.

Risk

N/A

5.6 Options

The options available to Council are as follows:

- a. To adopt the Ensign and Emblem Policy, recognising that it updates and replaces existing policies.

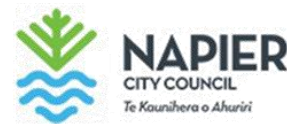
The Policy has been specifically designed to provide information as well as policy and procedural guidelines in relation to the City's heraldry and its appropriate use so these are held in one publicly available document.

5.7 Development of Preferred Option

N/A

5.8 Attachments

- A Emblem and Ensign Policy [↓](#)



Emblems and Ensign Policy			
Approved by	Council		
Department	Governance		
Original Approval Date		Review Approval Date	
Next Review Deadline		EDRMS Working Doc #	731427
Relevant Legislation	Local Government Act 2002, section 234		
NCC Documents Referenced	<p>Note that this Policy replaces and updates the following Policies:</p> <p><i>Napier City Council Logo and Coat of Arms Policy 2003</i></p> <p><i>Flying of NZ & City Flags Policy 1987</i></p>		

Purpose

To outline the history and appropriate usage of the Napier City Coat of Arms, the Napier City Council logo and Office of the Mayor logo. This policy also provides information on the Napier City flag (coat of arms), the Napier City flag (heraldic), the Napier City Council branding flag, and guidelines for display and use of these flags, as well as the New Zealand ensign.

Napier City Coat of Arms

1. The arms of the City of Napier, together with the crest and supporters, were granted to the City on 31 August 1951.



2. The arms are made up of a shield and crest, supporters and a motto scroll

The Shield

The three red roses are taken from the coat of arms of Lord Napier and Ettrick, a direct descendant of Sir Charles Napier, after whom Napier was named. The wavy undulated blue bands on the shield are the accepted heraldic symbols for coastal towns and denote tourist resorts and ports. The Golden Fleece is the heraldic symbol of the wool industry, of which Napier has been one of the largest centres in New Zealand.

The Crest

The crest depicts the inverted wing and claw of a hawk, taken from the arms of Lord Hawke, a former First Lord of the Admiralty after which the province of Hawke's Bay was named. In the claw of the hawk is a Māori waihaka (bone club), representative of the Māori of the district. The full crest is mounted on the usual wreath, which is coloured blue and white.

The Supporters

The supporters are a golden kiwi and lion, which represent Napier's dependence on New Zealand and England.

The Motto

The motto "Faith and Courage" was adopted, as it was felt it reflected the courage and faith present during and after the 1931 earthquake.

3. Appropriate use of any Coat of Arms is defined by the Local Government Act 2002 (Section 234). Penalty for conviction of an offence under this section is liable to a fine of up to \$5,000.
4. Napier City Council, as the governance body of the City, is the sole and exclusive owner of the Coat of Arms.
5. The Grant of Arms is a limited right, and Council cannot authorise a third party to use the Arms (use means using as if they were one's own, which if they are not is usurpation).
6. Council may however authorise the display of the Coat of Arms (and any imitations of it, such as the Office of the Mayor Logo) by external parties on receipt of a request in writing, and may impose conditions on the display. Display requires that a suitable inscription be included on the display item which clearly shows whose Arms they are.
7. Council may at any time revoke and vary the conditions of authorisation by notifying the person to whom consent was given.
8. The Coat of Arms (or any imitation) is not allowed to be applied to any object, or permitted to be applied to any object, for the purposes of sale without the prior written authorisation of the Council (LGA 2002 s234(a)). Where authorisation is granted, a suitable inscription must be included on the object(s) which clearly shows whose Arms they are.
9. No one can sell or offer for sale any object that has the Coat of Arms on without the prior written authorisation of the Council (LGA 2002 s234(b)). Where authorisation is granted, a suitable inscription must be included on any and all objects for sale which clearly shows whose Arms they are.
10. The Chief Executive, Directors and the Manager Design and Projects also have delegated authority to approve the display of the Napier City Council Coat of Arms on related documents, publications and materials associated to projects, activities and events that have received Council support.
11. Unauthorised use or display of the Coat of Arms for sale purposes is an offence, and could result in a fine not exceeding \$5,000 (Section 242 (2), Local Government Act 2002).

Napier City Council and Office of the Mayor Logos

12. The current Napier City Council logo and branding was launched in September 2016, maintaining some of the city's Art Deco aspects, while incorporating the overarching theme of what Napier is now - a vibrant, coastal, multi-cultural city that has taken the creativity of the past to its heart and channelled it into all sorts of fantastic culinary, viticultural, artistic, and sporting ventures.



13. Display of the Napier City Council Logo requires written authorisation of the Council before proceeding.
14. The Office of the Mayor Logo is based on the Napier City Council logo and a stylised version of the Coat of Arms. As such, under law it is considered an imitation of the Coat of Arms.

Mayoral



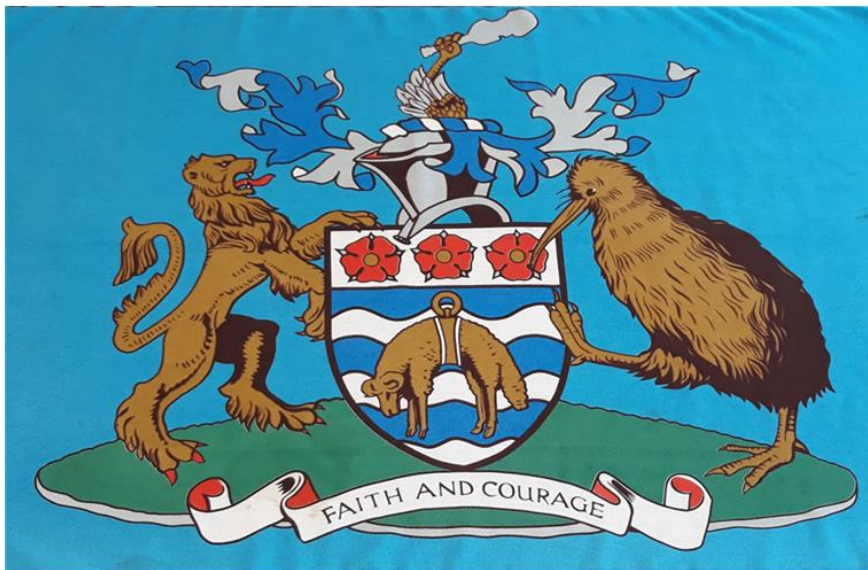
15. Council is the sole and exclusive owner of the Napier City Council logo and the Napier City Council Office of the Mayor logo.
16. Council may authorise the display of the Napier City Council logo and the Office of the Mayor logo by external parties on receipt of a request in writing, and may impose conditions on its display.
17. Council may at any time revoke and vary the conditions of consent by notifying the person to whom consent was given.
18. Although considered under law an imitation of the Coat of Arms, the Office of the Mayor's logo is a managed exception to **policy section 10** above, and display may **only** be approved by the Mayor and Council.
19. The Chief Executive, Directors and the Manager Design and Projects have delegated authority to approve the use of the Napier City Council logo on related documents, publications and materials associated to projects, activities and events that have received Council support.

20. Council's standardised branding is to be included on all Council publications.

Napier City Flags

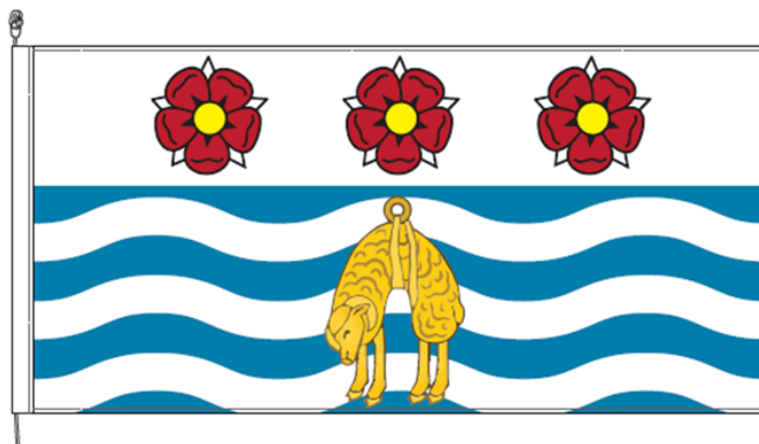
21. Napier City has three flags: the Napier City Flag (Coat of Arms), the Napier City Flag (heraldic), and the Napier City Council branded flag.
22. The Napier City flags (and the New Zealand Flag) are the responsibility of the Chief Executive's Office and may be accessed by Elected Members and Council Officers via the Executive Assistant to the Chief Executive.
23. Operational responsibility for the flying and half-masting of flags sits with the Director City Services and the Council Courier.

Napier City Flag (Coat of Arms)



24. Napier City is unique in that its primary flag presents the full coat of arms. Under the Grant of Arms, only Napier City Council as the grantee may ever use or display this flag because it bears the full Coat of Arms for the City of Napier.
25. The Napier City Flag (Coat of Arms) may, at the discretion of the Mayor/ Acting Mayor, be flown at Council's at half-mast as a sign of mourning following the death of prominent national or local citizens (i.e. past Mayors and Councillors, persons with Freedom of the City etc.).
26. In line with protocol overseen by the Ministry of Culture and Heritage the half-masting of this flag will take place only on the day or part of the day of the funeral.

Napier City Flag (heraldic)



27. The Napier City Flag (heraldic) presents the symbols from the shield of the Coat of Arms and is the formal flag of the City of Napier.
28. The Napier City Flag (Coat of Arms) may, at the discretion of the Mayor/ Acting Mayor, be flown at Council's at half-mast as a sign of mourning following the death of prominent national or local citizens (i.e. past Mayors and Councillors, persons with Freedom of the City etc.).
29. This flag may also be displayed at half-mast in mourning following the death of long serving current or previous Council officers, at the discretion of the Chief Executive and following consultation with the Mayor/ Acting Mayor.
30. In line with protocol overseen by the Ministry of Culture and Heritage the half-masting of this flag will take place only on the day or part of the day of the funeral.
31. Any members of the public wishing to display the Napier City Flag (heraldic) must request authorisation from Council. Following written authorisation they will then liaise directly with the nominated supplier to procure a copy for themselves.
32. Members of the public wishing to seek authorisation should contact the Executive Assistant to the Chief Executive who will initiate the request with Council.

Napier City Council branded flag



33. The Napier City Council branded flag is available for use by Council as required on a daily basis, and may also be flown at events and functions where Council is represented.
34. Members of the public may purchase these flags for personal display following written authorisation by the Chief Executive, by direct application to the nominated supplier.

New Zealand Ensign

35. The Ministry of Culture and Heritage is responsible for national taonga including the New Zealand Flag.
36. The New Zealand Flag can be flown any day of the year, especially on days of national commemoration, such as Anzac Day, and other important occasions.
37. The New Zealand Flag represents the people of New Zealand and should be treated with respect. To use, display, destroy, or damage the Flag in or within view of a public place with the intention of dishonouring it is an offence.
38. It's also an offence to place any letter, emblem, or representation on the Flag, unless in some advertising contexts. People who misuse the flag can be prosecuted under the Flags, Emblems, and Names Protection Act 1981.

General guidelines for display and half-masting of flags

City flag poles

39. Napier City Council has flagpoles at the following locations: the old Civic premises, the Depot, the Cenotaph, Taradale clock tower, Taradale cemetery Returns Servicemen's, Wharerangi Returned Servicemen's.
40. The New Zealand Flag will be flown on a daily basis at Council's primary civic building, excepting the duration of the Civic premises upgrade initiated in late 2017.

Display of the New Zealand Flag

41. When displaying the New Zealand Flag the guidelines of the Ministry of Culture and Heritage for positioning and presentation should always be followed. These can be accessed at: <https://mch.govt.nz/nz-identity-heritage/flags/displaying-new-zealand-flag>
42. The New Zealand Flag may be flown at half-mast as a sign of mourning on the following occasions, following direction received by email to the Chief Executive from the Chief Executive of the Ministry for Culture and Heritage:

The Sovereign

From the announcement of death up to and including the day of the funeral (except on Proclamation Day when the new sovereign is officially announced and flags are flown from the top of the mast).

The Governor-General, former Governors-General, the Prime Minister and former Prime Ministers.

On the announcement of death and the day of the funeral.

Members of the Royal Family

On the day of the funeral subject to special command from The Queen or the Governor-General.

Commonwealth Governors-General, Commonwealth Prime Ministers in office, Foreign and Commonwealth Heads of State

On the day of the funeral only.

43. When the New Zealand Flag is at half-mast no other flags may be flown above it.

44. It may not be flown at half-mast for any other occasions. If other local flags are being flown at half-mast in recognition of a prominent citizen the New Zealand Flag should remain at full mast.
45. When any email with regards to half-masting the New Zealand flag is received from the Ministry of Culture and Heritage, the Office of the Chief Executive will be liaised with immediately to advise of the notification. The Council Courier will be responsible for ensuring all New Zealand flags flying on Council flag poles are appropriately moved to half-mast.

How to half-mast a flag

46. A flag is half-masted by raising it to the top of the mast, then slowly lowering it to the half-mast position, which will depend on the size of the flag and the length of the flagpole.
47. The flag must be lowered to a position more than its own depth from the top of the flagpole to avoid the appearance of a flag which has accidentally fallen from the top of the flagpole.
48. The Flag should be raised again to the peak before lowering it for the day.

Summary of authority to approve the half-masting of flags

49. For the purposes of clarity, the following table provides a summary of who may authorise the display and or half-masting of a flag:

	NZ Flag	Napier City Flag (Coat of Arms)	Napier City Flag (Heraldic)	Napier City Council Branded Flag
Ministry of Culture and Heritage	✓			
Mayor/ Acting Mayor		✓ Half-masting only Use restricted to Napier City Council	✓ Half-masting only	✓
Chief Executive		✓ Half-masting only	✓ Half-masting only, in consultation with Mayor	✓

Policy Review

The review timeframe of this policy will be no longer than every three years.

Document History

Version	Reviewer	Change Detail	Date
1.0.0	Devorah Nícuarta-Smith	Drafting	2019, January 2020

6. REVENUE AND FINANCING POLICY REVIEW

<i>Type of Report:</i>	Legal and Operational
<i>Legal Reference:</i>	Local Government Act 2002
<i>Document ID:</i>	880867
<i>Reporting Officer/s & Unit:</i>	Caroline Thomson, Chief Financial Officer

6.1 Purpose of Report

To seek Council approval to adopt step one of a two step process to review Council's Revenue and Financing policy as required under section 101(3)(a) of the Local Government Act 2002.

Officer's Recommendation

That Council:

- a. Adopt the step one analysis for the Council activities as set out in the 'Activity Summary for step one' schedule.

Mayor's Recommendation

That the Council resolve that the officer's recommendation be adopted.

6.2 Background Summary

A review of Council's Revenue and Financing policy is currently underway. The review process is a two step process and takes a first principles approach.

As part of the first stage of the review the previous Council (over a series of 5 seminars) completed a Funding Needs Analysis (FNA). This involved the Council assessing and documenting its view for each activity on the following (as required under section 101(3)(a) of the Local Government Act 2002):

- Community outcomes to which the activity primarily contributes
- Distribution of benefits – who gets the benefit whole/part of community or individuals?
- Period the benefits are expected to occur
- Extent actions or inactions contribute to need to undertake the activity (exacerbators)
- Costs and benefits of funding the activity separately from other activities

As part of the completion of this step the Council has selected its preferred funding tools for both operational and capital expenditure for each activity. For some activities the Council has identified a percentage of either public good or private good, and for other activities, it has not. At this stage it is important for Council to confirm the tools it intends to be used and the rationale for the selection of tools, not the allocation between either public good or private good. The rationale and some content has been updated to better reflect the requirement of the LGA rather than Council's intent.

Council, at its meeting on 26 September, endorsed the FNA and recommended the new Council consider, modify if required and then adopt the attached schedule of its activities, before it considers the impact of these allocations on its community.

During November and December two seminars were held with the new Council to review the FNA resulting in some minor modifications to wording.

