



Kaipara District Council

Kaipara District Council

Local Governance Statement

28 March 2018

ADOPTED

Executive Summary

Kaipara District Council is required under Section 40 of the Local Government Act 2002 to adopt a Local Governance Statement following each Triennial election. The Statement is required to provide the community with information on how Council is organised, how it makes decisions and the ability for the community to engage with Council.

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Local Governance Statement 19 March 2018

1 Functions, responsibilities and activities

The purpose of Kaipara District Council is to meet the current and future needs of our communities for good quality local services and infrastructure.

Kaipara District Council has a variety of roles in meeting this purpose. These include:

- Facilitating solutions to local needs;
- Advocating for the district with other agencies;
- Developing local resources;
- Managing and maintaining local infrastructure;
- Environmental management; and
- Planning for the future needs of the district.

2 Local legislation

There are a number of Acts of Parliament that apply to Council or are administered by Council. A comprehensive list of these is included as Appendix 1.

In addition Kaipara District Council is also bound by several Acts of local legislation:

- Mangawai Lands Empowering Act 1966 (*sic*);
- Te Uri O Hau Settlement Act 2002; and
- Kaipara District Council (Validation of Rates and other matters) Act 2013.

All of these are accessible via www.legislation.govt.nz

3 Bylaws

Bylaws are generally made under the Local Government Act 2002. However there is some legislation that directs a Council to compile a bylaw, for example the Dog Control Act 1996.

Current bylaws are:

- General Bylaws 2008 (due for review in 2018)

This is a consolidated bylaw that incorporates a number of activities:

- Activities that can be carried out in public places;
 - Trading in public places;
 - Management of solid waste;
 - Control of advertising signs;
 - Operation of amusement galleries;
 - Fires in the open air;
 - Keeping of animals, poultry and bees;
 - Management of cemeteries and crematoria;
 - Management of public libraries;
 - Management of Council-owned cultural and recreational facilities;
 - Management of nuisances;
 - Control of skateboards;
 - Prohibition of gintraps;
 - Traffic management;
 - Management of Council's water supplies; and
 - Management of Rural Land Drainage.
- Dog Management Bylaw 2009 (due for review 2019)
 - Enables Council to give effect to The Dog Control Act 1996 and to Council's Policy on Dogs.
 - Public Places Liquor Control Bylaws 2009 (due for review 2019)
 - Outlines the days, times and the public places where the consumption of alcohol is prohibited.
 - Wastewater Drainage Bylaw 2016 (due for review 2026)
 - Outlines what can go into the public wastewater systems, who can connect and the ability to continuation of discharge, disconnection and other provisions on the public drainage system.

4 The electoral system

Kaipara District Council currently uses the Single Transferable Vote (STV) system. This form of voting is used in all District Health Board elections and by several local authorities. STV is a preferential voting system and electors rank candidates in order of preference. The number of votes required for a candidate to be elected is calculated by a quota. The other electoral system permitted under the Local Electoral Act 2001 is the First Past The Post (FPP) system in which electors indicate the preferred candidate(s) and the candidate(s) with the most votes is declared the winner.

Under the Local Electoral Act 2001 Council can:

- a) resolve to change the electoral system to be used at the next two elections; or
- b) conduct a binding poll on the question; or
- c) electors can demand a binding poll. A poll can be initiated by at least 5% of electors signing a petition demanding a poll.

Once changed the system must be used for at least the next two triennial elections.

- a) Change by Council resolution

Council may resolve to change its electoral system not later than 12 September in the year that is two years before the next triennial election (s27 LEA). There is no compulsion to make a decision in this timeframe as the status quo will apply unless a decision is taken.

- b) Poll demanded by electors

Council is required to give public notice no later than 19 September in the year that is two years before the year in which the next triennial election is to be held:

- of any resolution passed under s27; and
- of the right of electors to demand a poll, which must be lodged within 90 days.

- c) Poll initiated by Council

Council may resolve to hold a poll (s31 LEA) on a proposal on a specific electoral system for the next two triennial elections. Council must resolve to hold a poll no later than 28 February in the year immediately before the year in which the next triennial election is to be held.

Council resolved in 2017 to retain the STV system for the 2019 and 2022 elections. Council can resolve to change the electoral system in this term.

5 Representation arrangements

Kaipara District Council has eight Councillors. The district is divided into three Wards with three Councillors elected from the Otamatea and West Coast/Central Wards and two from the Dargaville Ward. The Mayor is elected at large across the district.

