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Not for Publication until after Commencement of Meeting**Notice Of Ordinary Meeting Of Council****Date 10.00 am on Wednesday 27 July 2011****Venue Council Chambers, Station Road, Dargaville****Timetable****10.15 am Morning Tea****10.30 am Workshops****10.30am 1 Dr Grundy****11.00am 2 Vodafone/Chorus****12 noon Lunch****1.00 pm Commencement of Council Meeting****1.00 pm Presentation****a) Public Forum 1.00 pm**

- i) (1.00 pm) Dorothy Gorrie** will speak to Council on rubbish, disposing of household appliances, and other things.
- ii) (1.05 pm) Ms Catherine Hawley** will speak to Council on the Marunui Conservation Ltd report, about "Brynderwyns - Bream Tail : Opportunities for Ecological Restoration".

b) Presentation: 3.00 pm**New Zealand Citizenship Ceremony.**

Item 2.3 refers. Recipients will be presented with their certificates during the Council meeting, at 3.00 pm.

3.00 pm Afternoon Tea**3.30 pm Recommencement of Council Meeting, if required**

**Ordinary Meeting Of Kaipara District Council In The Council Chambers, Station Road,
Dargaville On Wednesday 27 July 2011 Commencing 1.00 pm**

**Recommendations contained in the order paper and reports are NOT Council decisions
but are provided as advice on which the debate can begin.
Please refer to Council minutes for Resolutions.**

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Order Paper: Wednesday 27 July 2011**1 Opening: Councillor Geange**

Councillor Sutherland to open the August 2011 meeting.

1.1 Present**1.2 In Attendance****2 Public Forum / Presentation****2.1 D Gorrie: 1.00pm**

Dorothy Gorrie will speak to Council on rubbish, disposing of household appliances, and other things.

2.2 C Hawley: 1.05 pm

Catherine Hawley will speak to Council on the Marunui Conservation Ltd report, about "Brynderwyns - Bream Tail : Opportunities for Ecological Restoration"

2.3 New Zealand Citizenship Ceremony: 3.00 pm

Corporate Services Manager 1401.0 2011

Mayor Neil Tiller will be presenting the 'Apai Family (Tonga), Deborah Hambly, (England), Anna van Harlingen (England), Nicola Deveraux (England), the Mateev Family (Bulgaria), Anna Lupton (Singapore) and Jessica Morley (England) with their New Zealand Citizenship Certificates during the afternoon session of Council at 3.00pm on Wednesday 27 July 2011 in Dargaville.

3 Confirmation of Minutes**P1 3.1 Extraordinary Council Meeting : 8 June 2011**

Governance Manager 1601.15

A copy of the minutes is attached.

Recommended

That the minutes of the Extraordinary Meeting of Council 8 June 2011 as circulated, be confirmed as a true and correct record.

P6 3.2 Ordinary Council Meeting : 22 June 2011

Governance Manager 1601.15

A copy of the minutes is attached.

Recommended

That the minutes of the Ordinary Meeting of Council 22 June 2011 as circulated, be confirmed as a true and correct record.

4 Declaration of Conflicts of Interest

4.1 Declaration of Conflicts of Interest

Governance Manager 1902.0

Audit has asked that this item be included on Council's Agenda each month. People's personal situations change and Audit believes it is appropriate that both Councillors and Managers give regular consideration as to whether or not they have a potential conflict of interest in respect of anything before Council.

5 Policy

5.1 Mangawhai Activity Zone Charitable Trust Incorporated and Mangawhai Historical Society: Request for Urgent Financial Assistance

General Manager of Policy and Governance 2304.04

A request has been received from the Mangawhai Historical Society for \$110,000 for the Mangawhai Museum and the Mangawhai Activity Zone Charitable Trust Incorporated for \$20,000 for the Mangawhai Activity Zone. In each case some urgency has been indicated in order to fund a cash flow shortfall which has been incurred to complete a phase of their respective projects.

Council has supported both organisations in the past and continues to be supportive in principle.

Going forward, given the competing demands on the limited funds available (both now and in the future) and the need to ensure that Council is getting value for the money and/or that the funds are secure (as the case may be), it is necessary to put requests on a more formal footing.

Before Council makes a further commitment, each organisation's business plan, financial projections, project plans, timelines and other supporting material should be reviewed in order to understand the total picture, the viability and sustainability of the project and potentially whether any future or ongoing commitment will be required.

If assistance is to be provided, Council needs to be clear about the best form of that assistance and, if applicable, the level of security that it requires. It is possible that, given the significance of these projects, a decision may need to be made in the context of the Long Term Plan.

In the interim, Council may wish to provide some measure of assistance to help with short term cash-flow issues. Once the relevant material has been assembled, it is suggested that a report is prepared for a working party of Councillors with delegated authority to approve any recommended funding assistance that is required (and any conditions that are to be attached) before the next council meeting.

It is suggested that the working party consists of Councillors Julie Geange (as the Finance portfolio holder), Wayne Linton, Julia Sutherland and Jonathan Larsen.