Step one is now complete.

Step two requires Council to consider the overall impact of any allocation of liability for revenue needs on the current and future social, economic, environmental, and cultural wellbeing of the community. This provides Council with significant scope to modify which funding tools are used and the impacts on identifiable groups. This step can only be completed after Council has formally adopted step one and has considered the impacts on the community.

6.3 Issues

Once Council has adopted step one or the Funding Needs Analysis (FNA), the following steps need to be completed before any changes to the Revenue and Financing policy (including changes to the impacts of rates) can be implemented.

1. Model the rates impact on the FNA
2. Consider the overall impacts of step 1 and update the FNA

To undertake this step the Council should have a preferred option. The FNA (Step 2) is also a requirement of section 101(3)(b) LGA.

This is an opportunity for the council to step back from the individual funding activities to consider the overall allocation of liability including impacts of rates, debt and fees and charges in the community. Ultimately, this is a political judgement. Step two involves looking carefully at the funding choices developed in step one and being clear about the reasons for modifying them.

A council must not only complete the two-stage process but also be able to show that they have done so AND that both steps have been fully documented.

3. Model and confirm the preferred rates allocation option
4. Draft Revenue and Financing policy and supporting rating policies

In addition to the Draft Revenue and Financing policy, Council may need to modify its rates remission and rates postponement policies. It is also possible that other policies including liability management, investment and development contributions or financial contributions may need to be updated.

5. Draft the proposal and supporting information for consultation

Consultation on the Revenue and Financing policy and supporting policies¹ will be required.

For a section 82 consultation the legislation lists essential information which must be included in the proposal. This essential information is:

- analysis of the options;
- copies of any policies that will need to be changed

¹ Excluding liability management and investment policies

The proposal is a primary communication document that helps the reader understand the proposal, the options council has considered, how the reader may be affected and why council prefers the proposed option. To be effective, the proposal must be concise (while meeting the legal requirements). However, it will be useful to have additional information available for those that want to dig more deeply into the matter.

6. Carry out community consultation

This is a formal step required to set a lawful rate, whether through a section 82 (LGA) consultation or section 83 (LGA) SCP.

The key things for compliance are that the proposal must contain:

- the proposal; and
- the reasons for the proposal

In an effective rating review the proposal should be a clear statement about which rates are changing. This statement should describe how rates are allocated currently and how it is proposed to allocate them in future.

The proposal should also include a summary of the other options considered and give reasons why the council considers those options aren't the best way forward for the community. These reasons may link back to the reasons given for the review at the start of the process. Status quo should be one of the options discussed, along with reasons why maintaining this approach would not be appropriate.

7. Hear submissions

8. Update and amend policies after considering submissions

9. Adopt new policies

10. Set the rates

6.4 Significance and Engagement

Step one forms the basis for the Revenue and Financing Policy with the second step requiring separate consultation as part of the 2020/21 Annual Plan.

6.5 Implications

Financial

No financial implications for step one.

Social & Policy

The Revenue and Financing policy will be updated at the completion of this review with effect 1 July 2020.

Risk

That Council does not adopt stage one which may impact on the timing of the funding review and consultation process.

6.6 Options

The options available to Council are as follows:

- a. Adopt the step one analysis for the Council activities as set out in the attached schedule.
- b. Amend step one analysis and adopt.
- c. Do not adopt the step one analysis (this would put the timing of the review and consultation at risk).

6.7 Development of Preferred Option

Adopt step one analysis for the Council activities as set out in the attached schedule.

6.8 Attachments

A Activity Summary [!\[\]\(950a62bbddad88d64435fd35607dfc42_img.jpg\)](#)

Activity	Community outcome	Who benefits?	Period of benefit	Whose acts create a need	Separate funding	Rationale	Funding sources	
							Operational	Capital
Animal control	A safe and healthy city that supports community well-being	Community as a whole Animal owners	Intergenerational	All animal owners create the need however irresponsible owners create a greater cost. Legislative (Dog Control Act)	No financial reason to separately fund	Animal control is primarily a health & safety service for the community & therefore benefits everyone. There are costs that the Council can directly attribute to individual owners.	<ul style="list-style-type: none"> General rates, Fees & charges (including infringement fees) 	<ul style="list-style-type: none"> Accumulated surpluses from General rates, fees & charges, Loans Reserves
Bay Skate	A vibrant innovative city for everyone	Direct users, local businesses, parents, tourists and visitors Community as a whole as the facility provides a safe location for users to undertake their sport	Intergenerational	Nil	Nil	Everyone has the ability to use the facility and Council can identify the users	<ul style="list-style-type: none"> General rates, Fees and charges (including Leases, retail sales, & sponsorship) 	<ul style="list-style-type: none"> Accumulated surpluses from General rates, fees & charges, Loans Reserves
Building consents	A safe and healthy city that supports community well-being	The property owner and inhabitant. There is a wider benefit from buildings being built to code	Short term	Non consented buildings, construction industry parties not complying with the building act	No benefit to separately fund	This benefits the property owner and inhabitant. There is a wider benefit from buildings being built to code.	<ul style="list-style-type: none"> Fees and charges, general rates, reserves, loans 	Nil
Cemeteries This includes the contribution that NCC makes towards HB Crematorium in Hastings	Excellence in infrastructure and public services for now and in the future	the community as a whole, any identifiable part of the community, and individuals	Intergenerational – history & physical infrastructure	No significant exacerbators	No benefit to separately fund	Wider public benefit for open space & recognition & place of remembrance. Private benefit – place where people can be interred, cost of the plot & interment	<ul style="list-style-type: none"> General rates User fees & charges 	<ul style="list-style-type: none"> Accumulated surpluses from General rates, fees & charges, Loans Reserves
City development	A vibrant innovative city for everyone	The community as a whole benefit from this activity except where there is a private plan change that has specific benefits to the applicant	The outcomes of this activity result in ongoing benefits and some of these benefits can last a significant period of time	Applicants for private plan changes	Keep as one activity as it enables a holistic approach to city planning and development.	City Development is an ongoing activity to help citizens and elected officials design and deliver the Vision for Napier City. This predominantly results in benefits for the whole community. Debt or loan funding can be used where there is large non-recurring expenditure	<ul style="list-style-type: none"> General rates, Reserves, Loans Fees and charges (where appropriate), 	No significant capital expenditure but minor capital expenditure is funded from general rates and reserves.

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Activity	Community outcome	Who benefits?	Period of benefit	Whose acts create a need	Separate funding	Rationale	Funding sources	
							Operational	Capital
Community facilities	A safe & healthy city that supports community well-being	The community as a whole including users of the facilities	Intergenerational because of the life of the facilities	Users of the facilities who put greater demands on the facilities	Currently no need to separate the funding sources	Community as a whole benefit from having these facilities available but there is the ability to identify & charge users.	<ul style="list-style-type: none"> General rates, Fees & charges, Including lease income, one off grants, naming rights 	<ul style="list-style-type: none"> Accumulated surpluses from General rates, fees & charges, Loans Reserves Grants & donations
Community strategies	Council works with & for the community	The community as a whole	The outcomes of this activity result in ongoing benefits	Antisocial behaviour by individuals and groups Legislation	No need to identify separate funding	This is a core Council activity which changes the response to the needs of the community for which everyone benefits	<ul style="list-style-type: none"> General rates, Fees & charges, Including bequest and external funding, Reserves, 	<ul style="list-style-type: none"> Accumulated surpluses from General rates, fees & charges Loans Reserves
Democracy & Governance	Council works with and for the community	The community as a whole	Short term	LGOIMA requests (vexatious & legitimate)	Not required	All residents and rate payers have equal opportunity to benefit All have the ability to contribute to this activity therefore no differential, general rates	<ul style="list-style-type: none"> General rates, Fees & charges, Including for LGOIMAs, Reserves 	Nil
Events and marketing	A vibrant innovative city for everyone	The community as a whole receives social, cultural and economic benefit Participants and/or users	Short term	No significant exacerbators	Not required	Events are a key part of the Napier City's social, economic and cultural fabric, therefore the benefits that are received are both general and specific.	<ul style="list-style-type: none"> General rates, grants, Targeted rate, Fees & charges, Including ticketing, corporate sponsorship, vendors 	Nil
Housing	A safe and healthy city that supports community well-being	Users of the facilities and the wider community	Intergenerational	Inability of other entities to provide adequate social housing to meet local demand	Not required	Responding to an identified need in our community. The users of the facilities are the primary beneficiaries of this activity.	<ul style="list-style-type: none"> Fees & charges (rentals) General rates 	<ul style="list-style-type: none"> Accumulated surpluses from Fees & charges (rentals) Loans Government grants Reserves
Inner harbour	A vibrant innovative city for everyone	The users of that facilities and the wider community in	Intergenerational	Individual undertaking Illegal activities	Not required	The users of the facilities receive a significant benefit but the wider	<ul style="list-style-type: none"> Fees and charges, General rates, 	<ul style="list-style-type: none"> Accumulated surpluses from Fees and

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Activity	Community outcome	Who benefits?	Period of benefit	Whose acts create a need	Separate funding	Rationale	Funding sources	
							Operational	Capital
		terms of the amenity value.				community receives benefit through the amenity value.	<ul style="list-style-type: none"> Reserves, surplus revenue from inner harbour land holding 	charges, general rates, reserves, <ul style="list-style-type: none"> Loans Financial and/or Development contributions.
Kennedy Park Resort	A vibrant innovative city for everyone	Direct users and ratepayers by the surplus generated. Local retail, hospitality	Intergenerational	None identified	Not required	Provides a range of affordable visitor amenities that generates a surplus for Council to use as it sees fit.	<ul style="list-style-type: none"> Fees and charges 	<ul style="list-style-type: none"> Accumulated surpluses from Fees and charges, Loans, Reserves
Lagoon farm	A sustainable city	The community as a whole (has the ability to subsidise rates).	Intergenerational	Nil	Not required	This activity currently breaks even and does not require any significant additional funding.	<ul style="list-style-type: none"> Fees and charges Reserves 	<ul style="list-style-type: none"> Accumulated surpluses from Fees and charges Reserves, Loans
Libraries	A safe & healthy city that supports community well-being	The community as a whole however it is possible to identify users	Both long and short term benefits.	Researchers, people who demand excessive staff time for professional and commercial purposes	Not required	Everyone has the ability to use the library and we can identify certain users for specific services	<ul style="list-style-type: none"> Fees & charges (fines) General rates Grants & bequests, 	<ul style="list-style-type: none"> Accumulated surpluses from Fees & charges, fines General rates Grants & bequests Loans Reserves Financial and/or Development contributions
Marine Parade pools	A safe & healthy city that supports community well-being	The community as a whole including users of the facility	Intergenerational	None identified	Not required	Everyone has the ability to use the facility and Council can identify the users	<ul style="list-style-type: none"> Fees & charges General rates 	<ul style="list-style-type: none"> Accumulated surpluses from general rates Fees & charges Loans Reserves Financial and/or Development contributions
McLean Park	A vibrant innovative city for everyone	The regional community as a whole Users, spectators, events, national, regional and local organisations, businesses	Intergenerational	None identified	Premium venue that requires additional costs	The region benefits by having this facility and those who attend or participate in events	<ul style="list-style-type: none"> Fees and charges, tickets, sponsorship, corporate box revenue, naming rights 	<ul style="list-style-type: none"> Accumulated surpluses from fees and charges, general and targeted rates, tickets, Loans Reserves,

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Activity	Community outcome	Who benefits?	Period of benefit	Whose acts create a need	Separate funding	Rationale	Funding sources	
							Operational	Capital
							<ul style="list-style-type: none"> General and Targeted rates 	<ul style="list-style-type: none"> Grants & bequests Sponsorship, & corporate box revenue, naming rights
MTG Hawkes Bay	A vibrant innovative city for everyone	The whole region, users and visitors	Intergenerational	None identified	Not required	The provision of this activity enhances the social and cultural fabric and preserves our heritage and celebrates artistic innovation for future generations. Therefore, the whole region benefits	<ul style="list-style-type: none"> General rates, Fees and charges Contribution from other local authorities Bequests Ministry of Education, grants, donations & retail sales 	<ul style="list-style-type: none"> Accumulated surpluses from General rates, fees and charges Contribution from other local authorities Bequests Ministry of Education grants Donations, Loans, Reserves Sponsorship, & naming rights
Napier Aquatic Centre	A safe & healthy city that supports community well-being	The community as a whole including users of the facility	Intergenerational	None identified	Not required	Everyone has the ability to use the facility and Council can identify the users	<ul style="list-style-type: none"> Fees & charges General rates 	<ul style="list-style-type: none"> Loans, Accumulated surpluses from general rates, fees & charges Reserves
Napier I-Site	A vibrant innovative city for everyone	Visitors, regional tour operators and accommodation providers, hospitality, local businesses	Short term expenditure with ongoing benefits Building – intergenerational equity	Cruise ships passengers and operators	Not required	Visitors, regional tour operators and accommodation providers, hospitality, local businesses therefore creating economic benefit for the city	<ul style="list-style-type: none"> General rates Fees and charges Targeted rates 	<ul style="list-style-type: none"> Accumulated surpluses from General rates Fees and charges Targeted rates Loans Reserves
Napier Municipal Theatre	A vibrant innovative city for everyone	The community as a whole including users of the facility	Intergenerational	None identified	Not required	The provision of this activity enhances the social and cultural fabric and celebrates artistic innovation for future generations. Therefore, the whole City benefits	<ul style="list-style-type: none"> General rates, Fees and charges Bequests Grants, donations & sponsorship Targeted rates 	<ul style="list-style-type: none"> Accumulated surpluses from general rates Fees and charges Bequests Grants, donations & sponsorship Loans, Reserves Naming rights

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Activity	Community outcome	Who benefits?	Period of benefit	Whose acts create a need	Separate funding	Rationale	Funding sources	
							Operational	Capital
Napier War Memorial Conference Centre	A vibrant innovative city for everyone	The immediate users. Local businesses receive a benefit from out of town users. Locals benefit from general hireage of the facility.	Intergenerational - 20-30 years	None identified	Not required Building = War Memorial Centre Activity = Conference Centre	The Napier Conference Centre is suitable for a wide range of events and attracts local, national and international conferences and events and provides a facility for the community which generates economic wellbeing.	<ul style="list-style-type: none"> Fees and charges General rates Targeted rates 	<ul style="list-style-type: none"> Accumulated surpluses from Fees and charges General rates Targeted rates Loans Reserves
National Aquarium of NZ	A vibrant innovative city for everyone	Local, domestic and international visitors Businesses and local economy Historical and heritage, customary practices – especially Maori and Pacifica	Intergenerational	Polluters, sanctuary requirements	Not required	It attracts locals and visitors to the city which provides enhances economic activity	<ul style="list-style-type: none"> Fees and charges, grants Sponsorships, bequests & philanthropic General rates, Targeted rate, 	<ul style="list-style-type: none"> Accumulated surpluses from Fees and charges General rates Targeted rates Grants Loans Reserves Naming rights
Par2 mini golf	A vibrant innovative city for everyone	Users, visitors and families	Intergenerational	None identified	Not required	It attracts locals and visitors and is a fun family friendly activity for all ages from which the Council fully recovers its cost	<ul style="list-style-type: none"> Fees and charges, retail sales General rates 	<ul style="list-style-type: none"> Accumulated surpluses from Fees and charges Reserves Loans
Parking	A vibrant innovative city for everyone	Retailers, visitors and the community as a whole and those with a parking exemption	There are assets within this activity that have an intergenerational life	Vehicle drivers, non-compliant vehicle operators and property owners within parking exemption areas.	Not significant	Parking ensures that safe parking facilities are available to the residents and visitors to Napier City to enable optimal vehicle circulation	<ul style="list-style-type: none"> Fees and charges, Targeted rates General rates Reserves 	<ul style="list-style-type: none"> Accumulated surpluses from Fees and charges Targeted rates General rates Loans Reserves Financial and/or Development contributions
Parklands residential development	A sustainable city	The community as a whole	Intergenerational	Nil	Nil	This activity current provides significant income that subsidises rates	<ul style="list-style-type: none"> Fees and charges Reserves 	<ul style="list-style-type: none"> Accumulated surpluses from Fees and charges Loans Reserves

