

**Minutes of Meeting Of Kaipara District Council In The Council Chambers, Station Road,
Dargaville On Wednesday 28 October 2009 Commencing 1.00 pm**

Public Copy: Unconfirmed

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Minutes: 28 October 2009

1 Opening : Mayor Tiller

Councillor Guest had tendered his apologies for the meeting however he will open the 25 November 2009 meeting.

1.1 Present

Mayor N Tiller, Councillors R Alspach, B Burnett, J Geange, B McEwing, T Smith, J Sutherland, G Taylor

1.2 In Attendance

J McKerchar, B Ware, M Fleming, M Vincent, C Lichtwark McInnes

1.3 Apologies

Resolved McEwing/Alspach

That the apologies of Councillor Guest be received.

2 Policy

2.1 Delegation to Yakushima, Japan: 29 September to 6 October 2009

Chief Executive 2132.06.01.03

A report from the Chief Executive was circulated, on the delegation to Yakushima, Japan. He made a presentation at the Workshop. The following members of the delegation were present and talked about the delegation: Alex Nathan and Wayne Blisset of Te Roroa, Betty Nolley from the Kauri Museum and Shane Lloyd of the Copthorne, Omapare.

Resolved Sutherland/Mayor Tiller

That the information be received.

2.2 2008/09 Annual Report Adoption: Audit Report Receipt

Chief Executive **2303.15**

Due to extraordinary circumstances Audit New Zealand has granted the Council an extension. The 2008/09 Annual Report will be adopted by Council at its meeting to be held 25 November 2009.

2.3 Dargaville Skate Park: Concept Plans

Community Spaces Manager **4702.03.02**

A copy of the report and concept plans relating to the Dargaville skate park were circulated. Council allocated \$20,000 to develop concept plans for a skate park in Dargaville through its *Kaipara's Future - Working Together* 2007/2008 (Long Term Council Community Plan LTCCP) process. This was done with the condition that a project group would be formed to develop the skate park concept further and that the concept plans be brought back to Council for approval. The initial idea and submission for the skate park came from the Kaipara Youth Leadership Group who was concerned with a lack of activities for youth in the Dargaville and surrounding areas.

A Committee was formed to move the project along with the idea being to identify the preferred site and develop concept plans based on that location. The Committee quickly identified an area in Logan Street, Mangawhare, as on the circulated map. This property was identified as Valuation Assessment Number 0096019200 and was the preferred location to develop concept plans for. Council's endorsement for this location was given at Council's 17 December 2008 meeting. Having Council's endorsement for this location enabled the Committee to continue with the development of concept plans based on this location. With Council's approval a skate pad was placed on site to gauge usage, this had proved very popular with children and youth using it daily. Concept plans had been finalised and were being brought back to Council for final approval.

Resolved **Geange/Smith**

That Council receives the Community Spaces Manager's report dated 1 October 2009, along with the finalised concept plans; and

That Council gives its approval in principle to the concept plans, based on the site at Logan Street, Mangawhare, Dargaville identified as Valuation Assessment Number 0096019200.

Reason for the Decision

Council allocated \$20,000 through its *Kaipara's Future - Working Together 2007/08* (Long Term Council Community Plan) process and resolved that the concept plans be brought to Council for final approval. With concept plans now complete and with Council approval of these plans the Committee can now apply for funding from various organisations and fundraise for the construction of the Skate Park based on the concept plans developed.

2.4 Kaihu Valley War Memorial Hall: Handover and Funding

Community Spaces Manager 4603.06

A report from the Commercial Manager regarding the Kaihu War Memorial Hall was circulated. In 2001 Kaihu Valley War Memorial Hall Society Incorporated was formed to facilitate handover of the hall to the community. The objective of this Hall Committee was to provide an affordable facility that was available for use by the community and others. The Hall Committee believed that this was best achieved by community ownership of the hall and land. Council was keen to support this aspiration and contribute to community development.

It was important that all legal processes for the handover were followed. A grant could then be provided to the Hall Committee that would allow for the transaction. The sale would be conditional, in that Council would have first right of refusal to repurchase the property. This meant there may be a concern for Council liability for GST, and the amount payable would be based on the market value of the property as per the valuation report. No GST consideration would be payable by the Hall.