Recommended

That, as an interim measure, Councillors Julie Geange, Wayne Linton, Julia Sutherland and Jonathan Larson form a working party with delegated authority to approve any recommended funding assistance that is required (and any conditions that are to be attached) before the next Council meeting.

Reason for the recommendation

A decision may need to be made prior to the next meeting of Council.

P94 5.2 Mangawhai Club: Application to Restore Two Gaming Machines

General Manager Policy and Governance 3201.03

A report from the General Manager Policy and Governance dated 14 July 2011 is attached regarding a letter dated 7 July 2011 received from the Mangawhai Club Inc (the Club) requesting that Council consents to restoring its gaming machine numbers from seven to nine. The Council adopted the new Class 4 Gambling Policy in June 2011. The Club has asked whether the Council would support an increase in the number of gaming machines under Section 80 of the Local Government Act 2002 and to grant consent for an additional two machines.

The Club's request for increasing their gaming machines is based on three things; the "precedent" set by the Dargaville Club, the increase in membership that the Mangawhai Club has experienced within the past three years, and the benefit to the community in terms of increased financial support.

In response to the above it should be pointed out that the Dargaville Club's circumstances were unique and addressed through the policy review process; their entitlement is part of the policy and not an exception to the policy as such. The Council's policy is aimed at reducing the number of gaming machines within the District. There are no exceptional circumstances to warrant accepting the request from the Mangawhai Club. The Club already has seven gaming machines, which under the 'sinking lid' policy should not be increased.

There are no financial implications for the Council either way. The Mangawhai Club has however argued that the restoration of the two additional gaming machines will enable the Club to increase its financial support to the community.

By allowing the application to be approved it would mean that the Council would set a new precedent for other organisations to seek additional gaming machines; which is contrary to the Council's current Policy.

This item has been discussed with the Portfolio Holder, Councillor Brian McEwing prior to the meeting. Councillor McEwing supports the recommendation.

Recommended

That Council adheres to the Class 4 Gambling Policy and declines the Mangawhai Club Inc's 7 July 2011 request for an increase in the number of their gaming machines.

Reason for the recommendation

The Council's Class 4 Gambling Policy states that: "*The 'sinking lid' approach gives Council the opportunity to exercise greater control over the impact of gambling within the district*".

This is also in line with the community's priorities of health, safety and the promotion of well-being, as identified through the Community Outcomes consultation process. The policy also affirms that: "*There are a sufficient number of gaming machines and Class 4 gambling venues to serve the demand in the Kaipara District*".

There are no exceptional circumstances as outlined in the Club's 7 July 2011 letter. If a change in Council policy was to occur, it should not be under Section 80 of the Local Government Act 2002, but when the policy is due for review. The Club can have an opportunity to persuade the Council when the policy is next due to be reviewed in June 2014.

P103 5.3 Northcoast Developments Limited, Thelma Road, Mangawhai: Develop Section of Unformed Road

General Manager Operations

4102.20; 3837/typing/RM100139

A report from the Infrastructure Manager dated 13 July 2011 is attached. Northcoast Developments Limited has filed an application for further subdivision of Marram Place, Mangawhai under RM100139. A part of the proposal involves the development of a small section of the existing unformed Thelma Road to facilitate access to proposed Lots 41 to 56. Maps of the area are also circulated with the report.

Council approval is sought for permission to allow inclusion and development of a small section of the unformed Thelma Road on the basis of Northcoast Developments Limited meeting the engineering (design and construction) costs for access formation as determined by Council's Engineers and Contractors.

There is no practical reason for not granting permission to use a small existing unformed road as access for a number of lots, as the proposal is in compliance with Kaipara District Council Engineering Standards 2009. Maps of the area are circulated with the report.

This item has been discussed with the Portfolio Holder, Councillor Wayne Linton, prior to the meeting.

Recommended

That Council approves the formation and use of a small existing section of unformed Thelma Road; in accordance with Council's Engineering Standards 2009, to serve the RM100139 Sands subdivision, Mangawhai and to facilitate access to Lots 41 to 56 (inclusive) of the proposed subdivision by Northcoast Developments Limited.

Reason for the recommendation

The proposed road formation and use is in accordance with Council's Engineering Standards 2009.

P108 5.4 Mangawhai Community Wastewater Scheme: Targeted Rate, Submissions to Statement of Proposal

General Manager Operations 4505.01

Three submissions were received as a result of Council releasing its Mangawhai Community Wastewater Scheme Targeted Rate Statement of Proposal. They have raised a number of issues and two of the submitters wish to be heard. Copies of the submissions are attached.

It is recommended that the full Council hear and deliberate on these submissions. A hearing date has been set for 10 am 1 August 2011 at Mangawhai Club.

The submitters wishing to be heard will be advised of the venue, date and time.

This item has been discussed with the Portfolio Holder John Blackwell prior to the Council meeting.

Recommended

That the full Council hear submissions on the Mangawhai Community Wastewater Scheme Targeted Rate Statement of Proposal at 10 am on 1 August at Mangawhai Club.