Council is required to review its representation arrangements at least once every six years. The last review was conducted in October 2012 which resulted in minor adjustments to the Ward boundaries.

The representation review must consider:

- The number of Elected Members;
- Whether members are elected at large across the district or by Wards within the district, or a mixture of both;
- If Wards are used, then the boundaries and electorate populations of those Wards;
- The potential for Maori Wards (elected by voters on the Parliamentary Maori roll); and
- Whether to have community boards and, if so, the boundaries and membership of those.

The Local Electoral Act 2001 provides a framework for the review and Council must ensure that the election of members will provide fair and effective representation of communities of interest within the district.

The Act provides for the establishment of separate Maori Wards. Council may resolve to create separate Maori Wards or conduct a poll on the matter. The community can demand a poll on the matter by initiating a petition signed by 5% of the electors in the district.

Procedure	Deadline	Relevant section
Local authority determines proposed representation arrangements.	Initial proposals must be made: <ul style="list-style-type: none"> • no earlier than 01 March in the year before election year; • by 31 August in the year before election year, if establishing Māori Wards/constituencies; and • in time for the deadline for public notice. 	<ul style="list-style-type: none"> • 19H (territorial authorities); • 19I (regional councils); • 19J (community boards); and • Schedule 1A if establishing Māori Wards / constituencies.
Local authority gives public notice of “initial” proposal and invites submissions.	Within 14 days of resolution, and not later than 08 September in the year before election year.	19M(1)
Submissions close.	Not less than one month after public notice.	19M(2)(d)

Procedure	Deadline	Relevant section
If no submissions then proposal becomes final ¹ .	Public notice to be given when there are no submissions, but no date fixed for doing this.	19Y(1)
Local authority considers submissions and may amend proposal.	Within six weeks of closing date for submissions.	19N(1)(a)
Local authority gives public notice of its "final" proposal.	Within six weeks of closing date for submissions.	19N(1)(b)
Appeals and objections close.	<ul style="list-style-type: none"> not less than one month after the date of the public notice issued under section 19N(1)(b); not later than 20 December in the year before election year. 	<ul style="list-style-type: none"> 19O 19P
If no appeals or objections then proposal becomes final ¹	Public notice to be given when there are no appeals/objections, but no date fixed.	19Y(1)
Local authority forwards appeals, objections and other relevant information to the Local Government Commission ²	As soon as practicable, but not later than 15 January in election year.	<ul style="list-style-type: none"> 19Q 19V(4)
Commission considers resolutions, submissions, appeals and objections and makes determination.	Before 01 April in election year.	19R
Determination subject to appeal to High Court on a point of law ³ .	Appeals to be lodged within one month of determination.	Clause 2, Schedule 5, <i>Local Government Act 2002</i>

Council is required to consider its Representation arrangements during this term.

The last Representation Review can be found at:

www.lgc.govt.nz/decisions-and-determinations/view/kaipara-district-council

¹Under s19V(4) proposals that do not comply with the +/-10% fair representation requirement are subject to confirmation by the Commission.

² Includes any proposal that does not comply with the +/-10% fair representation requirement.

³ Commission determinations may also be subject to judicial review.

6 Elected Members roles and conduct

Kaipara District Mayor and Councillors have the following collective responsibilities:

- Representing the interests of Council;
- Formulating Council's strategic direction and relative priorities through the Long Term Plan (LTP), which determines the services and activities to be undertaken by Council over a 10 year period;
- Determining the expenditure and funding requirements of Council activities through the LTP and annual planning processes;
- Overseeing, developing and/or approving all Council policies, administration, legal, financial and strategic including formal regional, city and/or district planning matters within Council's geographical area of responsibility;
- Monitoring the ongoing performance of Council against its stated objectives and policies (including formal sign-off of the Annual Report);
- Ensuring prudent use of Council resources;
- Law-making (bylaw);
- Overseeing Council compliance with any relevant Acts of Parliament; and
- Employing, setting performance requirements for, and monitoring the ongoing performance of Council's Chief Executive (under LGA 2002, the local authority employs the Chief Executive who, in turn, employs all other staff on its behalf; Elected Members of Council cannot direct, any staff employed by Council other than the Chief Executive).

The Mayor's role at a simple level is to provide leadership to the other Elected Members and the people of the district.