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Activity	Community outcome	Who benefits?	Period of benefit	Whose acts create a need	Separate funding	Rationale	Funding sources	
							Operational	Capital
Property holdings	A sustainable city	The community as a whole (has the ability to subsidise rates).	Intergenerational	Non-compliant lease holders	None	This activity generates cash surpluses which enables the subsidy of rates	<ul style="list-style-type: none"> Fees and charges (lease income) Reserves 	<ul style="list-style-type: none"> Accumulated surpluses from Fees and charges (lease income) Loans Reserves
Public toilets	Excellence in infrastructure and public services for now and in the future	The community and visitors	Intergenerational (up to 20 years)	Visitors have created an additional cost. Vandalism Cruise ships Freedom campers Major inner-city events	Nil	Providing public amenities however, there is a requirement to provide these facilities for areas that have high visitor numbers	<ul style="list-style-type: none"> Fees and charges General rates Targeted rates Reserves 	<ul style="list-style-type: none"> Loans, Reserves General Rates
Regulatory solutions	A safe and healthy city that supports community well-being.	The users of the services and the community, however the effective provision of this activity results in public health and the avoidance of nuisance	Limited to the period of the operation.	Non-compliant businesses and individuals	Does not warrant separate funding	The effective provision of this activity results in public health and the avoidance of nuisance	<ul style="list-style-type: none"> Fees and charges, General rates Targeted rates Reserves 	Nil
Reserves	A safe and healthy city that supports community well-being	Occupiers, leases and hirers of the reserves Contributes to the City's green space, biodiversity and environmental outcomes Everyone benefits but the occupiers receive a higher benefit	Intergenerational - ongoing with assets having a life of greater than 10 years	Vandalism, events, theft, freedom campers	No requirement	Everyone benefits but the occupiers receive a higher benefit and therefore a range of funding sources are used.	<ul style="list-style-type: none"> General rates Fees and charges (rentals and leases) Targeted rates 	<ul style="list-style-type: none"> Accumulated surpluses from General rates, fees and charges Targeted rates, Loans, Bequests, Reserves Financial and/or Development Contributions, Grants and subsidies Naming rights & sponsorship,
Resource consents	A sustainable city	The relevant community (through the consent process), notified and non-notified consents have different levels of benefit	Short term	Resource consent holders who do not comply with the resource consent conditions. Unconsented activities. Vexatious and frivolous objectors	No benefit in further separate funding of this activity	The relevant community (through the consent process), notified and non-notified consents have different levels of benefit.	<ul style="list-style-type: none"> Fees and charges General rates Reserves 	Nil

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Activity	Community outcome	Who benefits?	Period of benefit	Whose acts create a need	Separate funding	Rationale	Funding sources	
							Operational	Capital
Sportsgrounds	Safe and healthy city that supports community well-being	People who actively participate in the sportsground Direct participants and indirect participants (spectators) Contributes to the City's green space Everyone benefits but the active participants and local businesses have a higher benefit	Intergenerational - ongoing with assets having a life of greater than 10 years	Sports people, park users, vandalism, parents, events	No requirement	Everyone benefits but the active participants and local businesses have a higher benefit and therefore a range of funding sources are used	<ul style="list-style-type: none"> General rates, Fees and charges (rentals and leases) Targeted rates 	<ul style="list-style-type: none"> Accumulated surpluses from General rates, fees and charges targeted rates Naming rights Sponsorship Loans, Bequests Reserves Financial and/or Development Contributions
Stormwater	A vibrant innovative city for everyone Excellence in infrastructure and public services for now and in the future	The community as a whole There can be identifiable parts of the community that receive higher levels of service	Intergenerational (up to 100 years)	Commercial density creates additional cost and need for the activity	Nil	The whole community benefits from the provision of storm water, however some properties based on location receive a different level of service	<ul style="list-style-type: none"> General and Targeted rates, Reserves, Fees and charges (connection fees) 	<ul style="list-style-type: none"> Accumulated surpluses from general and targeted rates, fees and charges Financial and/or Development contributions Loans Reserves
Transportation	Excellence in infrastructure and public services for now and in the future	Users both public and private. There is a range of between 60% to 80% for private good.	Intergenerational	Heavy vehicles, irresponsible road users, high density properties creating high traffic impacts	Currently not practical and no benefit in funding this activity separately	The transportation activity provides economic, private and community benefit and is essential for the safe functionality and connectivity of the City.	<ul style="list-style-type: none"> NZTA subsidy Targeted rates General rates Fees and charges Petrol tax 	<ul style="list-style-type: none"> Accumulated surpluses from targeted rates, general rate, fees and charges Petrol tax NZTA subsidy Financial and/or Development contributions, Loans Reserves Grants and donations (e.g. cycle ways)
Waste minimisation	A sustainable city	The individual and the community as a whole	Intergenerational	Illegal dumping creates an additional cost for Council, inappropriate	No need to break activity down any further	Effective and efficient systems for the collection and disposal of refuse and collection of	<ul style="list-style-type: none"> Fees and charges Targeted rates General rates 	<ul style="list-style-type: none"> Accumulated surpluses from Fees and charges,

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Activity	Community outcome	Who benefits?	Period of benefit	Whose acts create a need	Separate funding	Rationale	Funding sources	
							Operational	Capital
				disposal of hazardous waste		recyclable materials benefit both the individual (enabling disposal) and the community by reducing the adverse environmental impacts.	<ul style="list-style-type: none"> Waste minimisation levy Reserves 	targeted rates, general rates, <ul style="list-style-type: none"> Waste minimisation levy, Reserves, Loans Financial contributions
Wastewater	Excellence in infrastructure and public services for now and in the future	Private benefit for people to dispose of their waste. Public benefit for the community to have an appropriate environmental solution	Intergenerational (up to 100 years)	Industries with high waste volumes and loadings, unconsented activity, low volume high impact waste	None identified	Provides human and environmental benefits to both the community and the wider region	<ul style="list-style-type: none"> Targeted differential rates General rates Fees and charges (including trade waste bylaw charges) 	<ul style="list-style-type: none"> Accumulated surpluses from Targeted differential rates, General rates, fees and charges Loans Reserves Development and/or Financial contributions
Water supply	A safe and healthy city that supports community well-being	The users of the water supply are the primary beneficiaries however there is a wider benefit of having a potable water supply (90 private/10 public)	Intergenerational	Central Government legislation, illegal connections, high use users	Not required	The provision of potable water supply is of benefit to individuals and the wider community	<ul style="list-style-type: none"> Targeted differential rates Water rates General rates Fees and charges (not including water by meter rate) 	<ul style="list-style-type: none"> Accumulated surpluses from Targeted differential rates, water rates, general rates, fees and charge Loans, Reserves, Financial and/or Development contributions

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7. NAPIER CITY BUSINESS INC FUNDING CONSULTATION

<i>Type of Report:</i>	Operational
<i>Legal Reference:</i>	N/A
<i>Document ID:</i>	881621
<i>Reporting Officer/s & Unit:</i>	Garry Hrustinsky, Investment and Funding Manager

7.1 Purpose of Report

To advise Council of the Napier City Business Incorporated (NCBI) funding consultation process and seek Council approval of the process.

Officer's Recommendation

That Council:

- a. Approve the consultation process proposed by Napier City Business Incorporated as part of their funding review.

Mayor's Recommendation

That the Council resolve that the officer's recommendation be adopted.

7.2 Background Summary

Napier City Business Incorporated (NCBI) want to enhance the CBD experience and encourage increased foot traffic in the area for the betterment of the business community.

For the last three years NCBI has been utilising its reserves to fund costs associated with providing a better quality service, however this is no longer sustainable going forward. NCBI are proposing to increase the levy to fund a number of initiatives that will achieve an enhanced CBD experience.

7.3 Issues

Implementation of the initiatives identified by NCBI will require additional funding. Approval to increase the levy will be sought from NCBI members through a consultation process. As part of the process, Council needs to decide if it conducts its own targeted consultation or relies on the NCBI consultation if it believes the consultation process is adequate.

The NCBI consultation process will comprise of the following:

- 6 x detailed targeted emails to business and rate-payer membership (October, January and March)
- 3 x mail-outs to rate-payers NCBI does not have email information for (October, January and March)
- 3 x information evenings/workshops (the first two being face-to-face meetings)
- 5 x inclusions in NCBI's monthly newsletter
- Face-to-face meetings as required (currently there are around 20)

- A final Special General Meeting presentation and vote.

Any change to rates will directly impact 430 businesses within the CBD. After the consultation process, at least 75% of members (323 members) must be present at the Special General Meeting (11th March, 2020 at 5:30pm) arranged to discuss this resolution. A simple majority will be required to pass the resolution.

7.4 Significance and Engagement

N/A

7.5 Implications

Financial

N/A for this stage of the process. However if the NCBI members elect to increase the levy this will result in additional funding of \$68,534 (ex. GST) to be collected by Council, by way of the targeted rate (CBD promotion rate), and passed on to the NCBI.

Social & Policy

N/A

Risk

N/A

7.6 Options

The options available to Council are as follows:

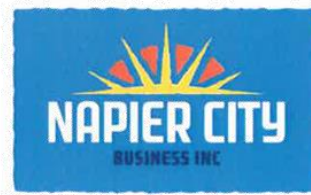
- Approve the consultation process proposed by NCBI as appropriate.
- The Council develop and conduct its own targeted consultation process.

7.7 Development of Preferred Option

Option a. Approve the consultation process proposed by NCBI as appropriate.

7.8 Attachments

- Levy Process Letter [↓](#)
- NCBI Funding Proposal [↓](#)
- Rules of NCBI [↓](#)



12 December 2019

Napier City Council

Dear Garry,

Further to our phone discussion please take this letter, and attachment as notification of our procedure around our current proposed levy increase project of our membership.

Currently our funding is made up of 70% targeted levy on CBD businesses and 30% contribution from general rates that both reflects the NCC buildings within the CBD and also the positive outcomes that having a vibrant CBD has on Napier residents.

Our Chairman has recently met with Wayne Jack regarding this split, and has confirmed that we do not intend for the general rate contribution to be affected by this proposed increase, and therefore we are splitting this ratio going forward, and merely holding the NCC general rate contribution to the 2019 level of \$63,090 + GST. This will be adjusted by CPI or NCC inflation annually, whichever is the lowest.

With this in mind, our consultation has been targeted specifically at our membership - the 430 businesses within the CBD along with their associated building owner, or rate-payer.

Our current funding from the levy is set at \$146,620 ex GST as of 01.07.19, and we are proposing to increase that to \$215,154 as of 01.07.2020.

This is an increase of \$68,534 ex GST total and relates to a rate increase from 0.20973 currently to a proposed 0.30776.

To confirm this as a total, we are looking to increase our total budget from this financial years amount of \$209,710 (made up of \$146,620 + \$63,090) to \$278,244 (made up of \$215,154 + 63,090*). * this amount will be subject to an inflation rate mentioned above.

This will have no affect on the general rate contribution.



In terms of our consultation process, we have already commenced this in mid-October, with communications going out to our entire membership via email, along with emails & posted letters to our building owners.

I have attached the consultation document that we have used as a base for this.

In advance of this proposal going to the wider membership, I met with many retailers and several rate-payers to discuss this proposal with them and get their feedback. We have also engaged our "ambassador" group - a selection of approx 20 key businesses in town to hold all of the hard copy information for members to approach and discuss with them should they not want to come directly to us in the first instance.

Following this initial communication stream, we invited interested / concerned members to join us at one of two information meetings, scheduled at the beginning and the end of the day on 13 November to hopefully appeal to all schedules.

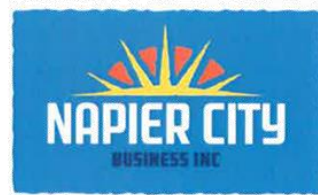
We received many emails of positive response, and only a handful of RSVP's total for these meetings, despite several reminder emails requiring a response. Due to this low RSVP amount, Dan Browne, our Chairman, and myself arranged to meet the interested members face to face for meetings, all of which went very well.

We are also including this project in all of our monthly newsletters to our membership as a reminder that it is an ongoing proposal & inviting members to contact us directly for a meeting should they want to.

The next wave of information is due to go out in mid-January, with an invitation to another workshop to discuss any thoughts/concerns/ideas etc in order to be able to properly tailor our offering to our membership in a meaningful way. This meeting is scheduled for January 29, at 530pm.

In summary, our total consultation has & will comprise of :

- 6 x detailed targeted emails to business & rate-payer membership (in October, January & March)
- 3 x mail outs to rate-payers we do not have email information for (in October, January & March)
- 3 x information evenings/workshops (the first two of which were replaced with face to face meetings)
- 5 x inclusions in our monthly member newsletter
- Face to face meetings as required (currently approximately 20 held)
- 1 x final Special General Meeting presentation & vote



We had made a board decision to start this consultation early, before summer as most of our members are extremely busy during the summer period and would not have time to participate in discussions should they want to. Hence we have not scheduled meetings for December or February, traditionally the busiest months of the year.

We then have scheduled a Special General Meeting for March 11 at 530pm for a final presentation and vote. Our current document that outlines the rules of our association state that we must have 75% of all members present and voting must vote for this proposal for it to pass. It also states that every business is entitled to one vote and every rate-payer is also entitled to one vote. You must be present and in the room to vote. I have attached our Rules document for you to review if required.

If you have any questions, please do not hesitate to ask.

Kind regards,

Zoe Barnes

GM

Napier City Business Inc



PROPOSAL: NCBI would like to increase the amount they receive from the membership levy in order to enhance the CBD experience and encourage increased foot traffic in to the membership area for the betterment of the business community.

NCBI Funding

- **Current funding amount: \$146,620 (ex GST)**
 - 0.18% of land value (ex GST)
 - + \$63,000 contribution from general rates =
 - A total annual budget of \$209,620 (ex GST)**
- **Proposed funding amount : \$215,500 (ex GST)**
 - 0.26% of land value (ex GST)
 - + \$63,000 contribution from general rates =
 - A total annual budget of \$278,500 (ex GST)**

Comparative spend amounts

A contribution of \$490 equates to:

- 1 x half page ad in the HB Today
- 1.5 x half page ads in the community papers
- Less than a single radio advertising campaign
- Less than 2 months social media management
- Approx 2 x months financial management
- 9 x months web hosting

NCBI's activities and opportunities created with \$490/year is outlined on the attached strategy paper.

How this affects you

That equals an additional \$68,500 (ex GST) annually from the membership base.

What this looks like to you :

- **If your store is less than 100 sqm,** you are likely paying up to \$200 ex GST per year currently and would be looking at approximately an \$80 annual increase to \$280 total annually.
- **If your store is 100-200 sqm,** you are likely paying up to \$340 ex GST per year currently and would be looking at approximately a \$150 annual increase to \$490 total annually.

Please contact Zoe directly for your specific contribution amounts.

Other local BID funding examples

- **Hastings Business Association** is funded at 0.26% of land value (for a total of \$289,000) + \$74,000 from HDC + \$5,000 event funding = **A total annual budget of \$368,000 (ex GST)**
- **Taradale Marketing Association** is funded at 0.23% of land value



What will the fund be used for?

Doing things better.

Our biggest hurdles are resourced base - both person and activity specific budget.

NCBI's greatest value is held in marketing the CBD, relationship management and events. It is therefore within these spaces that we will look to spend the additional money.

This additional \$68,500 will be spent on:

More money for each of our NCBI led events (\$12,500)

A successful events strategy increases vibrancy through bringing people into town who may not normally, more frequently. It creates a local community that feels valued and a CBD that is more public friendly. Events also provide opportunities for local businesses to engage with those that attend them.

More content for promotional purposes (\$34,000)

In order for Napier CBD to be front of mind for Hawke's Bay local's as the centre for shopping in the region, we need to actively promote that. Whilst current efforts are effective, in order to stay relevant we need to increase our commitment to this area.