Reason for the recommendation

This will allow Council to meet its legislative requirements.

P130 5.5 Kaipara Refuse Limited: Rubbish Bag Charge Increase

General Manager Operations 4201.01

A report from the Manager Infrastructure dated 11 July 2011 is attached. Council has received an approach from Kaipara Refuse Limited to increase bag prices from \$2.30 to \$2.80 from 1 August 2011. In order to take a co-ordinated approach to the increase, the recommendation will be to increase the cost from 1 September 2011. Kaipara Refuse Limited's last price increase was in 2008 when bag prices rose from \$2.00 to \$2.25. An increase in GST in 2010 saw the price increase from \$2.25 to the current \$2.30 per bag.

Rising cost for transportation and associated costs mean that in order for Kaipara Refuse Limited to operate a viable business an increase is necessary.

Based on what other communities in other districts of a similar size and make up pay for collection and disposal of refuse, \$2.80 is not an unrealistic price.

This item has been discussed with the Portfolio Holder, Councillor Andrew Wade, prior to the meeting.

Recommended

That Council not oppose the request from Kaipara Refuse Limited to increase the bag prices from \$2.30 to \$2.80 from 1 September 2011.

Reason for the recommendation

This increase is fair in comparison to current market rates in other districts for refuse collection.

P133 5.6 Notices of Motion: Standing Orders

Chief Executive 1203.01

A report by the Chief Executive dated 11 July 2011 is attached, which is prepared at the request of the Mayor following the receipt of 15 Notices of Motion for the June 2011 meeting of Council eight working days before the meeting. This raised issues around the ability of the Council to deal with these and the matters they raised, especially in relation to the Council's statutory obligations in relation to decision making.

It is recognised these obligations can be summarised as:

- Consider all reasonably practicable options, including the costs and the benefits of those options, the extent to which they achieve community outcomes and their impact on the capacity of Council to meet its statutory obligations.

- Consider the views and preferences of persons likely to be affected by or have an interest in the matter.
- Identify and explain any significant inconsistency between the decision and any policy or plan adopted by Council.
- Provide opportunities for Maori to contribute to the process.
- Promote compliance with the principles of consultation, including giving interested persons a reasonable opportunity to present their views*. (**Note:** *Local Government Know How - Decision Making, Local Government New Zealand)

These are all matters that are taken into consideration by staff when developing their reports to Council. The consequence of not taking these matters into consideration, whether in a staff report or an Elected Member's Notice of Motion, is the risk of a decision being found to be invalid. There are also issues around the ability of the organisation to research and action Notices of Motion without impacting on Council's budgets, work programmes and other priorities.

Therefore, to improve the level of information and reporting processes associated with Notices of Motion, it is suggested that the minimum information required to enable good decision-making should be based on Council's standard report template.

In addition, the current requirement in Standing Orders for Notices of Motion to be delivered within eight (8) working days of the meeting at which they are to be considered is considered inappropriate because it does not reconcile with Council's agenda development programme which is designed to assist with the early delivery of agenda and briefing of the meeting chairperson. The current practice required agenda items to be notified twenty (20) working days before the meeting.

Recommended

That clause 3.9.15(b) be amended to read:

"Such notice is to be given to the Chief Executive at least fifteen (15) clear working days before the meeting at which it is proposed to consider such a motion."

That clause 3.10.1 be amended to read:

"Notices of Motion must be in writing signed by the mover, stating the meeting at which it is proposed that the Notice of Motion be considered, and must be delivered to the Chief Executive at least fifteen (15) working days before such meeting. Such Notices of Motion must comply with Council's reporting template to ensure compliance with the Decision Making provisions, Sections 77 – 82, of the Local Government Act 2002 :

- *Reason for the Report*
- *Background*
- *Issues*
- *Options*
- *Degree of Significance*

- *Consideration of Four Community Well-beings*
- *Policy Impacts*
- *Financial Implications*
- *Legal Implications/Delegations*
- *Reason for the Motion”*

Reason for the recommendation

This recommendation is made to ensure Council can meet its statutory decision-making obligations and ensure that Notices of Motion do not compromise Council's strategic goals, plans and priorities thus improving the Council's decision-making processes.

5.7 Kaipara District Council Bank Accounts: Change of Signatories

Chief Executive 2307.02

As a consequence of the Leadership Team reorganisation, the following new executives require authorisation to operate Council's accounts with the Bank of New Zealand, and ANZ National Bank, thus:

Glennis Christie, General Manager Policy and Governance

John Burt, General Manager Operations

Paul Cresswell, Management Accountant

It is intended that the following existing signatories remain so: Jack McKerchar, Barbara Ware, Mark Vincent and Bruce Holden.

All payments must be signed jointly by any two of the seven authorised people.

Recommended

That Glennis Merle Christie, John Buchanan Burt, and Paul Lester Cresswell become authorised bank signatories for the Kaipara District Council.