The Mayor's relationship to Council has a number of statutory functions under the LGA 2002. Specifically:

- The presiding officer at meetings of Council at which they are present;
- Ensuring the orderly conduct of meetings of Council;
- The ceremonial head of Council;
- A Justice of the Peace (while in office);

- The Mayor has the authority to appoint a Deputy Mayor, to establish Committees of Council and to appoint the Chairs of those Committees;⁴ and
- The responsibility for leading the development of the district's plans, policies and budgets.

The Deputy Mayor must perform all the responsibilities of the Mayor.

- With the consent of the Mayor to cover a period of absence;
- Without that consent if the Mayor is prevented by illness or other cause from performing their duties; and
- If a vacancy for Mayor occurs during the term of Council.

Elected Members also have obligations imposed on them by specific pieces of legislation. These include:

- Schedule 7 of the Local Government Act 2002, which includes obligations to act as a good employer in respect of the Chief Executive and to abide by the Code of Conduct and Standing Orders;
- The Local Authorities (Members Interests) Act 1968 which regulates the conduct of Elected Members in situations where there is, or could be, a conflict of interest between their duties as an Elected Member and their financial interests;
- The Secret Commissions Act 1910, which prohibits Elected Members from accepting gifts or rewards in the performance of their duties; and
- The Crimes Act 1961 regarding the acceptance of gifts for acting in a certain way or using official information for private profit.

The LGA 2002 requires Council to adopt a Code of Conduct. This provides guidelines and principles for the standard of behaviour expected of Elected Members. It applies not only to Elected Members conduct between themselves but also with the Chief Executive, Council Staff, the media and the public.

Once adopted the Code continues in force until amended by Council. Council can amend the Code whenever it chooses to, however it cannot revoke the Code without adopting another in its place. Once adopted, amendments to the Code, or the adoption of a new Code, require a resolution supported by 75% or more of the members of Council present at the meeting.

Council adopted a revised Code of Conduct at its meeting on 13 December 2016.

⁴ However refer to Deputy Mayor section

7 Governance structure

7.1 Committees

Full Council meets regularly and Council can establish committees to enable it to work more effectively. These committees can be standing committees which sit for the term or special committees that meet for a specific purpose. Council can delegate to the committee (excluding those functions that must be exercised by full Council) specific functions, duties and powers. Council committees still retain a governance function rather than an operational function, even though they can at times be closer to a specific project or activity than full Council.

The full Council cannot delegate the following decisions however and these must be taken by a full Council. These include (Clause 32(1)(a)-(h) of Schedule 7 of the LGA 2002).

- The power to make a rate;
- The power to make a bylaw;
- The power to borrow money, purchase or dispose of assets other than in accordance with the Long Term Plan;
- The power to adopt a Long Term Plan, Annual Plan or Annual Report;
- The power to appoint a Chief Executive;
- Make decisions on representation arrangements;
- The power to adopt a remuneration and employment policy.

The LGA gives the Mayor the power to establish Committees of Council and appoint the Chair if they choose to.

Council's Committee structure at 19 March 2018 is:

Committee	Council Members	Note
Audit, Risk and Finance Committee	Councillors del la Varis-Woodcock, Geange, Larsen, Wade and Wethey	Stana Pezic is the independent Chair of this Committee.
Remuneration and Development Committee	Mayor Smith (Chair), Councillors Curnow, Jones, Wade and Wethey	

Committee	Council Members	Note
Raupo Drainage Committee	Mayor Smith and Councillor Curnow	Ratepayer representatives were appointed in August 2016 for a three year term; and Greg Gent was appointed as a ratepayer representative in November 2017.
Taharoa Domain Governance Committee	Councillors Wade (Chair) and Joyce-Paki	Co-Governance Committee
Mangawhai Community Park Governance Committee	Councillors Curnow (Chair) and Wethey	Co-Governance Committee
Harding Park and Pou Tu Te Rangi Joint Management Committee	Councillors del la Varis-Woodcock and Joyce-Paki	Co-Governance Committee Trish Harding was nominated as the third Council representative in March 2018, pending confirmation from the Minister of Conservation.
Funding Committee	Councillor del la Varis-Woodcock	Overarching Committee for funding application schemes such as Sport NZ Rural Travel Fund and Creative Communities Scheme.
Mangawhai Endowment Lands Account Committee	Councillors Wethey (Chair), Jones and Larsen	
Citizens Awards Committee	Mayor Smith (Chair) and Councillors Geange, Jones and Joyce-Paki (for 2018 round)	Membership rotates annually, excluding Chair.
Community Grants Committee	Councillors Curnow (Chair), Larsen and Wade (April 2018 rotation)	Membership rotates annually
Reserves Contribution Review Committee	Councillors Larsen (Chair), del la Varis-Woodcock and Wade	

The Terms of Reference for all Committees are appended to this Statement as Appendix 2 "Committee Terms of Reference".