More money for our after 5 activations (\$10,000)

A vibrant after 5 economy is one where the businesses are thriving, there are a mix of people out on any given night and they feel safe. We are working to change local's behaviour with this project to encourage people back into the CBD late afternoon / evening.

Additional funds to increase working hours in the support roles (\$12,000).

Currently NCBI staff are all part time, equating to the equivalent of 1.75 full time employees total. To adequately interact with our membership, and fulfill our objectives we require more people hours to do so.



What happens if we do not secure the additional funding?

For the last three years NCBI has been spending down significant amounts of money from our reserves to bolster the annual budgets in order to provide a better quality service and experience for members and the public.

As we are reaching the limit of what we wish to spend from these reserves this is unsustainable going forward and if we are unable to secure this additional funding, NCBI will have to return to the original budget amounts which would require us to re-prioritise and scale down many areas of our activity in order to maintain an appropriate level of quality of output.

Who can vote?

Every business within the current NCBI membership is entitled to ONE vote - if this is not the owner, a representative can be suggested by the management.

Every ratepayer within the current NCBI rating area is entitled to ONE vote (regardless of how many properties they own).

You must be present at the meeting in order to vote.

When will the vote take place?

During the presentation on 11 March

This requires the support of 75% of those members present and voting at the meeting. The results of this vote will be binding to the rest of the membership (as outlined in the "Rules of Napier City Business Inc" document" re "Special Resolutions").

- If you have any questions about the process please email zoe@napiercbd.co.nz (GM) or dan@indelible.co.nz (Chairman)

Want to know more?

First Information Meetings :

- **8am, Wednesday 13 November**
The Emporium
- Coffee/Tea will be provided
- **5.30pm, Wednesday 13 November**
NCBI office
- Wine/nibbles will be provided

RSVP to zoe@napiercbd.co.nz before Monday 11 November

Further meetings can be arranged by request over the summer, however we recognise this is the busy time of year for most businesses. We welcome questions at any time.

Workshop:

- **5.30pm, Wednesday 29 January**
NCBI Office
- Wine/nibbles will be provided

RSVP to zoe@napiercbd.co.nz before Monday 27 January

Final Presentation & Vote :

- **5.30pm, Wednesday 11 March**
NCBI Office
- Wine/nibbles will be provided

RSVP to zoe@napiercbd.co.nz before Monday 2 March

**RULES
OF
NAPIER CITY BUSINESS INCORPORATED**
(Registration No. 924328)

Rules of Napier City Business Incorporated

Contents

- 1 Interpretation
- 2 Incorporation and Rules
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- 18 Winding Up

1

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Interpretation

In these Rules, unless the context otherwise requires:

“Act” means the Incorporated Societies Act 1908 together with any regulation made under that statute, together with any successor legislation;

“Annual General Meeting” is the meeting of the Members required to be held in accordance with Rule 16(a);

“Business Day” means a day on which trading banks are open for business in Napier, excluding Saturdays and Sundays;

“CBD Promotion Rate” means the Napier City Council CBD Promotion Rate or any other levy or rate imposed by the Council (or any successor organisation) in substitution for such CBD Promotion Rate;

“Chair” means the Chair of the Society elected in accordance with Rule 11(b);

“Council” means Napier City Council and any successor organisation;

“CPI” means the consumer price index (all groups) as published by the Statistics New Zealand (or its successor organisation) from time to time;

“General Meetings” means the Annual General Meeting or Special General Meetings of the Society;

“Governance Committee” means the committee described in Rule 11;

“Members” means the members of the Society from time to time, including Qualifying Members and Non-Qualifying Members;

“Napier Inner City” means that part of the Napier central business district which is subject to the CBD Promotion Rate from time to time;

“Non-Qualifying Member” means a Member admitted pursuant to Rule 6(a)(iv);

“Qualifying Member” means a Member admitted pursuant to Rule 6(a)(i);

“Rules” means these rules of the Society;

“Secretary” means the person appointed in accordance with Rule 11(d) or, if no such person is appointed, such other person as the Governance Committee appoints to carry out the tasks assigned to the Secretary under these Rules;

“Society” means Napier City Business Incorporated;

“Special General Meeting” is the meeting of the Members required to be held in accordance with Rule 16(b);

“Special Resolution” means a resolution of Members passed by a 75% majority of those present and voting provided that in the case of a postal ballot, passed by a 75% majority of all Members;

“Treasurer” means the person appointed in accordance with Rule 11(c).

2 Incorporation and Rules

- (a) The Society was incorporated at Napier on 25 September 1998.
- (b) These rules were adopted by way of amendment on [insert date] 2019.

3 Name

The name of the Society is Napier City Business Incorporated.

4 Objects

- (a) The objects of the Society are to:
 - (i) To assist and guide the development and advancement of the commercial interests of business people and businesses in the Napier Inner City through a co-ordinated and structured communications, marketing and economic development programme;
 - (ii) To foster and promote generally the welfare of the Napier Inner City business community and, in particular, to provide a forum for networking and collaboration of Members;
 - (iii) To enhance the safety and security of the Napier Inner City and to attract and retain business in an effort to drive employment growth and economic, social, cultural and environmental wellbeing;
 - (iv) To capitalise on the unique assets and profile of the Napier Inner City and to use that as a means of promoting the identity and positioning of the area and the businesses within it;
 - (v) To make arrangements with and/or advocate to Government, local authorities and/or persons, corporations and associations for the improvement of amenity, streetscapes, utilities, transport, services and

other infrastructure and for lighting, surfacing, security and cleaning in the Napier Inner City; and

- (vi) do any act or thing incidental or conducive to the attainment of any of the above objects provided that the emphasis that the Society gives to each of the above objects will be determined by the Governance Committee from time to time.

5 Powers

- (a) Subject to the provisions of the Act, the Society shall have power to do all acts and things necessary for the furtherance of its objects or any of them and in particular may exercise the following powers and ancillary objects:
 - (i) The Society may have headquarters; rooms and other facilities at such places as will from time to time be determined by the Governance Committee.
 - (ii) The Society may cultivate reciprocal relations with kindred associations in this and other countries.
 - (iii) The Society may purchase, take on, lease or otherwise acquire on such terms as it may think fit, any real and personal property, and any rights and privileges, either necessary or convenient, for the purposes of the Society, and may erect, maintain, improve or alter any building, premises or works it may require.
 - (iv) The Society may sell, lease, exchange, mortgage or otherwise deal with all or any of the real and personal property of the Society. The Society may accept any gifts of property, whether subject to any special trust or not, for any one or more of the objects of the Society.
 - (v) The Society may print, publish and sell any newspapers, journals, periodicals, books, bulletins, leaflets or other literature that may from time to time be deemed desirable for the promotion of any one or more of the objects of the Society.
 - (vi) The Society may employ staff and appoint contractors for such purposes and for such periods and subject to such conditions as the Governance Committee thinks fit.
 - (vii) The Society may borrow or raise money on overdraft or otherwise with or without security by way of mortgages, charges, security agreements, liens or other securities over land, plant and chattels and other property from any person, firm, company, bank or corporation at such rate of interest and for such terms and generally on such conditions as the Governance Committee shall think fit and to sign and mortgage, deed, agreement, security agreement or other document in connection therewith and any person, firm, company, bank or corporation lending money to the Society shall be in no manner concerned to enquire as to the application of such moneys or as to the purpose for which such money may be borrowed PROVIDED THAT if such borrowing would constitute a "major transaction"

(as defined in Section 129(2) of the Companies Act 1993) if the Society were a company, then such borrowings shall be first approved by the Society at a Special General Meeting called for that purpose.

- (b) Regardless of any other provision, the Society must not expend any money for the sole personal or individual benefit of any Member.
- (c) Any transactions between the Society and any Member, officer or member of the Governance Committee, or any associated persons of any of those parties must be at arms' length and in accordance with prevailing commercial terms on which the Society would deal with third parties not associated with the Society, and any payments made in respect of such transactions must be limited to:
 - (i) a fair and reasonable reward for services performed;
 - (ii) reimbursement of expenses properly incurred;
 - (iii) usual professional, business or trade charges; and
 - (iv) interest at no more than current commercial rates.

6 Membership

- (a) The classes of membership are as follows:
 - (i) Qualifying Members

Subject to Rule 6(a)(iii), a person shall be entitled to be a Qualifying Member of the Society (subject to confirmation of their application by the Governance Committee if such application is made following the date determined by the Governance Committee pursuant to clause 7(a) following the adoption of these Rules) if that person:

 - (1) Owns one or more commercially rated properties within the Napier Inner City; or
 - (2) Occupies or is a tenant of one or more premises (with a floor space of not less than 10sqm) of a commercially rated property with the Napier Inner City and who operates a business or cultural or social activity from such premises for not less than 50 Business Days a year; and
 - (3) Has not been previously expelled from the Society, unless the Governance Committee has resolved to readmit that person under Rule 10(a).
 - (ii) Subject to Rule 6(a)(iii), all persons who meet the above criteria as at the date of adoption of these Rules are Qualifying Members.
 - (iii) For the avoidance of doubt, a person may be a Qualifying Member only once at the same time, even though that person may be entitled under

Rule 6(a) to be a Qualifying Member on more than one ground or on the same ground but more than once.

(iv) Non-Qualifying Members

A person will be entitled to be a Non-Qualifying Member (subject to confirmation of their application by the Governance Committee if such application is made following the date of adoption of these Rules) if that person;

- (1) Resides or carries on business in greater Napier City but is not a Qualifying Member; and
- (2) Is a person who by way of their interest in the Napier Inner City and their agreement with the objects of the Society, has an interest in the Society's activities but is not a Qualifying Member.

Non-qualifying Members will not have a vote in their capacity as a Member.

- (b) In the case of a body corporate or partnership Member, that Member must appoint a single individual to be its representative at General Meetings provided that such notice of appointment must be given to the Society in writing at least two Business Days prior to the relevant General Meeting. Individual Members may not appoint any other person to represent them at a General Meeting of the Society provided that where there is more than one person who fulfills the criteria for membership in respect of a single property, business, cultural or social activity referred to in 6(a)(i), those persons must nominate one of their number to be the Member and advise the Society accordingly.
- (c) All Members, whether Qualifying Members or Non-Qualifying Members, will have the same rights and privileges, other than voting rights.
- (d) Every Member must advise the Secretary of any change of address.
- (e) The Secretary must keep a membership register of Members recording their names and addresses and the dates each became a Member.
- (f) Copies of these Rules must be provided (at cost) to any Member on request.

7 Admission of Members

- (a) As from a future date determined by the Governance Committee following the adoption of these Rules, applicants for membership as Members must complete any application form provided by the Governance Committee and supply such information as may be required by the Governance Committee (which must include any minimum requirements of the Act).
- (b) Membership applications must be considered by the Governance Committee or a delegate of the Governance Committee as soon as practicable. Provided the Governance Committee or its delegate is satisfied that the requirements for membership have been satisfied, such membership application will be approved by the Governance Committee or its delegate.

- (c) Prior to the date determined by the Governance Committee pursuant to clause 7(a), a person will automatically become a Qualifying Member upon satisfying the membership requirements set out in clause 6(a)(i) but subject to clause 6(a)(iii).

8 Subscriptions on Members and CBD Promotion Rate

- (a) Subject only to a Special Resolution of Members, Qualifying Members will not be required to pay any subscription or other form of membership fee in order to become and remain Members.
- (b) Every Non-Qualifying Member will for each year ended 30 June pay to the Society, by a date to be specified by the Governance Committee, an annual subscription of such amount as is from time to time be fixed by the Governance Committee.
- (c) The Governance Committee shall allow the staged payment of the Non-Qualifying annual subscription, at a period and rate to be agreed by the Governance Committee.
- (d) Only upon payment or staged payment of this subscription, which may vary as between persons, will the person be entitled to the rights and privileges of a Member (excluding the right to vote in their capacity as a Member).
- (e) Notwithstanding Rules 7(a) and (b), any Non-Qualifying Member whose subscription, or any other money due to the Society, remains unpaid for three (3) months after the due date may be removed from membership by the Governance Committee but shall still be liable to pay all arrears of such sums, subscriptions or other moneys.
- (f) If the Governance Committee wishes to propose to the Council a percentage increase in the CBD Promotion Rate above the percentage increase in CPI since the most recent increase in the CBD Promotion Rate, then that increase to the extent that it exceeds such increase in CPI must first be approved by a Special Resolution of Members prior to that proposal being submitted to the Council.

9 Cessation of Membership

- (a) Any Member may resign from that Member's class of membership by written notice to the Secretary, and each such resignation must take effect from the end of the Society's then current financial year, but the member resigning must remain liable to pay all subscriptions and any other fees to the end of that year.
- (b) The Governance Committee may declare that a Member is no longer a Member (from the date of that declaration or such date as may be specified) if that Member (i) ceases to be qualified to be a Qualifying Member in accordance with Rule 6(a)(i) or (ii) is convicted of any indictable offence or offence for which a convicted person may be imprisoned, is adjudged bankrupt, makes a composition with creditors, or (if a body corporate) is wound up or placed in receivership or liquidation.

- (c) Any complaint about any Member, whether from another Member or any other person, must be lodged in writing with the Secretary, and the procedures set out below must be observed:
 - (i) The Governance Committee must have the following discretions:
 - (A) If the nature of the complaint indicates that the subject matter should be dealt with by any Court or tribunal, the Governance Committee may decline to investigate or deal with the complaint until any such body has dealt with the issues which are the subject of the complaint. If the decision of any such body effectively disposes of the complaint, the Governance Committee may decide to take no further action, or may on the basis of that decision without further investigation take such action as it deems appropriate, with or without calling on the complainant or Member to provide further information or to make submissions. If the decision of any such body does not effectively dispose of the complaint, the Governance Committee may decide to undertake such further investigations as it thinks fit, and then follow the procedures set out in paragraph 9(c)(ii)(D) to 9(c)(ii)(H) of this rule.
 - (B) The Governance Committee may decline to investigate or consider the complaint if the nature of the complaint indicates that the subject matter is petty, frivolous, or inconsequential.
 - (C) The Governance Committee may decline to investigate or consider the complaint if, during enquiries being made by or on behalf of the Governance Committee, it becomes apparent to the Governance Committee that it is not appropriate to further investigate or consider the complaint.
 - (D) If the investigation or consideration of the complaint are likely to require extensive enquiries, a considerable time input, or advice to the Governance Committee from professional advisers, the Governance Committee may at any time decline further to investigate or consider the complaint or require the complainant to deposit with the Society such sum as the Governance Committee thinks fit to reimburse the Society wholly or partly for the costs of those making the enquiries or considering the complaint and/or the Society's professional adviser's fees before further investigating or considering the complaint.
 - (ii) The following procedures must be observed when a complaint is investigated and considered:
 - (A) the Member must be given a copy of the complaint;
 - (B) the Member must have the opportunity to provide a detailed written response to the complaint within not less than 2 weeks after receiving a copy of the complaint or such further time as may be allowed by the Governance Committee or any special committee

established by it for the purpose of hearing and deciding upon the complaint;

- (C) further enquiries may be made by or on behalf of the Governance Committee or any such special committee, and the results of those enquiries must be made known to the complainant and the Member;
 - (D) the Governance Committee or any such special committee must allow the complainant and the member the opportunity to be heard by the Governance Committee or any such special committee (and no person who has any direct or indirect interest in the complaint or who is in any way biased must hear and determine the complaint);
 - (E) the Governance Committee or any such special committee may dismiss the complaint or uphold the complaint and do one or more of the following, reprimand or admonish the Member, suspend the Member from membership for a specified period or expel the Member;
 - (F) the Governance Committee or any such special committee must respect the confidentiality of the proceedings;
 - (G) the decision and any reasons which may be given (without any obligation to give such reasons) for that decision must be conveyed to the complainant and the Member in writing and may at the discretion of the Governance Committee or any such special committee be conveyed to Members; and
 - (H) the decisions of the Governance Committee or any special committee hearing and deciding upon any complaint under this rule must be final and binding on the complainant and the Member complained against, and must not be subject to any review or challenge.
- (d) A Member whose membership is terminated under these Rules must remain liable to pay all subscriptions to the end of the Society's financial year in which the membership was terminated and must cease to hold himself or herself out as a member of the Society. For the avoidance of doubt, a person's membership status will have no effect on that person's liability to pay the CBD Promotion Rate, whether directly or indirectly.