Reason for the recommendation

To reflect the requirements arising from the recent Leadership Team reorganisation.

6 Reports

6.1 Mayor's Report

1701.02.03

The Mayor to report, for information, on matters of interest.

6.2 Councillors Reports

Councillors **1904 (various)**

This is an opportunity for Councillors to inform Council of activities they have undertaken on behalf of Council. Written reports are preferred as these are then attached to the Minutes. Verbal reports are not recorded in accordance with Section 3.17.2 of Standing Orders.

Cir **6.3 Chief Executive's Report: July 2011**

Chief Executive **2002.02.10**

The Chief Executive's report is circulated separately.

Recommended

That the Chief Executive's report for July 2011 be received.

7 Receipt Items

P143 **7.1 Raupo Drainage Committee Minutes 15 March 2011**

Governance Manager **1603.15 (deferred from 22 June 2011)**

A copy of the confirmed minutes of the Raupo Drainage Committee meeting is attached.

Recommended

That the minutes of the Raupo Drainage Committee meeting 15 March 2011 be received.

8 Information Items

P147 **8.1 Correspondence Addressed to Mayor and Councillors: 11 May to 12 July 2011**

Corporate Services Manager **1701.01**

For the information of Councillors, circulated were copies of all correspondence received addressed to the Mayor and Councillors, with a copy of the response where applicable, and file notes for all others.

Note the agenda timetable necessitated this information to be collated two weeks prior to the meeting. Correspondence received after that date would be reported to the next meeting along with responses which had been sent after the cut-off date.

All letters were acknowledged on receipt unless they were answered the day of receipt, or the Mayor specifically requested no acknowledgement.

Recommended

That the information be received.

P171 & P196 8.2 Delegated Authority: Schedule of Decisions

General Manager Operations 3803.0

Two schedules of decisions that have been made under delegated authority are attached. The purpose of this is not for Council to review the detail of these decisions as they have 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.

Recommended

That the two Delegated Authority Schedules of Decisions be received.

P209 8.3 Mosquito Gully, Pouto, Fire on 9 December 2010: Comment on Draft Operational Review

Chief Executive 6204.0 and 6208.0

A memorandum dated 24 June 2011, and its associated documents, is attached from the Chief Executive regarding the Mosquito Gully, Pouto, fire on 9 December 2010. Following the suppression of the fire an operational review was requested by the Kaipara District Council to enable it to learn from the incident. Council is keen to ensure it has an appropriate rural fighting resource to meet its obligations.

The memorandum is prepared by the Chief Executive rather than the Principal Rural Fire Officer because the current restructuring of the Kaipara District Council organisation has seen significant changes in roles. The Principal Rural Fire Officer for the fire under review is no longer with the organisation. A new Principal Rural Fire Officer is taking up their position on 4 July 2011. In the very short time between now and 4 July the writer will act as the Principal Rural Fire Officer

Recommended

That the item be received.

P223 8.4 Legislative Compliance Certificate period ended 30 June 2011**Chief Executive 2112.01**

The signed certificates are attached, for the period ended 30 June 2011 of the sign-off from Management to Council that is undertaken half-yearly.

Recommended

That the information be received.

P228 8.5 Mangawhai Historical Society Inc: Annual Accounts and Mangawhai Endowment Fund Grant**Development Manager 2115.03 (deferred from 22 June 2011)**

A letter dated 17 May 2011 from John Bull, Treasurer of the Mangawhai Historical Society Inc that reports the use of Mangawhai Endowment Fund grants and the 2010 financial report delivered at the Society's Annual General Meeting on 16 March 2011 is attached for Council's information.

Recommended

That the information be received.

P253 8.6 NZ Mutual Liability Riskpool (Riskpool) and Local Authority Protection Programme Disaster Fund (LAPP)**Governance Manager 5105.10 (deferred from 22 June 2011)**

A letter dated 1 June 2011 from ACM Ahlers Insurance Professionals (Council's Insurance Broker), and their updated report that details Riskpool and Local Authority Protection Programme Disaster Fund (LAPP) are attached.

RiskPool and LAPP are both mutual insurance funds formed in the 1990s in association with local government to address specific needs relating to the provision of insurance coverage for infrastructural assets and legal liability exposures respectively. The funds are owned by the member councils. The funds are administered by Jardines and Civic Assurance.

Each fund carries a relatively low threshold of the risk, and reinsures the balance of the insured programme with international reinsurance companies. It is the strength of these reinsurance arrangements that the funds rely on for major losses or catastrophes.

It is noted that Council is taking the advice of its insurance brokers set out in its June 2011 letter.

Recommended

That the information be received.

P260 8.7 Northland Regional Council and Kaipara District Council Joint Workshop Notes 17 May 2011

Chief Executive 2117.01 (deferred from 22 June 2011)

A copy of the notes from the Northland Regional Council and Kaipara District Council joint workshop, hosted by Kaipara District Council, on 17 May 2011 is attached for the information of Councillors.

Recommended

That the information be received.