A business plan had been developed for the Hall Committee. A three year projection of both income and expenditure was also included in the business plan. Kaihu had requested \$15,627.50 to replace kitchen walls and floor covering from the 2009/2010 funding year. This would allow completion of the kitchen area and complete all structural repairs required.

There were aspects of this handover that could act as a template for other Halls. However, it was important to consider that each Hall had a very different set of circumstances. To ensure that there were no issues for Council in the future, each handover will require its own research and consideration. This required a significant amount of staff time. Each handover would need to be considered on its own merits.

Resolved Geange/Taylor

That Council transfers the Kaihu Valley War Memorial Hall to the community, in the form of the Kaihu Valley War Memorial Hall Society Incorporated at Valuation; and

That Council affects a Sale and Purchase Agreement before the next Council meeting to be held 25 November 2009; and

That Council makes a grant to the Kaihu Valley War Memorial Hall Society Incorporated of the purchase price of the Hall less the GST component, which will be loaned to the Society by the Council, to be repaid by the Society when it receives the refund of GST; and

That Council approves funding of \$15,627.50 from the 2009/2010 Halls Grant to Kaihu Valley War Memorial Hall to enable completion of the kitchen.

Reason for the Decision

The Kaihu Valley War Memorial Hall Society Incorporated has met all requirements for the takeover of the Hall, including the preparation of a business plan which demonstrates the ability of the society to operate the hall on an ongoing basis. The grant for the completion of the kitchen meets Council's requirements and sees the structural integrity of the Hall protected.

2.5 Aratapu Hall: Options of Future Use

Community Spaces Manager 4603.02

A report from the Commercial Manager regarding the future options for Aratapu Hall was circulated. The Aratapu Hall was located on a Local Purpose Reserve on Heawa Road, Aratapu (Part Allotment 10 Kopuru Parish). In 1979 the land was vested in Council to administer, and in 1985 the Reserve status was changed from Recreational to Local Purpose. The building was noted in the New Zealand Historic Places Trust Register and Council's District Plan under Category II, this being a building of local significance. While there were no special requirements from the Historic Places Trust for this building, the proposed District Plan the Kaipara District Council required a Resource Consent if the building was removed from site.

Two submissions were received in the *Kaipara's Future - Working Together* 2009/19, one from a local community group and one from a private individual interested in buying the building for removal. In September Council received notification from the community group. They stated they were no longer interested in the current building and had requested that it be sold and removed from the site.

No maintenance work had been on this building for many years and there were no available funds to do so. In its current state the building presented a serious health and safety risk to the general public.

Resolved Geange/Taylor

That Council investigates options to sell Aratapu Hall as the community has shown no further interest in utilising the building for community use. As the structural timber is of solid Kauri this could include advertising for interest to buy the building for either demolition or removal from site; and

That Council staff investigate options for grazing the land (Part Allotment 10 Kopuru Parish) at commercial rates while future options for this reserve are explored.

Reason for the Decision

To progress the disposal of the Aratapu Hall.

2.6 Revision of Resource Management Fees: Statement of Proposal

Development Manager 2301.07

A Statement of Proposal was circulated which had been prompted by the introduction of amendments to the Resource Management Act and the notification of the proposed District Plan. The fees schedule needed to align better with the Act as it had been finalised relating to requests for further information, and the use of independent commissioners. The additional cost Council's planners would incur through having to deal with two planning documents when assessing applications needed to be addressed; this was a cost which should be borne by applicants rather than Council or its consultants.

At the same time, a couple of irregularities were being resolved, a separate charge for land use consent applications relating to signs was proposed so the more onerous standard land use charge did not need to apply, and also ambiguity around charges for engineering inspections could be addressed.

The Resource Management Act required that the special consultative procedure set out in section 83 of the Local Government Act 2002 be employed in the promulgation of fees. This entailed the preparation of a statement of proposal which must be considered and approved by a meeting of Council before it was publicly notified for consultation purposes.

Resolved McEwing/Smith

That Council approves the release of the Statement of Proposal for "Revision of Resource Management Act Fees (October 2009)" in accordance with the special consultative procedure required by the Local Government Act 2002.