Elected members are also appointed to a number of external Committees with other parties or councils. External Committee appointments at 19 March 2018 are:

External Committee Appointments	Members
Regional Transport Committee	Julie Geange, with Victoria del la Varis-Woodcock acting as an alternate member
Sport Northland Board	Libby Jones
Kaipara Harbour Treaty Settlement Working Party and Kaipara Harbour Joint Political Committee	Jason Smith
Pouto Priority Catchment Group	Anna Curnow
Northland Chamber of Commerce	Anna Curnow
Local Government New Zealand Zone One	Peter Wethey
Kaipara Community Health Trust	Anna Curnow, Brenda Jackson and James Foster
Joint Civil Defence Emergency Management Group	Anna Curnow

7.2 Crown Manager/Crown Observer

On 15 May 2017, Cabinet agreed to the appointment of a Crown Manager to assist the Kaipara District Council. Pursuant to s258D of the Local Government Act, the Crown Manager was appointed to address any outstanding or future legal actions relating to the development of the Mangawhai Wastewater Scheme, and the setting and collection of rates during and prior to the Kaipara District Council Commissioners' term. The Crown Manager's authority includes the ability to direct Council to address legal actions and the ability to make recommendations to the Minister of Local Government. The Crown Manager is required to ensure, as far as possible, that the existing organisation capability of Council is not diminished. He also has obligations consult with Council, to work in good faith, collaborate with the Northland Regional Council and report to the Council, the Minister and the people of the district.

On 15 June 2017, the Associate Minister of Local Government (under delegation from the Minister of Local Government) appointed Peter David McGredy Winder as Crown Manager. The term of appointment for the Crown Manager started on 20 June 2017 and will, unless otherwise advised by the Minister of Local Government, end on the date of the 2019 triennial local body elections. The Terms of Reference state that the Minister will review the continued need for this appointment in June 2018.

In October 2016 following the triennial local body elections, the Associate Minister of Local Government appointed Barry Harris to the role of Crown Observer. The Crown Observer was to provide support and guidance on matters of governance to the newly-elected Council members, Chief Executive and senior managers. The term for the Crown Observer began on the day the newly-elected Council was declared following the 08 October 2016 elections and ended on 30 September 2017.

8 Meeting processes

The legal requirements for Council meetings are set down in the Local Government Act 2002 and the Local Government Official Information and Meetings Act 1987 (LGOIMA). All Council and Committee meetings must be open to the public unless there is reason to consider some item in the “public excluded” session of a meeting.

Although meetings are open to the public, members of the public do not have a right to speak unless prior arrangements are made. LGOIMA contains a list of the circumstances where councils may consider items with the public excluded from the meeting (these circumstances generally relate to protection of personal privacy, legal privilege or commercial negotiations). The Council agenda is a public document, although parts may be withheld if the above circumstances apply.

The Mayor or Committee Chair is responsible for maintaining order at meetings and may, at his/or her discretion, order the removal of any member of the public for disorderly conduct or remove any Councillor who does not comply with Standing Orders. Minutes of meetings must be kept as evidence of the proceedings of the meeting. These must be made publicly available, subject to the provisions of the LGOIMA.

For an Ordinary meeting of Council, at least 14 days’ notice of the time and place of the meeting must be given. Extraordinary meetings generally can be called with three working days’ notice. During meetings the Mayor and Councillors must follow Standing Orders (a set of procedures for conducting meetings). Council may suspend Standing Orders by a vote of 75% of the members present.

9 Consultation policies

9.1 Special consultative procedure

The Local Government Act 2002 Amendment Act 2014 sets out certain consultation principles and a procedure that local authorities must follow when making certain decisions. This procedure, the **special consultative procedure**, is regarded as a minimum process.

Council can and does consult outside of the special consultative procedure. When it is adopting its Long Term Plan (LTP), Annual Plan or District Plan it will hold formal meetings with community groups and other interested parties. At these meetings Council will seek views on the matters Council considers important and which identify issues of concern to the community.