P263 8.8 Foreshore Jurisdiction Extension

Governance Manager 3834.0 (deferred from 22 June 2011)

At its meeting held 27 May 2009, Council considered a letter received from John Carter MP requesting Council forward its views on the proposed seaward boundary extension. Mr Carter stated that such a proposal would make it easier for territorial authorities round New Zealand to deal effectively with irresponsible vehicle use and other problems on beaches. He believed that it would be an important first step to a consistent approach by territorial authorities through New Zealand.

Mr Carter went on to state that since 1989 33 territorial authorities had chosen to have their seaward boundary extended from the Mean High Water Mark to the Mean Low Water Mark. The Whangarei District Council extended their seaward boundary. The Far North District Council and Kaipara District Council did not. Both the Far North and Kaipara have beaches that are designated as a road which brings its own set of unique foreshore and roading issues, Whangarei does not.

Council's primary concerns included:

- Increased risk of liability for road safety. Council would be responsible for the upkeep and safety of the road along the foreshore which becomes inundated by incursion of the sea. Therefore the foreshore is prone to spots which are soft and dangerous and impossible to maintain, increasing safety concerns which Council is not currently responsible for. This situation was highlighted in the case of **Parkin verses Tararua District Council**, where a breach of standard of care for the safety of the road along the foreshore led to that particular Council being successfully prosecuted for criminal nuisance.
- Additional costs and resources for implementation and enforcement.

- Acquisition of land from Crown could raise fundamental legal problems as roads in the District would be vested in fee simple in the Council by virtue of section 316 of the Local Government Act 1979. Consideration of how our local Maori would respond to such change taking into account their significant interest in the foreshore.
- Similar legal uncertainties could arise in respect of functions, responsibilities and liabilities under legislation such as; the Resource Management Act 1991 with regard to the coastal marine area and the Maritime Transport Act 1994 with regards to marine oil spill contingency plans.

Council sought and received legal advice that the disadvantages of making such a move seemingly outweighed the advantages. Council could ultimately be placed in a precarious position without being provided with any real solutions to the initial problems.

All this became a rather moot point when on 26 May 2011 Council received a further letter from John Carter MP (see attached) advising that the seaward boundaries of Kaipara District Council and 22 other territorial authorities would be extended to Mean Low Water Springs. He said that this would allow the application of the Council's existing regulatory powers and functions to Mean Low Water Springs and provide a nationally consistent seaward boundary for all 53 coastal territories. He added that a key benefit of this jurisdiction extension is that it would allow the Council to locally regulate public nuisances and safety issues on the foreshore such as the use of motor vehicles if issues arise.

John Carter MP admits that this jurisdiction extension does not address the legislative framework for managing activities stating that the reason for this is that to do so would be costly, complex and could affect local choice.

The disadvantages of these changes still seemingly outweigh the advantages with local government again being forced to pick up additional costs including resourcing the development, implementation and enforcement of appropriate regulation, whatever that may end up being. Nothing in this allays any of Council's primary concerns. Council appears to have been placed in that precarious position without being provided with any real solutions to the initial problems as suggested by its earlier legal advice.

The situation prior to John Carter's decision to extend jurisdiction was that territorial authorities had responsibility to mean high water mark and above, regional authorities had responsibility from Mean Low Water Mark and below and the strip in between was the responsibility of the Department of Conservation. Council has worked closely with the Northland Conservancy to find workable solutions and in fact the Northland Conservancy had indicated it was prepared to consider taking responsibility for the area between mean high water and mean low water. The Department of Conservation's Head Office however declined to participate refusing to step up and formally accept this responsibility. Council has also worked with the Northland Regional Council and local Police. Of particular success was having a police presence on Ripiro Beach during the peak summer period.

This move by John Carter MP coincides with amendments to the Land Transport Act 1998.

Section 22AB(1)(f) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 states that road controlling authorities may make certain Bylaws prohibiting or restricting the use of vehicles on beaches. The Local Government Act 2002, sec 156 states that the special consultative procedure must be used when making, amending or revoking a Bylaw.

Council will continue to work with its northern and southern neighbours to achieve a consistent approach. It is considered highly likely however that with the recent changes to the legislation there will be pressure brought to bear on Council by other agencies and the public to consider Bylaws around the restricting and/or prohibiting of vehicles on beaches. With this will come the cost of monitoring said Bylaws; another cost to Council and its ratepayers.

A letter from the Hon John Carter received by Council on 23 May 2011 is attached.

Recommended

That the information be received.

P265 8.9 Mangawhai Community Wastewater Scheme: Northcoast Developments Limited Hearing Minutes

Chief Executive 4505.01 The Sands (deferred from 22 June 2011)

The Mangawhai Community Wastewater Scheme Committee held a hearing on 10 February 2011 with the directors and associates of Northcoast Developments Limited to determine whether their objection to Council's Notice of Intention, to construct a sewer line through Northcoast Developments property, be declined. The meeting was public excluded. The Committee made the attached decision that their objection be declined.