Reason for the Decision

The schedule of fees needs to be brought into alignment with the Resource Management Act as it has now been finalised relating to requests for further information, and the use of independent commissioners.

The additional cost Council's planners will incur through having to deal with two planning documents when assessing applications needs to be addressed; this is a cost which should be borne by applicants rather than Council or its consultants. There is also the opportunity to tidy up some irregularities in the existing schedule.

2.7 Road Legalisation: Maropiu Road, Kaihu

Community Infrastructural Assets Manager

4102.08

Council had been approached by Stratton Bentley Surveyors who had completed a subdivision at a property on Maropiu Road, Kaihu for J R and S L Robertson. As part of the surveying, Stratton Bentley had found that the road formation had encroached onto land owned by the Robertson's. This was shown on the circulated plan as Lot 3. The area of land involved amounts to 652 square metres.

On behalf of the Robertson's, the Surveyor had asked whether Council would accept the land as Road to Vest. The amount proposed for this land was \$652.00 plus GST, to which the Robertson's were agreeable. A formal valuation was not warranted, as the cost to obtain one would exceed the value of the land.

To undertake this formalisation work at a later date was likely to be at a greater cost to Council.

Resolved Alspach/Smith

That Council agrees that \$652.00 plus GST be paid to JR and SL Robertson for the 652 square metres of land to vest as road, for Lot 3 DP 412586.

Reason for the Decision

To formalise a situation where Council road is on private land by working in conjunction with the land owner.

3 Confirmation of Minutes

3.1 Ordinary Council Meeting : 23 September 2009

Governance Manager 1601.13

A copy of the minutes was circulated.

Amendment:

Councillor Geange opened the meeting held 23 September 2009, not Councillor Guest.

Resolved Sutherland/Burnett

That the minutes of the Ordinary Meeting of Council 23 September 2009, as amended, be confirmed as a true and correct record.

4 Reports

4.1 Mayor's Report

1701.02.03

The Mayor tabled a report on matters of interest.

4.2 Councillors Portfolio Reports

Councillors **1904 (various)**

The following Councillors gave written reports on portfolio matters and other items of interest.

Cr Geange (tabled)	Community Spaces • Reserves • Halls • Council Land
Cr Smith (circulated with agenda)	Roading Operation Planning

4.3 Chief Executive's Report: October 2009

Chief Executive **2002.02.10**

The Chief Executive's report for October 2009 was circulated separately.

Resolved **Sutherland/Smith**

That the Chief Executive's report for October 2009 be received.

5 Receipt and Endorsement Items

5.1 Judicial Committee Meeting Minutes: 29 September 2009

Development Manager **1605.11**

A copy of the Judicial Committee minutes of 29 September 2009 was circulated.

Resolved **Taylor/Mayor Tiller**

That the Judicial Committee minutes of 29 September 2009, as circulated, be received.

6 Information Items

6.1 Delegated Authority: Schedule of Decisions

Development Manager 3803.0

Circulated was a schedule of decisions that had been made under delegated authority. The purpose of this was not for Council to review the detail of these decisions as they had already been made under delegated authority, but rather to give an indication of the nature and scale of developments taking place within the District in a reasonably concise way.

Resolved Alspach/Sutherland

That the Delegated Authority Schedule of Decisions be received.

6.2 Auckland Super City Northern Boundary : Kaipara District Council Submission

Chief Executive 1908.02.04

Copies of the Kaipara District Council submissions to The Local Government Commission and The Parliamentary Select Committee regarding the Auckland Super City Northern Boundary were circulated.

Resolved Alspach/Sutherland

That Kaipara District Council's submissions on Auckland Supercity, to The Local Government Commission dated 16 October 2009 and The Parliamentary Select Committee dated 24 June 2009 be received.

6.3 District Plan Review: Monitoring Report: October 2009

Chief Executive 3807.01.08

The monthly Monitoring Report from the Project Manager of District Plan Review was circulated.

Resolved Alspach/Sutherland

That the information be received.

6.4 Notification of Applications under the Resource Management Act

Development Manager 3825.0

The basis for deciding whether or not resource consent applications should be notified has been changed by the enactment of the Resource Management (Simplifying and Streamlining) Act 2009. This came into force on 1 October 2009.