10 **Re-admission of Former Members**

- (a) Any former Member may apply for re-admission in the manner prescribed for new applicants and may only be re-admitted by decision of the Governance Committee.
- (b) However, if a former Member's membership was terminated under either of Rules 9(b)(ii) or 9(c)(ii)(E) the applicant must not be re-admitted by the Governance Committee without the prior approval of a General Meeting.

11 Governance Committee

- (a) The Society will be administered, managed and controlled by the Governance Committee.
- (b) The Governance Committee will elect the Chair of the Society from amongst the members of the Governance Committee at the first meeting of the Governance Committee to be convened after each Annual General Meeting.
- (c) The Governance Committee will appoint a person to perform the functions of a treasurer. This office must be filled from the members of the Governance Committee. For the avoidance of doubt, a member appointed to the Governance Committee pursuant to Rule 12(b) is eligible to be appointed as the Treasurer.
- (d) The Governance Committee may appoint a person to perform the functions of the secretary to the Society. This office need not be filled from the members of the Governance Committee nor be a Member. The Secretary will record the minutes of all General meetings and Governance Committee meetings, and all such minutes when confirmed by the next such meeting will be prima facie evidence that that meeting was duly called and will prima facie be a true and correct record of what occurred at that meeting.
- (e) All Governance Committee meetings will be chaired by the Chair. In the event of the absence, sickness, incapacitation or death of the Chair the remaining members of the Governance Committee may elect a person to act in the place of the Chair and that person shall have all the powers of the Chair. The Chair will not have a casting vote.
- (f) It shall be the duty of the Governance Committee to conduct and manage the affairs of the Society, to keep the usual and proper books of account and other records and to notify all Members of intended General Meetings and of the business to be transacted at General Meetings and to prepare and submit to the Annual General Meeting the annual report of the Society as at 30 June in each year.
- (g) The Governance Committee shall meet together for the dispatch of its business as, when and where it thinks fit.
- (h) Governance Committee meetings may be held by the contemporaneous linking together by telephone or video-conference of a number of the members of the Governance Committee not less than the quorum provided that:
 - (i) All members entitled to receive notice of a meeting shall be given notice. Notice may be given by telephone, email or any other electronic means;
 - (ii) Each of the members taking part in the meeting must be able to hear each of the other members taking part in the meeting and must acknowledge their presence to the other members;

- (iii) Members may not leave the meeting by disconnecting unless they have obtained the express consent of the Chair;
- (iv) A minute of the proceedings at such meeting by telephone or video-conference shall be sufficient evidence of such proceedings and of the observance of all necessary formalities if the minute is certified correct by the Chair.
- (i) The quorum for a meeting of the Governance Committee or any subcommittee shall be one (1) greater than half of the number of current members of the Governance Committee or subcommittee (or if the current number of members of the Governance Committee or subcommittee is not divisible by two (2), then the number of the Governance Committee or subcommittee members shall be deemed, for the purpose of this clause, to be one (1) less than their actual number).
- (j) At all meetings of the Governance Committee and of any subcommittee appointed by the Governance Committee, each member shall be entitled to one (1) vote.
- (k) At all meetings of the Governance Committee and of any subcommittee appointed by the Governance Committee, subject to any quorum requirement being met, every question shall be decided by a majority of those present and voting.
- (l) The Governance Committee may appoint subcommittees for any particular matter concerning the activities of the Society (members of which need not be members of the Governance Committee or Members), which shall act in all respects in such manner and subject to such directions as the Governance Committee may from time to time prescribe.
- (m) The decisions of the Governance Committee on the interpretation of these Rules and all matters dealt with by it in accordance with these Rules and on matters not provided for in these Rules will be final and binding on all Members.
- (n) The members of the Governance Committee shall be entitled to claim from the Society and to be paid their reasonable travelling and out-of-pocket expenses incurred while engaged in the affairs of the Society.
- (o) The Governance Committee may employ any person or company to administer or manage the affairs of the Society.
- (p) Indemnity for Governance Committee:
 - (i) No officer or member of the Governance Committee will be liable for the acts or defaults of any other Officer or member of the Governance Committee or any loss occasioned thereby, unless occasioned by their wilful default or by their wilful acquiescence.
 - (ii) The officers, Governance Committee and each of its members is hereby indemnified by the Society for all liabilities and costs incurred by them in

the proper performance of the functions and duties, other than as a result of their wilful default.

12 Membership of Governance Committee

- (a) The Governance Committee shall consist of up to eight (8) persons, as follows:
 - (i) Four (4) of such persons shall be elected to the Governance Committee at the Annual General Meeting of the Society. Such elected member of the Governance Committee must be Members;
 - (ii) One (1) of such persons shall be appointed by the Napier City Council, subject always to prior consultation with the Governance Committee. Such appointed member of the Governance Committee need not be a Member;
 - (iii) Up to three (3) of such persons to be appointed by the Governance Committee pursuant to Rule 12(b). Any such appointed members of the Governance Committee need not be Members.
- (b) The elected members of the Governance Committee (which shall constitute a subcommittee of the Governance Committee) will have power to from time to time appoint up to three (3) persons to be members of the Governance Committee. In exercising this power, those elected members of the Governance Committee shall take into account the need to provide a balance between the respective stakeholders of the Napier Inner City (namely, property owners, retailers, the hospitality industry, commercial service providers, residents) and also any expertise or skill that the appointed member may bring to the Governance Committee.
- (c) Any member of the Governance Committee appointed pursuant to Rule 12(b) shall hold office for such time as may be specified by the elected members of the Governance Committee (acting as a subcommittee) at the time of appointment, such term not to exceed two years
- (d) Any vacancy in the Governance Committee may be filled by an appointment made by the Governance Committee but it shall not be compulsory to fill such vacancy. Any person so appointed to fill a vacancy arising from the departure of an elected member of the Governance Committee must be a Member and will hold office only until the next Annual General Meeting.
- (e) At each Annual General Meeting, one half (or if the number of elected members of the Governance Committee is not divisible by two (2), then the number of elected members of the Governance Committee shall be deemed, for the purpose of this Clause, to be one (1) less than their actual number) of the elected members of the Governance Committee for the time being shall retire from the Governance Committee and the following provisions shall apply:
 - (i) The elected members to retire in every year shall be those who have been longest in office since their last election, but as between persons who became members on the same day those who retire shall (unless they otherwise agree amongst themselves) be determined by lot;

- (ii) A Governance Committee member who has been appointed pursuant to Rule 12(d) to fill a vacancy arising from the departure of an elected Governance Committee member will not be taken into account in determining the number of elected members to retire pursuant to Rule 12(e)(i) notwithstanding that such member must retire at the Annual General Meeting;
- (iii) retiring members of the Governance Committee shall be eligible for re-election;
- (iv) provided that any member of the Governance Committee (other than the member appointed by Napier City Council) may be removed by a resolution of Members passed in General Meeting subject to compliance with the requirements of these Rules in relation to matters to be put before Members in General Meeting.

13 **Registered office**

The Registered Office of the Society must be at such place as the Governance Committee from time to time determines.

14 **Finance and Audit**

- (a) The Treasurer must keep such books of account as may be necessary to provide a true record of the Society's financial position, report on the Society's financial position to each Governance Committee meeting and present an annual statement of accounts (Income and Expenditure Account and Balance Sheet) to the Annual General Meeting [together with a budget for the next financial year].
- (b) The Governance Committee must maintain bank accounts in the name of the Society, and all cheques and withdrawal forms must be signed and all electronic payments must be authorised by two persons appointed to undertake that function by the Governance Committee.
- (c) All money received on account of the Society must be banked within 2 Business Days of being received.
- (d) All accounts paid or for payment must be submitted to the Governance Committee for approval of payment.
- (e) The Society's financial year must commence on 1 July of each year and end on 30 June in the following year.
- (f) The Annual General Meeting each year must appoint an auditor (who is a member of the New Zealand Institute of Chartered Accountants and not a member of the Society) to audit the annual accounts of the Society and provide a certificate of correctness of the same, and if any such auditor is unable to act the Governance Committee must appoint a replacement auditor. No person may be elected to hold the office as auditor who is an officer of the Society or a member of the Governance Committee.

15 Execution of Documents

- (a) The Common Seal of the Society must be retained by the Secretary.
- (b) Documents must be executed for the Society pursuant to a resolution of the Governance Committee:
 - (i) by affixing the Common Seal witnessed by two members of the Governance Committee; or
 - (ii) where the document is not required by statute to be executed under common seal, by two members of the Governance Committee signing on behalf of the Society.

16 General Meetings

- (a) The Annual General Meeting must be held no later than 30 September in each year at a time and place fixed by the Governance Committee. The Governance Committee will advise Members of the closing date for nominations for elected members of the Governance Committee no less than 30 clear days prior to the proposed date for the relevant Annual General Meeting and such closing date may be no later than five clear days prior to the proposed date for dispatch of the notice of Annual General Meeting pursuant to clause 16(c).
- (b) Special General Meetings may be called by the Governance Committee or by written requisition to the Secretary signed by not less than 10% of the Members at the time of the requisition.
- (c) At least 10 clear days before any General Meeting the Secretary must send to all Members notice of the business to be conducted at the General Meeting (including in the case of Annual General Meetings, a list of and information about nominees for election to the Governance Committee, and notice of any motions and the Governance Committee's recommendations in respect of that motions and advice that a copy of the Annual Report and Statement of Accounts will be provided to any member upon request).
- (d) General meetings may be attended by all Members of whatever class of membership.
- (e) The quorum for General Meetings is at least eight (8) Qualifying Members.
- (f) All General Meetings must be chaired by the Chair or in the absence of the Chair some other Member elected for the purpose by the Meeting, and any such chair will not have a casting vote.
- (g) Votes must be exercised as follows:
 - (i) at General Meetings voting will in the first instance and as determined by the chair be by voices or by show of hands provided that, on demand of the chair or of any Member present (in the case of Member who is a body corporate or partnership, by representative appointed in accordance with

these Rules), such voting will be by secret ballot, and on any secret ballot each Member present will be entitled to one vote;

- (ii) unless otherwise required by these Rules, all questions must be determined by a simple majority of those present (in the case of Member who is a body corporate or partnership, by representative appointed in accordance with these Rules) and voting at the General Meeting;
- (iii) to determine any issue already lawfully before a General Meeting (including any election or amendment to these rules) the meeting may, by Special Resolution, resolve to hold a postal ballot in accordance with the procedures set out in Rule 16(g)(v);
- (iv) to determine any issue (including any amendment to these Rules) the Governance Committee may resolve to hold a postal ballot in accordance with the procedures set out in Rule 16(g)(v);
- (v) in respect of postal ballots held under this Rule:
 - (A) all Members in good standing may vote in any postal ballot;
 - (B) the resolution to hold a postal ballot must set a closing date and time for ballots to be received by the Secretary, but the closing date must be no earlier than 14 clear days after the date ballot papers are sent out to Members (excluding the date of dispatch);
 - (C) in respect of any motion to amend these Rules by postal ballot, the motion must be accompanied by reasons and recommendations from the Governance Committee, and such motion must be passed by a Special Resolution;
 - (D) voting in a postal ballot may be by ballots returned to the Secretary by mail, delivery or email or any other electronic means approved by the Governance Committee;
 - (E) the Secretary will declare the result of the postal ballot; and
 - (F) the result of any postal ballot will be as effective and binding on members as a resolution passed at a General Meeting.
- (h) In relation to the election of members of the Governance Committee at an Annual General Meeting the following provisions apply:
 - (i) If insufficient nominations are received to fill all vacancies or the number of nominations received is equal to the number of vacancies, the candidates nominated will be deemed elected;
 - (ii) If the number of nominations received exceeds the number of vacancies to be filled, a ballot will be held and such ballot will be conducted at the Annual General Meeting in such usual and proper manner as the Governance Committee may determine; and

- (iii) If there is an equality of votes between two or more candidates, an exhaustive ballot will be held to determine the person elected.
- (i) A resolution passed by the required majority at any General Meeting or by postal ballot binds all Members, irrespective of whether they were present at the General Meeting where the resolution was adopted or whether they voted.
- (j) Votes at a General Meeting may be exercised personally or by proxy. The form of proxy must be received by the Secretary at least two Business Days prior to the General Meeting at which it is proposed to be used. An instrument appointing a proxy must be signed by the Qualifying Member making the appointment and must be in the following form or such form as the Governance Committee may approve:

"I/We [INSERT MEMBER'S NAME] being a Qualifying Member of Napier City Business Incorporated, hereby appoint [INSERT PROXY'S NAME] as my/our proxy to vote for me/us and on my/our behalf at the General Meeting of the Society to be held on [INSERT DATE] or any adjournment of that meeting.

Date:

Signature and Designation

Signature and Designation"

- (k) The business of the Annual General Meeting will be:
 - (i) minutes of the previous General Meeting(s);
 - (ii) annual report of the Governance Committee;
 - (iii) statement of accounts;
 - (iv) election of members of the Governance Committee; and
 - (v) motions of which notice has been given in accordance with these Rules.
- (l) Any member wishing to give notice of any motion for consideration at the Annual General Meeting must forward written notice of the same to the Secretary not later than the closing date for nominations for elected members of the Governance Committee as notified to Members pursuant to clause 16(a). The Governance Committee may consider all such notices of motion and provide recommendations to members in respect of such notices.
- (m) Any notice to be given to Members under these Rules may be given by hand, post, email or any other mechanism approved by the Governance Committee. The failure for any reason of any Member to receive any such notice will not invalidate the meeting to which such notice relates or its proceedings.

17 **Alteration of Rules**

- (a) These Rules may be amended or replaced by resolution of any General Meeting passed by a Special Resolution of Members.
- (b) Any proposed motion to amend or replace these rules must be signed by at least ten Members and given in writing to the Secretary at least thirty clear days before the General Meeting at which the motion is to be considered and accompanied by a written explanation of the reasons for the proposal. Alternatively, the Governance Committee may propose a motion to amend or replace these rules.
- (c) At least ten clear days before the General Meeting at which any such proposal is to be considered, the Secretary must give written notice to all Members of the proposed motion, of the reasons for the proposal, and of any recommendations from the Governance Committee in respect of that motion.

18 **Winding Up**

- (a) The Society may be wound up under the provisions of the Act.
- (b) Once debts and liabilities of the Society have been discharged any excess funds received from the Council will be transferred to the Council to be applied towards any purpose for which the CBD Promotion Rate was set.
- (c) If after any payment made pursuant to Rule 18(b), there remains any property whatsoever, the same will not be distributed among Members. Such remaining property will be distributed or applied for the objects of the Society and/or for charitable purposes in the Napier Inner City. In the event the Governance Committee is unable to decide on the details of such distribution, the remaining property is to be distributed as a Judge of the High Court of New Zealand decides.

8. ACTIONS FROM PREVIOUS MEETINGS

Type of Report:	Procedural
Legal Reference:	Enter Legal Reference
Document ID:	891346
Reporting Officer/s & Unit:	Cheree Ball, Governance Advisor

8.1 Purpose of Report

To present the actions from previous meetings for awareness.

Officer's Recommendation

That Council:

- a. Note the actions from previous meetings along with their current status.

Mayor's Recommendation

That the Council resolve that the officer's recommendation be adopted.