Since the Hearing Northcoast Developments have appealed the decision and Council has been continuing with the litigation process.

A decision will need to be made whether this should continue. A report, prepared by Peter Elliot, outlining more detail and Council's options will be presented to Council for consideration and is also included in this month's agenda.

Recommended

That this information be received.

P266 8.10 Mangawhai Park Limited: Unit of Demand Appeal**Chief Executive 4505.01/Mwhai Village Park (deferred from 22 June 2011)**

The Appeals Committee for the Mangawhai Community Wastewater Scheme held several hearings in February and March 2011 to consider an appeal from Mangawhai Park Limited regarding the wastewater charges applied to their property on Moir Street, Mangawhai. The first meeting of 24 February 2011 was held on site with the directors of Mangawhai Park Limited present.

At its meeting of 23 March 2011 the Committee made a decision which is attached.

A further letter was received from David Kirkpatrick, a Solicitor representing Mangawhai Park Limited, on 4 May 2011 asking the Committee to reconsider its decision made on 23 March 2011.

The Committee met again on 25 May 2011 to consider this letter and has reconfirmed its original decision as there was no further evidence to suggest the decision should be changed.

Recommended

That this information be received

P267 8.11 Omamari Road Failure Report**Community Infrastructural Assets Manager 4104.339 (deferred from 22 June 2011)**

Council commissioned the Resolve Group to review the cause of the Omamari Road failure and who was responsible for it. A desk review of the correspondence and reports was undertaken together with telephone interviews with the participants. The site has not been visited.

The conclusion of the attached Report of 30 May 2011 is that neither side was culpable and that given the circumstances it was not reasonable to expect a contribution to the restoration from either the contractor or the consultant.

Recommended

That Council receives the information.

P278 8.12 Local Government New Zealand: Rationalising National Intervention under the Resource Management Act

Governance Manager 2113.02; 3825.0 (deferred from 22 June 2011)

A copy of the memorandum dated 27 May 2011 and report dated April 2011, regarding rationalising national intervention under the Resource Management Act, from Local Government New Zealand is attached.

Recommended

That the information be received.

P314 8.13 Public Debt Portfolio: Additional Information

Acting Management Accountant 2305.01 (deferred from 22 June 2011)

At the 25 May 2011 monthly meeting Councillors requested an updated Public Debt portfolio. That update, as at 31 May 2011, is now provided and shows, the interest rates applicable to each loan. The Sinking Fund figures have not changed, as the annual payments are made in the month of June.

Recommended

That the information be received.

P317 8.14 Management of Genetically Modified Organisms in the Whangarei District

Governance Manager 2105.37 (deferred from 22 June 2011)

A letter dated 23 May 2011 from the Whangarei District Council regarding their decision concerning the management of Genetically Modified Organisms in the Whangarei District is attached.

Recommended

That the information be received.

P318 8.15 Local Government Elected Members (2010//) (Certain Local Authorities) Determination (No 2) 2011

Governance Manager 1801.0 (deferred from 22 June 2011)

A copy of the Local Government Elected Members (2010/11) (Certain Local Authorities) Determination (No 2) 2011 dated 3 June 2011 from the Remuneration Authority is attached.

Recommended

That the information be received.

P340 8.16 Class 4 Gambling Venue Policy May 2011 and TAB Venue Policy May 2011 – Cir Deliberations

Governance and Policy Manager 1601.15 (deferred from 22 June 2011)

At its meeting held 25 May 2010 Council delegated authority to Councillors Geange, Blackwell, Linton and McEwing to make decisions on Council's behalf in respect of its draft Class 4 Gambling Venue and TAB Venue Policy 2011. These four Councillors formed the Committee that had sat and heard submissions from those submitters wishing to be heard at Maungaturoto on 09 May 2011. Council considered it appropriate to delegate decision-making authority to that Committee to make the required decisions on behalf of Council.

The Deliberations are attached, and the Class 4 Gambling Venue Policy May 2011 and TAB Venue Policy May 2011 are circulated separately with the agenda for information.

Resolved Linton/Blackwell

That the minutes of the Class 4 Gambling Venue Policy May 2011 and TAB Venue Policy May 2011 Deliberations held 25 May 2011, as circulated, be confirmed as a true and correct record.

Recommended

That this information be received.

P344 8.17 Triennial Agreement: Far North, Whangarei and Kaipara District Councils and Northland Regional Council

Corporate Services Manager 1908.01.01

The Triennial Agreement between the Far North, Whangarei and Kaipara District Councils and Northland Regional Council is attached for the information of Council. The purpose of the Triennial Agreement is for the parties to commit to working for the good governance of their district or region by acting collaboratively and ensuring that issues in common are

discussed openly and unnecessary duplication avoided. A Triennial Agreement is required by, and is made pursuant to, Section 15 of the Local Government Act 2002.

Recommended

That the information be received.

P348 8.18 Regional Policy Statement Mapping Project: Update on Progress

Corporate Services Manager 3820.01

Item 6.6 of 22 June 2011 Council minutes refers.