Under the new Act, there was no presumption in favour of notification, although the consent authority [Council] retained a discretion to notify. This is an important change in stance, and will serve to protect a Council in defending its decision not to notify an application in any judicial review proceedings which might be brought.

The new provision sets out specific circumstances where an application would be publicly notified and circumstances where it would proceed down the non-notified path. These provisions were very similar to those previously existing, with some additions.

If the effects on the environment “will have or [are] likely to have effects on the environment that are more than minor” the application must be publicly notified (2009 amendment) compared with ... must be notified “unless ... the consent authority was satisfied that the adverse effects of the activity on the environment would be minor” (2003 amendment).

The new s95D gave guidance in assessing whether adverse effects were likely to be more than minor. The effects on persons on the subject site itself and on any adjacent land must be disregarded, among other matters.

If it could then be seen that the adverse effects reach beyond the identified adjacent properties in some palpable way, then there was an indication that the effects were more than minor, and it did not matter how many written consents from ‘affected parties’ were provided, the application would need to be publicly notified. If there were effects upon adjacent properties but not beyond, then limited notification was an option.

It was a principle of statutory interpretation that *the meaning of an enactment must be ascertained from its text and in light of its purpose* (s5(1) Interpretation Act 1999). It was reasonably clear from the text and the purpose of the Amendment Act as identified in the title (Simplifying of Streamlining) that its purpose included reducing the number of resource consent applications delayed by public notification.

It was recognised from the biennial Ministry for the Environment surveys that Kaipara District Council notified a greater percentage of applications than the average, so it could be expected that a consequence of the latest legislative change that fewer applications would be publicly or limited notified in Kaipara.

Resolved Alspach/Sutherland

That the information on Notification of Applications under the Resource Management Act be received.

6.5 Roothing Programme Funding Impacts 2009/2010

Community Infrastructural Assets Manager

4101.0

The total Roothing Programme of work for 2009/10 included in *Kaipara's Future - Working Together* 2009/19 was \$27,919,940. This aligned with Government Policy and Council's Asset Management Plans, and considered the ongoing development of the Otamatea Ward using development contributions. The programme of work was always subject to final approval from the NZ Transport Agency. Funding approval had been received and amounts to \$24,524,958 some \$3,394,057 less than what was requested. The key areas of funding for Maintenance, Area Wide Pavement Treatment and Renewals for 2009/10 had remained intact but the capital works programme had been significantly reduced.

Funding was still provisional on further justification and subject to funding availability. Some items had also been included in the programme with no funding actually committed such as transport planning studies.

This had occurred to allow projects to proceed should the NZ Transport Agency inject funds into the programme or underspending occurred elsewhere which may provide an opportunity for non-funded Kaipara projects.

The implication of this on *Kaipara's Future - Working Together* 2009/19 was currently being investigated. This type of reduction had been applied nationwide to all local authorities. In addition there was no provision for escalation over the next three years and this would need to be managed within existing budgets. This could be managed in future years with Consultants and Contractors but there would need to be some discussion under current contractual arrangements which include escalation.

It was worthy to note that currently escalation figures were actually negative in some areas due to the recession, so the immediate impact may not be significant.

Funding Requests versus Approvals 2009/10: The following table noted the significant variances for the 2009/10 Roothing Programme between the request submitted to NZ Transport Agency which had been prepared in accordance with the *Kaipara's Future - Working Together* 2009/19 and the NZ Transport Agency funding approval in September 2009.

Category	Request	Approval	Reduction
User benefits including · Seal Extension (Excluding committed projects such as Bickerstaffe Road)	\$1,507,000	\$471,429	\$1,035,571
Improve, expand or replace network including: · Bridge replacements · Community T Fund projects · Otamatea Ward Contributions	\$2,123,000	\$928,571	\$1,194,429

Minor Improvements (previously Minor Safety Works undertaken without the need for financial justification)	\$1,129,000	\$906,446	\$222,554
Community Programmes (safety belt, child restraints, adult education)	\$131,900	\$82,397	\$49,503
Walking and Cycling	\$212,000	\$0	\$212,000
Walking and Cycling Strategy Review	\$80,000	\$0	\$80,000
Regional Development Funding (projects will need to be agreed by Joint Forestry Committee)	\$2,000,000	\$1,400,000	\$600,000

The funding reductions reflected the new drivers of the Government Policy Statement (GPS2) for Roding developed by the incoming Government. The key focus was on economic efficiency and productivity. This had seen the elimination of the entire Walking and Cycling projects category. However walking and cycling projects may still be possible through the reduced Minor Improvements category.