8.2 Actions Table

Meeting/ Date	Item No.	Action	Responsible Directorate	Status
Induction intro		Sean Bevan to be invited to talk to Council about regional and ward stats in early 2020 to align with pre-LTP information	City Strategy	Will be arranged to align with LTP and DP work programme
Council 19.11.2019	1	<p>Scientific evidence is being collected currently to measure if stormwater contamination is dropping.</p> <p>Results from this assessment will be reported quarterly moving forward through the Sustainable Napier Committee.</p>	Infrastructure	<p>Underway.</p> <p>May not be quarterly – dependent on when data is received</p>

Council 05.12.2019	5	Costings around refurbishment of the Civic Building to be provided to Councillors, ie. why was refurbishment ruled out?	Corporate – Finance/ City Strategy	Timeline/ background to date to be reviewed with elected members
Audit and Risk 05.12.2019	2	Cr Taylor requested a report be prepared on any reputational and financial risk as a result of removing the Conference Centre branding from the War Memorial Hall; this is to include any financial risk to the facility and any financial and reputational risk to staff. The report is to be circulated to Audit and Risk for comment, then taken to Council	Community Services	COMPLETE Signage removed
Audit and Risk 05.12.2019	3	A specific Health and Safety section is to be included in the Charter as per the Chair's recommendation earlier this year. Any further Charter update requests to be provided to the Chair and Director Corporate services by email; an updated document will be brought to the March 2020 Audit and Risk Committee meeting for consideration.	Corporate – Finance / Audit and Risk Committee	Programmed for early 2020
Audit and Risk 05.12.2019	7	It was agreed that for those recommendations in the Audit NZ management report which were not annual in nature, an update would be provided to the next Audit and Risk	Corporate – Finance	Programmed for early 2020

		Committee meeting in March 2020.		
Council 19.12.2019	1	To arrange a joint meeting with Hastings District Council and Hawke's Bay Airport Limited in the new year, in order to provide further background information and bring new Councillors up to speed on airport matters.	Corporate	Joint Councillor workshop booked for 25 February 2020
Council 19.12.2019	A&R 5	Councillors noted their preference that the Chief Executive's financial delegation be brought back to Council for review say every three years.	Corporate	To be programmed for review three yearly

8.3 Attachments

Nil

REPORTS UNDER DELEGATED AUTHORITY

1. TENDERS LET

<i>Type of Report:</i>	Information
<i>Legal Reference:</i>	N/A
<i>Document ID:</i>	885620
<i>Reporting Officer/s & Unit:</i>	Debbie Beamish, Executive Assistant to the Chief Executive

1.1 Purpose of Report

To report the Tenders let under delegated authority for the period 5 December 2019 – 6 January 2020.

Officer's Recommendation

That Council:

- a. Note that there were no Tenders Let under delegated authority for the period 5 December 2019 – 6 January 2020.

MAYOR'S RECOMMENDATION

That the Council resolve that the officer's recommendation be adopted.

There were no Tenders Let during this period.

1.2 Attachments

Nil

2. DOCUMENTS EXECUTED UNDER SEAL

<i>Type of Report:</i>	Information
<i>Legal Reference:</i>	N/A
<i>Document ID:</i>	885648
<i>Reporting Officer/s & Unit:</i>	Debbie Beamish, Executive Assistant to the Chief Executive

2.1 Purpose of Report

To report on the Documents Executed under Seal for the period 5 December 2019 – 6 January 2020.

Officer's Recommendation

That Council:

Note that there were no Documents Executed under Seal for the period 5 December 2019 - 6 January 2020.

MAYOR'S RECOMMENDATION

That the Council resolve that the officer's recommendation be adopted.

There were no documents executed under seal during this time.

2.2 Attachments

Nil

3. RESOURCE CONSENTS

<i>Type of Report:</i>	Information
<i>Legal Reference:</i>	N/A
<i>Document ID:</i>	886250
<i>Reporting Officer/s & Unit:</i>	Debbie Beamish, Executive Assistant to the Chief Executive

3.1 Purpose of Report

To present the report on Resource Consents issued under delegated authority for the period 1 December 2019 – 6 January 2020.

Officer's Recommendation

That Council:

- a. Resolves to receive the report titled 'Resource Consents approved 1 December 2019 – 6 January 2020.

MAYOR'S RECOMMENDATION

That the Council resolve that the officer's recommendation be adopted.

3.2 Attachments

- A Resource Consents 1 December 2019 - 6 January 2020 [↓](#)

Resource Consents (Subdivision & Land Use) Approved between 1 December 2019 – 6 January 2020

Consent Number	Site Location	Applicant	Proposal	Activity Status	Decision Date
RM190133	269 Meeanee Rd	Mr Apple NZ Ltd	Replace existing RSE workers accommodation with a 96 bed RSE Camp within the Main Rural zone	Non-complying	5 December 2019
RMS19099	391 Gloucester St	B & M Wakely	Main Rural zone subdivision to create one additional lot (two in total)	Controlled	5 December 2019
RM190144	204 Kennedy Rd	Chorus New Zealand Ltd	Upgrade Chorus site which includes installation of larger engine alternator, increase in fuel storage and alterations to exterior façade	Outline Plan	9 December 2019
RM190145	70A The Esplanade	P & G Pearse	New dwelling with height in relation to boundary, open space and manoeuvring infringements within the Northern Residential zone	Restricted Discretionary	6 December 2019
RM190142	27 Howard Rd	V Zeyfert	Construct a dwelling infringing height control and a garage infringing the 5m front yard within the Main Residential zone	Restricted Discretionary	16 December 2019
RM190149	33 Pelorus Ave	M & M Madden	New dwelling/garage within the Main Residential zone infringing the 5m front yard	Restricted Discretionary	16 December 2019
RMS19069	56 Kenny Rd	Greenstone Land Developments Ltd	Subdivide site to create 48 residential lots and undertake earthworks in the Te Awa Structure Plan area	Discretionary	16 December 2019
RMS19100	106 Latham St	J Lurajud	Main Residential zone subdivision creating one additional lot (two in total)	Controlled	17 December 2019
RMS19101	78B Battery Rd	GP Kirkham	Amendment to a residential cross lease to incorporate an existing extension to flat 2	Amended to Cross Lease	18 December 2019

RMS19102	16 Forward St	PD Ellison	Main Residential zone subdivision to create one additional lot (two in total)	Controlled	19 December 2019
RM190077	400 Puketitiri Rd	C & J Parsons	Establishment of a tractor repair business/Industrial activity within the Rural Residential zone	Discretionary	19 December 2019
RMS19106	6 Otatara Rd & 2 Hetley Cres	MB Cadwallader	Main Residential zone subdivision to create separate titles around two existing dwellings	Controlled	19 December 2019
RM190150	6 Willowbank Ave	Capital Works	Stockpile earthworked material in excess of the permitted limits in the Main Residential zone	Restricted Discretionary	20 December 2019
RMS19103	83 Coverdale Rd	JV Bonthuys	Main Residential zone subdivision to create two additional lots (three in total)	Restricted Discretionary	23 December 2019
RM190151	38 Guppy Rd	MG Wilson	Multi-unit development within the Main Residential zone resulting in one additional dwelling (two in total)	Controlled	23 December 2019
RM190111	245 & 247 Tennyson St & 16, 18, 20, 22 & 22A Wellesley Rd	Murphy Property Development Ltd	Comprehensive commercial/multi-unit development within the Fringe Commercial zone entailing four office tenancies requiring a Resource Consent to address parking and loading shortfall, earthworks, NES (soils) and landscaping components	Discretionary	23 December 2019
RM190019	35 Kenny Rd	Te Awa Land Development Company Ltd	Multi-unit commercial development within the Main Residential zone (Te Awa Structure Plan Area) comprising of eight tenancies (including a café, supermarket, childcare facility, medical centre and four assorted retail units). Proposal involves earthworks and a car parking shortfall.	Discretionary	23 December 2019

PUBLIC EXCLUDED ITEMS

That the public be excluded from the following parts of the proceedings of this meeting, namely:

Agenda Items

1. Chief Executive Remuneration 18/19
2. Chief Executive Performance Review Process
3. Chief Executive Contract
4. Actions From Previous Meetings - Public Excluded Items

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

General subject of each matter to be considered.	Reason for passing this resolution in relation to each matter.	Ground(s) under section 48(1) to the passing of this resolution.
	That the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information where the withholding of the information is necessary to:	48(1)(a) That the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist:

Agenda Items

1. Chief Executive Remuneration 18/19	7(2)(a) Protect the privacy of natural persons, including that of a deceased person 7(2)(g) Maintain legal professional privilege	48(1)A That the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist: (i) Where the local authority is named or specified in Schedule 1 of this Act, under Section 6 or 7 (except 7(2)(f)(i)) of the Local Government Official Information and Meetings Act 1987.
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<p>2. Chief Executive Performance Review Process</p>	<p>7(2)(a) Protect the privacy of natural persons, including that of a deceased person</p> <p>7(2)(g) Maintain legal professional privilege</p>	<p>48(1)A That the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist: (i) Where the local authority is named or specified in Schedule 1 of this Act, under Section 6 or 7 (except 7(2)(f)(i)) of the Local Government Official Information and Meetings Act 1987.</p>
<p>3. Chief Executive Contract</p>	<p>7(2)(a) Protect the privacy of natural persons, including that of a deceased person</p> <p>7(2)(g) Maintain legal professional privilege</p>	<p>48(1)A That the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist: (i) Where the local authority is named or specified in Schedule 1 of this Act, under Section 6 or 7 (except 7(2)(f)(i)) of the Local Government Official Information and Meetings Act 1987.</p>
<p>4. Actions From Previous Meetings - Public Excluded Items</p>	<p>7(2)(c)(i) Protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information would be likely to prejudice the supply of similar information or information from the same source and it is in the public interest that such information should continue to be supplied</p>	<p>48(1)A That the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist: (i) Where the local authority is named or specified in Schedule 1 of this Act, under Section 6 or 7 (except 7(2)(f)(i)) of the Local Government Official Information and Meetings Act 1987.</p>

ORDINARY MEETING OF COUNCIL

Open Minutes

Meeting Date:	Thursday 19 December 2019
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Time:	10.00am-11.57am 12.05pm-1.03pm
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Venue	Council Chambers Hawke's Bay Regional Council 159 Dalton Street Napier
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Present	Mayor Wise, Deputy Mayor Brosnan, Councillors Boag, Browne, Chrystal, Crown, Mawson, McGrath, Price, Simpson, Tapine and Taylor
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In Attendance	Chief Executive, Director Corporate Services, Director Community Services, Director City Services, Director City Strategy, Manager Communications and Marketing, Manager Asset Strategy, Manager Environmental Solutions, Chief Financial Officer, Manager City Development, Manager Building Consents, Team Leader 3 Waters, Procurement Lead, Waste Minimisation Lead
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Administration	Governance Team
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Apologies

Council resolution

Councillor Boag / Dep. Mayor Brosnan

That the apology from Councillor Wright be accepted.

Carried

Conflicts of interest

Nil

Public forum

Nil

Announcements by the Mayor

The Mayor acknowledged and thanked Council for their hard work, professionalism and integrity over the last few months and year, noting it has been a busy year with a number of hefty issues to consider and they had represented the community well. She wished everyone a merry Christmas.

Announcements by the management

The Chief Executive acknowledged and thanked staff and Council for their efforts over the last year, and wished everyone a safe and enjoyable break.

Confirmation of minutes

Council resolution

Councillors Price / Crown

That the Draft Minutes of the Extraordinary meeting held on 5 December 2019 be confirmed as a true and accurate record of the meeting.

Carried

AGENDA ITEMS

1. HAWKE'S BAY AIRPORT LTD ANNUAL REPORT 2019

Type of Report:	Procedural
Legal Reference:	Local Government Act 2002
Document ID:	877128
Reporting Officer/s & Unit:	Caroline Thomson, Chief Financial Officer

1.1 Purpose of Report

To present to Council the Hawke's Bay Airport Ltd Annual Report 2019.

At the meeting

Tony Porter, Chairman and Stuart Ainslie, Chief Executive Officer presented the 2019 Hawke's Bay Airport Limited Annual Report to Council (*presentation **attached** – Attachment A*).

Mr Porter provided a brief overview of the financials for the 2018/19 year noting that due to the financial uncertainty following the departure of Jetstar and Arrow going into voluntary administration, it was decided that it would not be prudent to pay out a dividend this year. He also spoke to notable highlights of the year, including the continued success of the Watchman Road project.

Mr Ainslie spoke to the key challenges moving forward and provided an overview of the operations strategy and sustainability framework.

In response to questions from Councillors, the following points were clarified:

- Typically, a dividend of around 40% of EBIT would be paid out. Government understands the decision to not pay a dividend at this time.
- A number of factors attributed to the departure of Jetstar from Hawke's Bay, including the Jetstar operating model not being a good fit for the Turbo Prop service. The door remains open for Jetstar to return.
- The sustainability framework sits across the strategic plan.

ACTION: To arrange a joint meeting with Hastings District Council and Hawke's Bay Airport Limited in the new year, in order to provide further background information and bring new Councillors up to speed on airport matters.

Council resolution	Councillors Simpson / Tapine
	That Council:
	a. Receive the Hawke's Bay Airport Ltd Annual Report 2019.
	Carried

2. WATER REVIEW PROCUREMENT STRATEGY

<i>Type of Report:</i>	Operational
<i>Legal Reference:</i>	N/A
<i>Document ID:</i>	877290
<i>Reporting Officer/s & Unit:</i>	Catherine Bayly, Manager Asset Strategy

2.1 Purpose of Report

The purpose of this report is to outline the procurement strategy and processes to engage skilled consultancy services that will support Council's review of options for provision of safe chlorine free drinking water to our communities and compare to current requirements and anticipated regulatory change. The review will provide advice on capital and operational work requirements, residual health risk, indicative costs and indicative timeframe to achieve the targeted reticulation standard and make recommendations on an appropriate chlorine free option.

The options that will be assessed are:

1. Maintain the current Council planned programmes of work with Chlorine as a barrier against contamination under the new Water Safety Plan (WSP) framework, or
2. Enhance the water network to a standard where disinfection residual can be removed with no negative impact on water quality or public safety to consumers.

Outcome of Review:

The output of the review will be two fully costed options for the delivery of safe water supplies in Napier that can be consulted upon within the community with feedback sought to help inform Council on whether we continue with a safe network with chlorine or commit to developing a network that enables chlorine to be removed safely. The two options will be based around the requirements of the new Water Safety Plan Framework and the chlorine free option will be developed with guidance from the Ministry of Health to ensure that any future chlorine free option would be acceptable to them.

The additional benefits of completing the project include a peer review of the financial modelling in the 3 Waters Review along with providing clarity around future staffing requirements and operational costs for both options.

At the meeting

The Manager Asset Strategy, Team Leader 3 Waters and Procurement Lead spoke to the report and also provided further background for the benefit of the new Councillors. It was noted that a communications strategy will be developed in the new year to better inform the public around what is being done in this space, and reiterated that people should not drink the dirty water as this contains high levels of manganese, instead run taps until the water runs clear.

In response to questions from Councillors, the following points were clarified:

- It was confirmed that the works currently underway will be required whether the network is chlorinated or not.
- Acoustic sensors will be considered; however, they do not reduce risk. Acoustic sensors will allow Council to better understand the network once it is zoned and to

better manage leakage and flow. Zoning the network is part of Council's three year work programme.

- Christchurch City Council (CCC) has submitted their water safety plan and officers assume that the plan excludes chlorination. The Ministry of Health will make their decision based on recommendations from the panel, who must first consider how CCC plans to manage the risks in their network.
- Council has been running a pigging programme for over 10 years; this is an ongoing process. It was noted that parts of the network cannot be accessed.
- The major projects will run concurrently, with an optimistic view for some of these projects to be completed over two years, others will take longer.
- Council may need to attract consultants and contractors from outside Hawke's Bay as well to complete works, noting that Hastings District Council are also undertaking a large work programme.
- Before chlorination can be removed from the network, Council must demonstrate how risks in the network will be managed. Removing chlorination at this time would be against the approved water safety plan and would not be supported by the HBDHB.
- Council has demonstrated that there is no protozoa risk by achieving bore security status. UV treatment will also be installed in the new bore fields.
- The expectation moving forward under the new water safety drinking guidelines is that property owners with a private bore or storage tank feeding more than two dwellings will need to produce their own water safety plan. Council will be required to assist property owners with this.

Councillors suggested that Councillor Simpson be appointed as an observer for the Registration of Interest (ROI) process and that officers approach the Ministry in relation to potential funding options.