A report is attached from the Corporate Services Manager which advises how the Northland Regional Council is progressing with the review of the Regional Policy Statement and the Mapping Project by the Northland Regional Council.

As part of that review the Regional Council is about to commence a mapping project. The Project outputs will be used in the new Regional Policy Statement. The brief for the Project is to identify and map within the Northland Region:

- The landward extent of the coastal environment;
- High and outstanding natural character areas in the coastal environment;
- Outstanding natural features / landscapes.

The Northland Regional Council has established a Regional Policy and Development Committee, which includes political representatives from the three District Councils. This Committee oversees the development of the new Regional Policy Statement. The Committee is the Mapping Project sponsor. Councillor Geange is Kaipara's representative on that Committee.

This report has been discussed with the Planning Portfolio Holder, Councillor John Blackwell, who supports the recommendation.

Recommended

That Council receives the information in the Corporate Services Manager's report 'Regional Policy Statement Mapping Project: Update on Progress' dated 11 July 2011, as an update on progress by Northland Regional Council with the review of the Regional Policy Statement.

Reason for the recommendation

For Council to be kept updated on progress with the review of the Regional Policy Statement, an important planning document for Northland that Council will have to give effect to, once operative.

P356 8.19 Civil Defence Emergency Management Group: Minutes of meeting 7 June 2011

Community Infrastructure Assets Manager 6107.0 (deferred from 22 June 2011)

Minutes of the Northland Group meeting held on 7 June 2011 at Northland Regional Council chambers, Whangarei are attached for information. At an earlier meeting this year it was noted that minutes of the Civil Defence Emergency Management Group meetings were not circulated to the member Council's and a resolution was passed that, in future, minutes of all of the Civil Defence Emergency Management Group meetings would be forwarded to the member councils for inclusion in their business papers, for their information.

Recommended

That the information be received.

P380 8.20 Area Boundary Changes in Northland Conservancy

Governance and Policy Manager 2110.03 (deferred from 22 June 2011)

As of 01 July 2011, the Department of Conservation will be shifting the boundaries between the Whangarei and Kauri Coast areas. Implementing this boundary change will provide greater alignment between the Department and Kaipara District Council boundaries together with those of the rohe of Te Uri o Hau. In short, the Department believes it will provide an opportunity to improve its connection with those communities that naturally come to Dargaville for their day to day needs.

A copy of the Department of Conservation's Area boundary Changes in Northland Conservancy document is attached for information.

Recommended

That the information be received.

P385 8.21 Financial Health and Sustainability Audit

General Manager of Policy and Governance 2304.04

A report on Council's financial sustainability from Phillip Jones dated 7 July 2011 is attached.

The report provides commentary on organisation's financial health and sets out indicative templates for the financial strategy and the pre-election report which are required by the Local Government Act and for reporting during the course of the year.

The key recommendations of the report are to improve routine financial reporting and to ensure that debt is managed going forward. The recommendations will be progressively implemented over this year.

The financial sustainability report itself will be “workshopped” as part of the Long Term Plan (LTP) process which, with the Asset Management Plan workshops, has commenced.

In fact, all the financial and rating policies will be reviewed as part of the Long Term Plan process and included in the draft Long Term Plan. They will then be publically consulted on prior to adoption of the Long Term Plan in June 2012.

Recommended

That the information be received.

9 Notices of Motion

P400 9.1 Notice of Motion: Mangawhai Community Wastewater Scheme (Councillor Larsen)

Chief Executive 1904.0; 4505.0

A report by the Chief Executive dated 11 July 2011 is attached, in regard to Councillor Larsen’s Notice of Motion to the June 2011 meeting asking that previous decisions of Council be re-visited with a view to learning lessons in relation to:

- 1 The costs of the project
- 2 Costs that can be avoided in the future
- 3 Project Management
- 4 The performance of the infrastructure provided by the project.

Councillor Larsen has then related these to the financing of the project and issues with the funding agreement.

The particular Notice of Motion put before Council and the subject of this report is as follows:

“Notice of Motion 1

That, in accordance with best practice, Council engage independent consultants to carry out a full review of the EcoCare project including the lessons learnt on -

- a. The cost control of the project
- b. Costs that can be avoided in the future
- c. The management of the project
- d. The expected performance of the infrastructure going forward; and

The effect of the findings on the financing of the project and issues with the loan agreement terms for affected Mangawhai ratepayers.

Reasons for Notice of Motion 1

There has been much debate about the costs and issues with the performance of the EcoCare project.

The first issue is that affected ratepayers (many of whom are on fixed incomes) are worried that, given:

- the inflation in the project cost; and
- the apparent increase in operating costs; and
- the apparent issues with the long term reliability of the infrastructure; and
- the unknown terms of the financing agreement; and
- the reliance of the schemes financial success on rapid expansion of the number of connections and the glut of sections and downturn in holiday home building,

They face a future of increasing targeted rates demands and development stalled by requests for uneconomic development contributions or new connection contributions.