The NZ Transport Agency final funding approvals would require Council to reconsider some of its approved 2009/10 Subsidised Roding Programme which was confirmed in August 2009. Council's programme had been constructed on the basis of need but the change in funding policy would require Council to reconsider its capital programme on the basis of what it could achieve under the new policy. A further report would be provided to Council in November 2009 on the re-prioritisation of projects. This would be developed with the Roding Portfolio holders.

Resolved Alspach/Sutherland

That the information be received.

7 Public Excluded Items 28 October 2009

Resolved Alspach/Burnett

That the public be excluded from the following part of the proceedings of this meeting namely:

- *Glinks Gully Camp Ground: Maintenance and Management; and*
- *Contract 566 Baldrack Road, Seal Extension 2008/09 Stage 2 : Notice of Adjudication : 9 August 2009*

The general subject matter of each matter to be considered while the public is 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 are as follows:

<i>Subject matter to be considered:</i>	<i>Ground(s) under Section 48 (1) for the passing this resolution:</i>
<i>Glinks Gully Camp Ground: Maintenance and Management</i>	<i>Section 48 (1)(a), Section 7, Section 7(2)(b)(ii)</i>
<i>Contract 566 Baldrack Road, Seal Extension 2008/09 Stage 2 : Notice of Adjudication : 9 August 2009</i>	<i>Section 48 (1)(a), Section 7, Section 7(2)(b)(ii)</i>

Reason for passing this resolution in relation to each matter

This resolution is made in reliance of Section 48 (1)(a) of the Local Authority Official Information and Meetings Act and the particular interest or interests protected by Section 7 of that Act Section 7 of the Official Information Act 1982, which would be prejudiced by the holding of the whole or the relevant part of the proceedings of the meeting in public.

Section 7 (2)(b)(ii) would be unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information.

Open Council Meeting: 28 October 2009

Resolved Sutherland/Taylor

That the resolutions made whilst in Public Excluded, be confirmed.

7.1 Glinks Gully Camp Ground: Maintenance and Management

Community Spaces Manager 4107.575; 4702.33; 4703.03

Resolved Geange/McEwing

That Council agrees in principle to the request from the Glinks Gully Protection Society and Cindy Maude and Geoff Nichol to undertake Maintenance works as identified in the Community Spaces Manager's report dated 7 October 2009; and

That the current Contractor, Vulelich Operational Services, be approached to consider a variation, to allow the Glinks Gully Protection Society to undertake maintenance works in the area as a nominated Subcontractor; and

That the adjusted contract price is brought back to Council for approval before formalising the Glinks Gully Protection Society as Council's nominated Subcontractor to the current Parks, Reserves and Facilities Maintenance Contract.

Reason for the Decision

The Glinks Gully Protection Society and residents, Cindy Maude and Geoff Nichols, want to undertake the Maintenance and Management of both the camp ground and surrounds at Glinks Gully under a similar agreement to that in place with the Kelly's Bay Improvement Society. The Glinks Gully Camp Ground is not a profitable camp ground. If the camp ground is included in wider community maintenance contract the result would be an increased level of service within the settlement and the camp ground remaining open for the benefit of the community and visitors.

7.2 Contract 566 Baldrock Road Seal Extension 2008/09 Stage 2: Notice of Adjudication: 9 August 2009

Community Infrastructural Assets Manager 4107.566

Resolved Alspach/Smith

That the information on Contract 566 Baldrock Road Seal Extension 2008/09 Stage 2: Notice of Adjudication: 9 August 2009 be received.

Closure

The meeting closed at 2.30 pm

Confirmed this day of 2009

Mayor Tiller