Officer's Recommendation

That Council:

- a. Note the report titled "Procurement Strategy to engage a consultant to complete a chlorine free drinking water review" be received.
- b. Adopt the Review outcome, being to develop two defensible options for safe drinking water to take to the community.
- c. Approve the procurement strategy to engage a consultant to complete a drinking water review for Napier City Council which includes a two stage procurement process including a Registration of Interest followed by a Request for Proposal.

Council resolution

Dep. Mayor Brosnan / Councillor Simpson

Substitute Motion

That Council:

- a. Note the report titled "Procurement Strategy to engage a consultant to complete a chlorine free drinking water review" be received.
- b. Adopt the Review outcome, being to develop two or more defensible options for safe drinking water to take to the community.

-
- c. Approve the procurement strategy to engage a consultant to complete a drinking water review for Napier City Council which includes a two stage procurement process to provide a solution that addresses the review outcomes including a Registration of Interest followed by a Request for Proposal.
 - d. Note the inclusion of an independent probity advisor in the process.
 - e. Investigate Ministry of Health funding opportunities for the report noting the implications of being leaders in the investigation of a chlorine free network under the new regulations, noting all works will continue as scheduled while this is undertaken.
 - f. Note that a communications strategy will be developed for all drinking water and presented to Council in early 2020.
 - g. That Councillor Simpson be appointed as observer on ROI process.
-

Carried

The Mayor adjourned the meeting at 11.57pm for a short break, and reconvened at 12.05pm.

3. CIVIC BUILDING DEMOLITION

<i>Type of Report:</i>	Operational
<i>Legal Reference:</i>	Local Government Act 2002
<i>Document ID:</i>	877988
<i>Reporting Officer/s & Unit:</i>	Paulina Wilhelm, Manager City Development

3.1 Purpose of Report

To seek Council approval to demolish the Civic building in 2020. Officers also propose investigating if there are any cost savings in demolishing the Library building at the same time and reporting the findings back to Council for considering the future plans for the Civic Precinct Area (the area including the civic building, the library building and the civic court, refer to attachment). It is noted that no decision has been made on the future of the Library building at this time.

Note: this report was initially taken to the Council meeting held on 5 December 2019 where it was laid on the table, to be brought back to this meeting.

At the meeting

Councillors confirmed that since the report was last on the table, they have had an opportunity to speak with representatives from Strata Group and Aurecon and have had access to further reports, enabling them to consider the full issue. It was noted that although a lot of the information had been around seismic assessments, a comprehensive report and business case around site optimisation had also been considered.

A number of Councillors noted they were satisfied that the information provided since the last meeting addressed their concerns and they were now able to move forward with the decision. It was also noted that the 2017 cost estimate for full refurbishment of the building was \$75M, and that Council officer's had confirmed there was no safety risk to passersby.

Council resolution

Councillors Taylor / Crown

That Council:

- a. Approve going to tender for the demolition of the Council Civic Administration building in 2020 and ring-fence the associated costs of demolition to be recovered from the future use of the site either through the sale or a long term lease

Carried

4. KERBSIDE RECYCLING CRATE REPLACEMENT POLICY

Type of Report:	Operational
Legal Reference:	N/A
Document ID:	877541
Reporting Officer/s & Unit:	Rhett van Veldhuizen, Waste Minimisation Lead

4.1 Purpose of Report

To seek Council's approval for establishing a policy and a charge and methodology for the replacement of recycling crates which have been stolen, lost or damaged while using the new service.

At the meeting

The Manager Environmental Solutions spoke to the report and clarified the following points, in response to questions from Councillors:

- There are a number of reasons that receptacles go missing, including moving house and taking the receptacles, whether purposely or not.
- The cost for replacements was foreseen but the replacement fee could only be set through fees and charges, which needs to be set at a particular time each year.
- Replacement fees will be assessed on a case by case basis, ie. replacement fees for receptacles broken by contractors will not be charged to residents; it was noted that the new methodology reduces this risk.
- The fee will be reviewed year on year as part of the fees and charges process. Council officers are satisfied that the fee is set at an appropriate level, and have taken into account replacement fees set by other Councils.
- Each crate has a unique code for tracking and audit purposes and contractors will only collect the maximum of three crates from each property.

Council resolution	Dep. Mayor Brosnan / Councillor Chrystal
	That Council:
	<ol style="list-style-type: none"> Approve the establishment of a fee of \$15.00 including GST for each crate supplied to replace any or all of the three crates provided to each household at the beginning of the service rollout. Agree to Waste Minimisation Officers developing a policy with regards to the charges related to kerbside collection receptacles that incorporates the contract parameters, fairness and looking after our assets.
	Carried

5. ACTIONS FROM PREVIOUS MEETINGS

<i>Type of Report:</i>	Procedural
<i>Legal Reference:</i>	N/A
<i>Document ID:</i>	878880
<i>Reporting Officer/s & Unit:</i>	Devorah Nícuarta-Smith, Team Leader Governance

5.1 Purpose of Report

To present the actions from previous meetings for awareness.

At the meeting

Councillor Taylor advised that Sport HB confirmed there is no council appointment to Sport HB.

Mayor Wise advised that the financial risk of removing the Napier Conference Centre signage item can be closed out as the signage has already been removed.

Council resolution	Councillors Tapine / Crown
	That Council:
	a. Note the actions from previous meetings along with their current status.
	Carried

REPORTS / RECOMMENDATIONS FROM THE STANDING COMMITTEES

REPORTS FROM AUDIT AND RISK COMMITTEE HELD 5 DECEMBER 2019

1. HEALTH AND SAFETY REPORT

Type of Report:	Operational
Legal Reference:	N/A
Document ID:	871748
Reporting Officer/s & Unit:	Sue Matkin, Manager People & Capability

1.1 Purpose of Report

The purpose of the report is to provide the Audit and Risk Committee with an overview of the health and safety performance as at 31 October 2019.

At the meeting

There was no discussion on this item.

Council resolution	Councillors Tapine / Boag
	That Council:
	a. Receive the Health and Safety report as at 31 October 2019.
	Carried

2. RISK MANAGEMENT REPORT NOVEMBER 2019

Type of Report: Information

Legal Reference: N/A

Document ID: 873301

Reporting Officer/s & Unit: Ross Franklin, Consultant

2.1 Purpose of Report

To provide the Audit and Risk Committee with an update on progress with risk management work and to report on the highest paid risks.

At the meeting

There was no discussion on this item.

Council resolution

Councillors Tapine / Boag

That Council:

- a. Note the Risk Management Work being undertaken by Napier City Council staff and management.
 - b. Note the current Major risks.
 - c. Receive the Risk Report dated 22 November 2019.
-

Carried

3. AUDIT AND RISK COMMITTEE CHARTER

Type of Report: Procedural

Legal Reference: N/A

Document ID: 873943

Reporting Officer/s & Unit: Adele Henderson, Director Corporate Services

3.1 Purpose of Report

The purpose of this report is to advise the incoming committee of the committee charter and of the recommendation for the charter to be reviewed over the next 12 months.

At the meeting

There was no discussion on this item.

Council resolution

Councillors Tapine / Boag

That Council:

- a. Note and discuss the current Audit and Risk Committee Charter and make any recommended changes
-

Carried

4. PROPOSED AUDIT AND RISK COMMITTEE 2020 MEETING CALENDAR

Type of Report: Operational

Legal Reference: N/A

Document ID: 871747

Reporting Officer/s & Unit: Caroline Thomson, Chief Financial Officer

4.1 Purpose of Report

To consider the proposed timetable of meetings for the Audit and Risk Committee in 2020, as detailed below.

At the meeting

There was no discussion on this item.

Council resolution Councillors Tapine / Boag

That Council:

- a. Receive the proposed timetable of meetings for the Audit and Risk Committee for 2020.
-

Carried

6. SENSITIVE EXPENDITURE: MAYOR AND CHIEF EXECUTIVE

Type of Report: Operational and Procedural

Legal Reference: N/A

Document ID: 871750

Reporting Officer/s & Unit: Caroline Thomson, Chief Financial Officer

6.1 Purpose of Report

To provide the information required for the Committee to review Sensitive Expenditure of the Mayor and Chief Executive for compliance with Council's Sensitive Expenditure Policy.

At the meeting

There was no discussion on this item.

Council resolution Councillors Tapine / Boag

That Council:

- a. Receive the report of Sensitive Expenditure for the Mayor and Chief Executive and review for compliance with the Sensitive Expenditure Policy.
-

Carried

7. EXTERNAL ACCOUNTABILITY: AUDIT NEW ZEALAND MANAGEMENT REPORT

<i>Type of Report:</i>	Information
<i>Legal Reference:</i>	Local Government Act 2002
<i>Document ID:</i>	871746
<i>Reporting Officer/s & Unit:</i>	Caroline Thomson, Chief Financial Officer

7.1 Purpose of Report

To consider the Audit NZ management report to the Council on the audit of Napier City Council for the year ended 30 June 2019 (to be tabled at the meeting).

At the meeting

There was no discussion on this item.

Council resolution	<u>Councillors Tapine / Boag</u>
	That Council:
	a. Receive the Audit NZ management report to the Council on the audit of Napier City Council for the year ended 30 June 2019.
	<u>Carried</u>

8. EXTERNAL ACCOUNTABILITY: INVESTMENT AND DEBT REPORT

Type of Report: Operational

Legal Reference: N/A

Document ID: 871749

Reporting Officer/s & Unit: Caroline Thomson, Chief Financial Officer

8.1 Purpose of Report

To consider the snapshot report on Napier City Council's Investment and Debt as at 31 October 2019.

At the meeting

There was no discussion on this item.

Council resolution

Councillors Tapine / Boag

That Council:

- a. Receive the snapshot report on Napier City Council's Investment and Debt as at 31 October 2019.
-

Carried

9. INTERNAL AUDIT: COMMUNITY GRANTS MANAGEMENT

Type of Report: Operational

Legal Reference: Local Government Act 2002

Document ID: 872363

Reporting Officer/s & Unit: Caroline Thomson, Chief Financial Officer

9.1 Purpose of Report

To table to the Committee the internal audit on community grants management undertaken by Council's internal auditors, Crowe Horwath.

At the meeting

There was no discussion on this item.

Council resolution Councillors Tapine / Boag

That Council:

- a. Receive the report from Crowe Horwath titled 'Community Grants Management'.
-

Carried

5. FINANCIAL DELEGATION

<i>Type of Report:</i>	Legal and Operational
<i>Legal Reference:</i>	Local Government Act 2002
<i>Document ID:</i>	869923
<i>Reporting Officer/s & Unit:</i>	Adele Henderson, Director Corporate Services

5.1 Purpose of Report

To review and approve the Chief Executive's financial and non-financial delegation

At the meeting

It was noted that the recommendation taken to the Audit and Risk Committee was to increase the Chief Executive's financial delegation from \$500,000 to \$1M. The committee did not make a recommendation to Council; however, noted that the independent members supported the increase. The other members of the Audit and Risk Committee, Councillors Simpson and Taylor, confirmed that they also supported the original recommendation, noting that it was reasonable for that level of expenditure to be increased. The Mayor expressed concerns around the public perception of any increase, with regard to process and transparency.

In response to questions from councillors, the following points were clarified:

- The delegation has not been reviewed for at least 10 years. Officers confirmed that the delegation could be reviewed at any time.
- Hastings District Council Chief Executive's financial delegation is \$5M and the Chief Executive Officer of EIT is \$1M.
- The financial delegation only applies to items within Council's approved plans and budgets, anything outside of this would be required to come back through Council.
- Council sets the financial delegation for the Chief Executive and the Chief Executive then sets the financial delegations for staff.
- Any large projects go through the Tenders committee.

Councillors noted their preference that the Chief Executive's financial delegation be brought back to Council for review say every three years.

Councillor Browne left the meeting at 12.54pm, part way through the discussion on this item, and did not participate in the vote.

Committee's recommendation

That Council:

- Note the recommendation of the report to increase the financial delegation to the Chief Executive from \$500k to \$1M, and provide feedback that the independent members support this recommendation while the Mayor's preference is to retain the current delegation
- Approve the Delegation to the Chief Executive document dated 5 December 2019 subject to Council financial delegation approval

Council resolution

Councillors Taylor / Price

Substitute motion

That Council:

- a. Approve an increase of the financial delegation to the Chief Executive from \$500k to \$1M.
- b. Approve the Delegation to the Chief Executive document dated 5 December 2019.

*The motion was **carried** by 7 votes to 4 votes the voting being as follows:*

For: Councillors Price, Taylor, Chrystal, Crown, Mawson,
Simpson and Tapine

Against: Mayor Wise, Deputy Mayor Brosnan, Councillors Boag
and McGrath

Carried

REPORTS UNDER DELEGATED AUTHORITY

1. RESOURCE CONSENTS

Type of Report: Information

Legal Reference: N/A

Document ID: 877879

Reporting Officer/s & Unit: Cheree Ball, Governance Advisor

1.1 Purpose of Report

To present the report on Resource Consents issued under delegated authority for the period 6 November – 30 November 2019.

At the meeting

There was no discussion on this item.

Council resolution

Councillors Price / Tapine

That Council:

- a. Resolves to receive the report titled 'Resource Consents approved 6 November - 30 November 2019'.

Carried

2. TENDERS LET

<i>Type of Report:</i>	Information
<i>Legal Reference:</i>	N/A
<i>Document ID:</i>	877927
<i>Reporting Officer/s & Unit:</i>	Cheree Ball, Governance Advisor

2.1 Purpose of Report

To report the Tenders let under delegated authority for the period 6 November – 5 December 2019.

At the meeting

There was no discussion on this item.

Council resolution

Councillors Price / Tapine

That Council:

- a. Receive the report for Tenders Let under delegated authority for the period 6 November – 5 December 2019.

Carried

3. DOCUMENTS EXECUTED UNDER SEAL

Type of Report: Information

Legal Reference: N/A

Document ID: 877923

Reporting Officer/s & Unit: Cheree Ball, Governance Advisor

3.1 Purpose of Report

To report on the Documents Executed under Seal for the period 6 November – 5 December 2019.

At the meeting

There was no discussion on this item.

Council resolution

Councillors Price / Tapine

That Council:

- a) Receive the report for Documents Executed under Seal for the period 6 November – 5 December 2019.

Carried

PUBLIC EXCLUDED ITEMS

Council resolution

Dep. Mayor Brosnan / Councillor Mawson

That the public be excluded from the following parts of the proceedings of this meeting.

Carried

Agenda Items

1. C1225 - Kerbside Waste Collection Services Contract
2. Actions From Previous Meetings - Public Excluded Items

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

General subject of each matter to be considered.	Reason for passing this resolution in relation to each matter.	Ground(s) under section 48(1) to the passing of this resolution.
	That the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information where the withholding of the information is necessary to:	48(1)(a) That the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist:

Agenda Items

1. C1225 - Kerbside Waste Collection Services Contract	<p>7(2)(h) Enable the local authority to carry out, without prejudice or disadvantage, commercial activities</p> <p>7(2)(i) Enable the local authority to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)</p>	<p>48(1)A That the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist:</p> <p>(i) Where the local authority is named or specified in Schedule 1 of this Act, under Section 6 or 7 (except 7(2)(f)(i)) of the Local Government Official</p>
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		Information and Meetings Act 1987.
2. Actions From Previous Meetings - Public Excluded Items	7(2)(c)(i) Protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information would be likely to prejudice the supply of similar information or information from the same source and it is in the public interest that such information should continue to be supplied	48(1)A That the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist: (i) Where the local authority is named or specified in Schedule 1 of this Act, under Section 6 or 7 (except 7(2)(f)(i)) of the Local Government Official Information and Meetings Act 1987.

The meeting moved into committee at 1.03pm.

Approved and adopted as a true and accurate record of the meeting.

