

## Press Release

**Tuesday 26 August 2014**

### Council to take action against former Chief Executive

Kaipara District Council has confirmed it will take legal action against its former Chief Executive Jack McKerchar.

Mr McKerchar left the Council in October 2011 after reaching a financial settlement with former Elected Members. Since then, there have been repeated calls from Kaipara ratepayers to hold Mr McKerchar accountable for his role in the botched Mangawhai Community Wastewater Scheme.

At a Council meeting today Commissioners noted that the Statute of Limitations meant Council could only try to hold Mr McKerchar to account for his actions during the last six years. Legal advice also suggests that the settlement agreement Mr McKerchar signed with the former Council may impact on the success of any legal action.

“Notwithstanding those issues, there is an important principle here. Some members of the community have noted that the Council might not get much back from Mr McKerchar in monetary terms but they still believe it is important that he is held to account and we agree,” Chair of Commissioners John Robertson said.

“Elected Members and the Kaipara community should have been able to rely on the Chief Executive’s advice but in a number of areas it was very poor.”

Mr Robertson said the report released by the Auditor-General in December last year clearly identified a number of failings during the time Mr McKerchar led the Council.

“In the timeframe we can focus on the Council failed to assess and set rates legally; it failed to ensure a number of statutory requirements were met and it failed to manage its finances prudently. Mr McKerchar should be held to account for his role in those failings.”

Mr Robertson said Council’s legal advisors would be instructed to begin action immediately and given that, he would be making no further comment on this issue at this time.

Today the Council also accepted strong legal advice that there was no legal basis upon which Kaipara District Council could bring damages claims on behalf of the Kaipara community against former Councillors. On that basis, the Council would not be taking legal action against the former Mayors and Elected Members involved with the Mangawhai Scheme.

Mr Robertson said he accepted some people would be “bitterly disappointed” as there had also been strong calls for those people to be held to account.

“I accept their disappointment but we have taken considerable legal advice and have weighed that advice up against the likelihood of the Council being successful in any legal action. It seems highly unlikely that we would. We are not prepared to launch expensive legal proceedings without a reasonable chance of success.”

Mr Robertson said Commissioners would however, formally invite the Auditor-General to reconsider her previous decision not to hold any Elected Members to account, particularly given the recent High Court decision which confirmed that the Council failed to meet its statutory requirements in approving the Mangawhai Community Wastewater Scheme.

“There is now a formal declaration from the High Court confirming a number of previous Council failings which didn’t exist when the Auditor-General made her previous decision,” Mr Robertson said.

“The Auditor-General has the best chance to initiate recovery action from former Kaipara Elected Members and we will be asking her to review her earlier decision. Whether or not she does so is entirely up to her.”

The Council will decide next month on whether or not it will take legal action against consultancies involved in the project, including the Beca consortium.

Ends

***For more information contact John Robertson on 09 439 3123***