It is important that Council also, in accordance with best practice for major projects, undertake a review to determine what lessons can be learnt so that future management of the scheme and future project management of other such major projects can be improved.”

Council resolved that this Notice of Motion lie on the table until 27 July 2011 meeting pending a full report by the Chief Executive.

This report provides a history of the project showing how the project was developed and the management regimes put in place to ensure the delivery of the Council’s outcomes. It also outlines the Council’s decision-making process and notes the public consultation process that led to the Council’s decision.

Each of the matters raised in the Notice of Motion have been the subject of properly made Council decisions in the past and the issues raised were all given consideration by Council before it made what it believed was the best possible decisions for the District.

The cost of undertaking the independent review has not been identified and cannot be calculated because the scope of the review has not been identified in the Notice of Motion. A full review of all aspects of the process will be time consuming for Council, its staff and its experts as well as the contractor. There will also be the cost of the reviewer to be met. Such costs could be well into six figures.

The reasons for the Notice of Motion are not clear in that they do not identify the outcomes to be obtained and how they will benefit Council. Consequently the value of the review against its cost cannot be determined. Council needs to ensure it is acting prudently in this matter. The points raised in the reasons for the recommendation have previously been dealt with by Council

Recommended

“That, should Council wish to continue with the Notice of Motion in relation to the proposed (Mangawhai Community Wastewater Scheme) review, specifically:

- a) The scope of the review,*
- b) Who should undertake the review and what expertise is required,*
- c) The outcomes expected from the review,*
- d) The benefit to Council and its ratepayers from the review,*
- e) The cost of such a review based on the scope and outcomes determined above [(a) and (b)],*
- f) How the review will be funded; and*

That such information be provided in a format to allow Council to meet the decision-making requirements of the Local Government Act 2002.

Reasons for the recommendation

The Notice of Motion does not provide sufficient information to enable the scope, cost and benefits to be adequately assessed. Thus Council’s decision-making obligations pursuant to the Local Government Act cannot be met.

P409 9.2 Notice of Motion: 7 and 8: Resource Management Act Disputes Mediation Proposal (Councillor Larsen)

General Manager Policy and Governance

3803.0

A report from the General Manager Policy and Governance dated 13 July 2011 is attached, relating to Councillor Larsen’s Notices of Motion 7 and 8 to Council’s 22 June 2011 meeting, proposing the appointment of an independent Resource Management Act (RMA) mediator to: “mediate on matters of process and costs relating to disputes between applicants and Council staff/consultants”. Related to this is a second Notice of Motion suggesting a disputes procedure enabling disputes to be resolved by the independent mediator.

The main issues relate to the legal context of the proposed service, the scope of its operation and the cost of operating it. It is not clear how such a mediated decision could be made binding on the parties. If Council wishes to take up this concept and put it into operation, it is recommended that legal advice is sought about the potential for legal liability to Council arising from decisions of the mediator.

The Notices of Motion have provided no indication of how the costs of this service are to be met; the options are that the applicant pays, the Council pays, or the costs are shared. To the extent that the Council pays, it would be an additional cost to ratepayers.

The status quo allows for objections to be made at several stages of the resource consent process; such objections would be considered by an independent commissioner (potentially sitting with a Councillor commissioner).

Recommended

- 1 **That** Council requests Councillor Larsen to provide further details about the proposal in his Notices of Motion 7 and 8 of 22 June 2011 (ie to establish a mediation service for dealing with resource consent disputes), specifically:
 - a) The estimated cost of the process, including the independent commissioner,
 - b) Who is to pay the costs for this service,
 - c) What is the intention of this service (ie is it an alternative or to run in parallel with the current service); and
 - d) How would the system work with the framework of the existing process currently provided for in the Resource Management Act; and
- 2 **That** should Council wish to enact the proposal, it first obtains advice about the legal implications of doing so.

Reason for the recommendation

The proposed arrangement is not recognised in the Resource Management Act, and it may have unforeseen legal consequences resulting in liability for Council.

10 Public Excluded Council Items 27 July 2011

Recommended

That the public be excluded from the following part of the proceedings of this meeting namely Potential Claims against Council, Verano Properties: Purchase of Unformed Road, Kaipara Refuse Ltd Rubbish Bag Charge Increase , EcoCare Complaint: Request for Independent Review Update

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>Potential Claims against Council</i>	<i>Section 48 (1)(a), Section 7, Section 7 (2)(g)</i>
<i>Verano Properties: Purchase of Unformed Road</i>	<i>Section 48 (1)(a), Section 7, Section 7(2)(b)(i)</i>
<i>EcoCare Complaint: Request for Independent Review Update</i>	<i>Section 48 (1)(a), Section 7, Section 7 (2)(g)</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)(i) enable any local authority holding the information to carry on, without prejudice or disadvantage negotiations (including commercial and industrial negotiations).

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.

Section 7 (2)(g) maintain legal professional privilege.

Open Council Meeting: 27 July 2011

Recommended

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

Closure

Kaipara District Council

Dargaville