Chairperson

Date of approval

Attachment A – HBAL Presentation



AGENDA

Review of Half Year to 31 December 2018

- Financial Performance
- Financial Position

DRAFT Statement of Intent

- Revenue, EBIT & Profit
- Financial Position & Cash flow
- Capex Projects
- Strategic Plan



Financials – Half Year to 31 Dec 2018

	THIS YEAR			LAST YEAR		FY19 Budget FY 2018/19	
	HY Actual Dec 18	HY Budget Dec 18	Variance %	HY Actual Dec 17	Variance %		
Passenger Numbers	380,323	359,142	5.9%	354,565	7.3%	705,598	✎ Passenger movements +7.3% above LY
TOTAL REVENUE	3,871,038	3,316,630	16.7%	3,372,642	14.8%	6,633,623	✎ Total Revenue increased 14.8% above LY, and 16.7% above budget
Operating Expenses	1,751,052	1,619,007	8.2%	1,386,084	26.3%	3,238,014	✎ Expenses 8.2% above budget and 26.3% ahead of LY.
EBITDA	2,119,986	1,697,623	24.9%	1,986,558	6.7%	3,395,609	✎ YOY increase in expenses was budgeted and primarily due to additional HR requirements.
Profit before Tax	1,426,971	1,022,771	39.5%	1,298,755	9.9%	1,837,257	
PROFIT AFTER TAX	1,008,307	736,395	36.9%	933,430	8.0%	1,322,926	✎ NPAT 36.9% above budget and 8% above LY



Draft SOI 2020 | Q3 2019

Financials – Statement of Financial Position as at 31 December 2018

	As at 31 Dec 18	As at 31 Dec 17	As at 30 Jun 18	
Assets				✎ Increased assets primarily associated with terminal expansion to date
Property, plant and equipment	39,242,233	31,511,155	34,912,723	
Investment property	4,455,230	4,586,182	4,535,317	
Intangibles	2,135	2,032	3,384	
Total non-current assets	43,699,598	36,099,369	39,451,424	✎ Non-current liabilities – bank debt circa \$8m @ 31/12/18
Total current assets	1,032,291	777,635	1,075,434	
Total Assets	44,731,889	36,877,004	40,526,858	
Total equity	30,576,381	29,571,914	30,144,566	
Total non-current liabilities	12,657,583	5,910,168	8,785,052	
Total current liabilities	1,497,925	1,394,922	1,597,241	
Total liabilities	14,155,508	7,305,090	10,382,292	
Total equity and liabilities	44,731,889	36,877,004	40,526,858	



Draft SOI 2020 | Q3 2019

Financials – Full Year Forecast v Budget

	FY18 Actual	SOI	FY19 Forecast	SOI v FY19 Forecast
PAX	697,143	705,598	750,000	44,402
Revenue	6,649,168	6,633,261	7,751,136	1,117,875
YOY			17%	
Expenses	3,041,665	3,238,013	3,543,767	(305,754)
YOY			-9%	
EBITDA	3,607,502	3,395,247	4,207,369	812,122
YOY			24%	
NPAT	\$1.45m	\$1.32m	\$1.89m	

- ✈ Current YOY growth 8%- expected to continue to full year.
- ✈ Forecast Revenue 17% above SOI. Predominantly aviation revenue - from landing charge increase 12.7% from July 18 and revenues associated with pax growth.
- ✈ Increased expenditure reflective of strategy since SOI set in early 2018. Predominantly HR cost associated with head count growth.
- ✈ EBITDA 24% above SOI; 17% above LY
- ✈ Forecast NPAT uplift circa \$440k on LY & \$570k above SOI



Draft SOI 2020 | Q3 2019

Outlook 2020 Onwards

- Duopoly - Air New Zealand/Jetstar – Price Wars
- 2nd Tier Regional Route Development
- Softening of International Traffic – Slowing of Domestic?
- Revenue Diversification – Property/Air Freight Development
- Critical Infrastructure
- Maximise Regional Economic Impact
- A sustainable airport business.



Draft SOI 2020 | Q3 2019

DRAFT Statement of Intent Revenue, EBIT & Profit Targets

	FY2020	FY2021	FY2022
Passenger Numbers	772,358 4.0%	807,114 4.5%	839,399 4.0%
FINANCIAL PERFORMANCE (\$)			
Airside Revenue	4,386,229	4,580,432	5,215,149
Landside Revenue	3,523,641	4,193,679	4,352,381
Business Park Revenue	423,266	432,356	443,212
Group Revenue	8,333,136	9,206,467	10,010,741
Operating Expenses	3,874,048	3,980,527	3,764,150
EBITDA	4,459,088	5,225,941	6,246,591
Depreciation & Amortisation	1,486,001	1,844,950	2,116,142
EBIT	2,973,087	3,380,991	4,130,450
Interest Paid (interest charged to P&L)	370,216	624,373	598,355
Profit before Tax	2,602,871	2,756,617	3,532,095
Tax	728,804	771,853	988,987
Profit after Tax	1,874,067	1,984,764	2,543,108

- ✈ 4% - 4.5% year on year annual growth in passenger numbers
- ✈ FY20-22 revenue growth of \$1.67m (+20%)
- ✈ FY20-21 revenue aligned with pax growth & associated revenues such as car parking & retail concessions.
- ✈ Significant increase in landing fees anticipated in FY22.
- ✈ Expenditure reasonably static with the exclusion of depreciation increase related to new terminal and other capex.



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DRAFT Statement of Intent Financial Position & Cash flow Targets

	FY2020	FY2021	FY2022
FINANCIAL POSITION			
Net Debt	19,145,590	18,218,545	17,418,446
Total Assets	57,428,494	57,785,351	58,945,090
Shareholders Funds	32,579,571	33,814,709	35,563,911
Ratio of Shareholders Funds to Total Assets	57%	59%	60%
CASHFLOW SUMMARY			
Operating Cashflow	2,976,010	4,028,872	5,044,005
Investing Cashflow	8,099,536	2,352,200	3,450,000
Dividend	749,627	793,906	1,017,243
FINANCIAL METRICS			
Return on Equity	5.8%	5.9%	7.2%
Net Gearing Ratio	37%	35%	32%
Equity	57%	59%	60%
Leverage Ratio	4.26	3.42	2.69

- ✈ Significant CAPEX investment will be largely bank funded with net debt forecast to peak in FY20
- ✈ Strong operating cash flows continue and facilitate continued asset investment and debt reduction post terminal expansion
- ✈ Annual dividend distributions based on 40% NPAT



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CAPEX Projects

	FY2020	FY2021	FY2022
	\$	\$	\$
Terminal (incl WIP movement)	5,382,936	-	-
Roading Development	604,400	300,000	250,000
Car Parking	130,000	-	500,000
Business Park	-	-	-
Airfield Infrastructure	720,200	1,220,200	710,000
Buildings	662,000	12,000	-
Aviation Security & Fencing	-	805,000	1,000,000
Land Development/Property	340,000	-	475,000
Office Equipment	5,000	5,000	5,000
Plant and Equipment	210,000	10,000	510,000
Vehicles	45,000	-	-
	8,099,536	2,352,200	3,450,000

✈ FY20 - Roading development and apron improvement

✈ FY21 - Apron expansion and aviation security

✈ FY22 - Aviation security, air freight infrastructure and car parking capacity FY22





Operations

"Ensuring a safe, rewarding and delightful journey for our travelers. Striving for Excellence in everything we do"

- Insourcing Fire Service
- Safety Management System
- Digital Strategy
- Infrastructure Development
 - Terminal
 - Car Park
 - Aircraft Parking
- Terminal Expansion
- Operational Readiness



TERMINAL EXPANSION UPDATE

- Arrow Voluntary Administration Recovery
- Completion by end August 2020
- Stage 2 Complete October 2019
- Forecourt Plaza Redesign

3 April 2019



HAWKE'S BAY AIRPORT

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Commercial

"Maximising the returns across our Aeronautical Business whilst delivering greater value and a strong sense of place."

- Retail
- Advertising
- Route Development
- Car Parking & Ground Transport

RETAIL CONCESSIONS – A STRONG REFLECTION OF HAWKE'S BAY

Central F&B – Food, Wine, Beer, Coffee



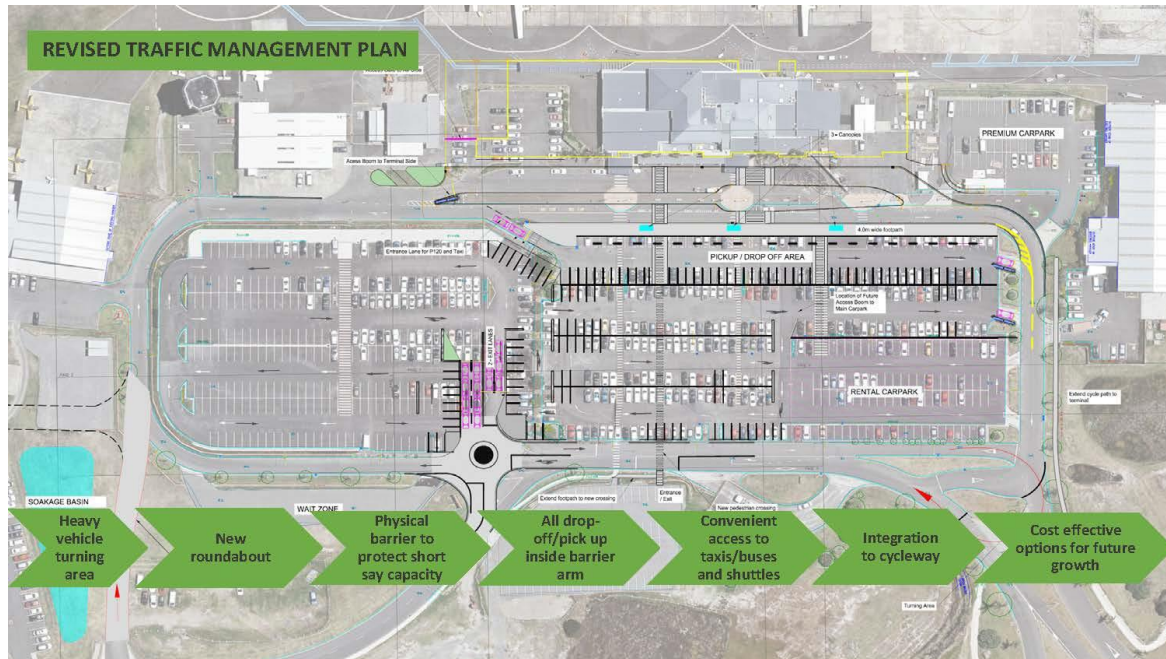
Secondary F&B Coffee and Grab 'n Go



Anchor Retail – Screams Hawke's Bay



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Carpark Technology

- S&B selected via public RFP process
- Installation August 2019
- No more magnetic strips
- Staged introduction of new payment options
- Tap and go on exit
- Online booking integration
- Options for License Plate Recognition

SCHEIDT&BACHMANN 





Property

"Making the best use of our land whilst safe guarding our Airport to optimise returns and a increase value to our shareholders"

- 2039 - 20 Year Masterplan
- Sustainability Framework
 - Carbon & Energy
 - Energy Baseline
 - 3 Waters
- Commercial Precinct Reset
- Development Guidelines
- Freight Development
- Appropriate RMA Framework to support all development opportunities
- Pipeline of Development Opportunities

Sustainability Framework - Target SDG's

FINANCIAL RETURN	ENVIRONMENTAL EXCELLENCE	SOCIAL OPPORTUNITY	OPERATIONAL EFFICIENCY
<p>Stimulate economic growth via intelligent solutions with attractive payback periods to deliver lifecycle savings & revenue</p>	<p>Focus on innovation, new technology & asset utilisation to deliver exceptional environmental outcomes</p>	<p>Invest in & positively contribute to sustainable and healthy communities whilst being a Good Neighbour</p>	<p>Optimise the airfield layout & core processing nodes to enhance punctuality, operational flexibility & resilience</p>
<p>Support local & regional businesses</p> <p>Facilitate local procurement opportunities</p> <p>Attract inward investment</p> <p>Expand global business networks</p> <p>Enhance retail product</p>	<p>Carbon neutrality</p> <p>Reduce noise annoyance</p> <p>Improve air quality</p> <p>Optimise natural resource use</p> <p>Pollution prevention & control</p> <p>Wildlife control</p> <p>Future-proofing</p>	<p>Local job creation & skills training</p> <p>Support local charities & community initiatives</p> <p>Staff engagement</p> <p>Diversity & inclusion</p> <p>Effective noise management</p>	<p>Terminal capacity</p> <p>Simple spatial & functional layouts</p> <p>Efficient operational procedures</p> <p>Intuitive wayfinding</p> <p>Safety & security</p> <p>Passenger & staff wellbeing</p>

6 CLEAN WATER AND SANITATION

7 AFFORDABLE AND CLEAN ENERGY

9 INDUSTRY, INNOVATION AND INFRASTRUCTURE

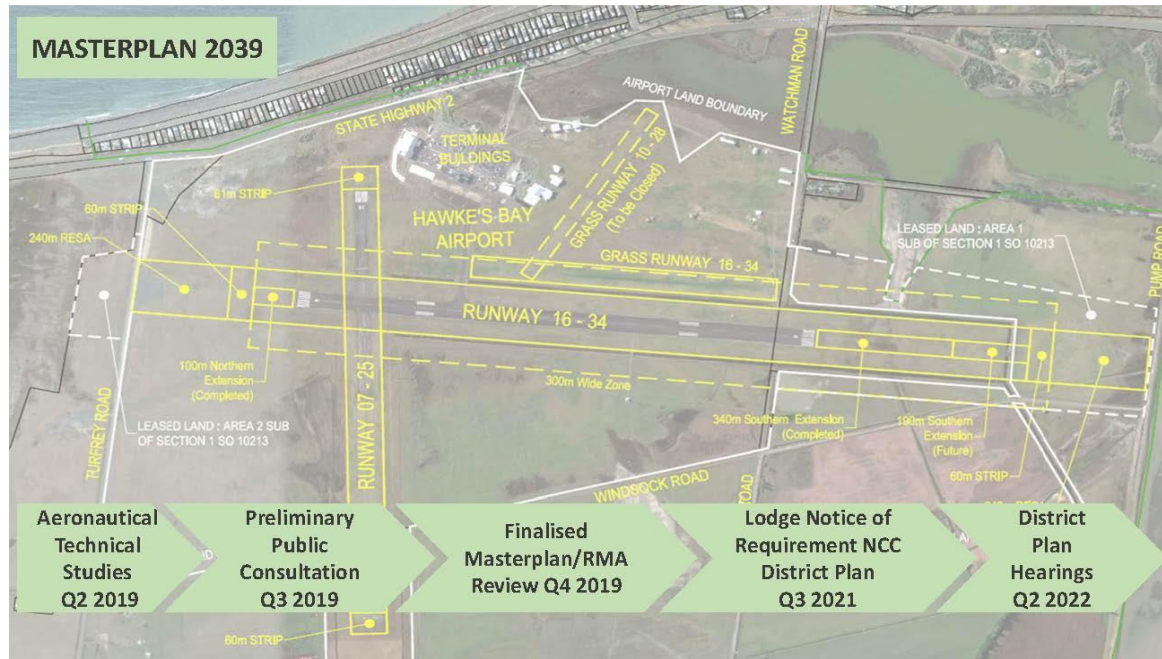
11 SUSTAINABLE CITIES AND COMMUNITIES

12 RESPONSIBLE CONSUMPTION AND PRODUCTION

13 CLIMATE ACTION

14 LIFE BELOW WATER

COMMITTED TO SUSTAINABLE TOURISM



Partners

"Engaging with our Customers, Stakeholders, Business Partners and Community to grow our airport in a way which benefits everyone. A great place to do business."

- Customer Service
- Airport Service Quality Survey
- Airline Collaboration
- CIAL Forecasting
- Sponsorship & Donations
 - Biodiversity Hawke's Bay
 - Hawke's Bay Wine Growers
 - Export NZ Awards
 - Napier Aeroclub
 - HB Air Ambulance Charitable Trust



People

“Working together to get the best outcome from our people in a great place to work and live.”

- Organisation Capacity Review
- Insourcing Mission Critical Services
- >35 Airport Ambassadors
- A working place conducive to good welfare and productivity
- Farewell to Jeanette Yule (CFO)