9.2 Statutory consultation requirement

Section 82 of the Local Government Act 2002 Amendment Act 2014 sets out a number of principles for when Council decides to consult.

10 Liaising with Maori

Kaipara District Council put in place an Iwi relationship plan in 2014. This plan recognises the need to develop and maintain strong relationships at different levels with the various Iwi groups in Kaipara. A Mana Whenua forum increases the ability for Iwi and Maori input into Council decision-making. In addition Council has a Memorandum of Understanding with Te Uri o Hau and is negotiating a Mana Enhancing Agreement with Te Roroa.

Council also has two co-governance committees, the Taharoa Domain Governance Committee (TDGC) and the Harding Park/Pou Tu Te Rangi Joint Committee (HP/PTTR).

- TDGC is a Committee between Council, Te Roroa and Te Kūihi; and
- Te Uri o Hau appoints to the HP/PTTR Joint Committee. Both the Harding Park and Pou Tu Te Rangi Committees oversee the Reserve Management Plan (RMP) for the Harding Park site.

11 Management structure and relationships

The Local Government Act 2002 sets out the role of the Chief Executive. Section 42 explains that a Chief Executive is responsible for:

- Implementing the decisions of the local authority;
- Providing advice to members;
- Ensuring all powers and duties delegated to them and to staff are properly performed;
- Ensuring the effective and efficient management of Council's activities;
- Maintaining systems that allow for effective planning and performance;
- Providing leadership for the staff;
- Employing the staff on behalf of the local authority; and
- Negotiating the terms of employment of the local authority staff.

Council has a performance agreement with the Chief Executive and manages this through regular performance reviews and a formal Remuneration and Development Committee. Council does not evaluate the performance of any other staff. In reviewing the Chief Executive's performance they need to also consider the performance of the wider team. Council needs to ensure that its expectations of the Chief Executive are documented and included in any agreed performance targets.

Whilst the Elected Members will have relationships with Council officers, it is important that each respect the other's role and responsibilities. Officers must be able to provide free and frank advice to Elected Members. It is Council officers who implement decisions, oversee projects and provide advice to Council. Staff are accountable to the Chief Executive and Elected Members (including the Mayor) cannot direct staff.

12 Remuneration and Employment Policy

Council is currently developing a Remuneration and Employment Policy.

13 Equal Employment Opportunities Policy

Kaipara District Council has a policy of equal employment opportunity for all workers and regards the identification and elimination of any discrimination and the provision of equal opportunities as essential principles in the management of its staff resources.

Council affirms this commitment through a policy of positive action by adopting constructive policies and practices for equal opportunities in all aspects of employment, including recruitment and selection, training and development, education, career path planning and promotions. The objective of this policy is to ensure that for any given position the best available person gets the job.

14 Key approved planning and policy documents

14.1 Long Term Plan

This represents the directions being set for the district's future. It is put together by Council with the assistance of the community and other organisations. It outlines the communities' expectations and describes how Council in partnership with Government agencies and other organisations will work to achieve these. Council's corporate and financial policies, as follows, are contained in the Long Term Plan: Significance and Engagement Policy, Policy on Development, Accounting Policies, Treasury Policies, Liability Management Policy, Investment Policy, Revenue and Financing Policy, Rating Policies and Funding Impact Statement.

14.2 District Plan

The District Plan was prepared under the Resource Management Act 1991 and sets out Council's objectives, policies and rules in relation to land use and subdivision activities in the Kaipara district.

14.3 Annual Plan

The Annual Plan is Council's committed level of activity, expenditure and service to the community. It specifies the activities that will be carried out during the year, toward achieving the goals and objectives of the Long Term Plan, how much this work will cost, the targets for the year and the measures that will be used to determine whether the targets have been met.

14.4 Annual Report

The Annual Report sets out Council's achievements and reports on whether the targets forecast in the Annual Plan were reached. An Annual Report is required to be prepared and audited every year.

14.5 Asset Management Plans

Council has prepared Plans which provide the framework for maintaining Council's physical assets (i.e. roading, water supply, stormwater, wastewater, community amenities, recreational facilities etcetera). They define the level of service that will be provided and identify the sources and amount of funding required.

14.6 Civil Defence Plan

All territorial authorities are required to have an Operative Plan dealing with district civil defence matters.

14.7 Fire Plan

As part of its responsibilities as the rural fire authority Council is required to prepare a Fire Plan. Part One of the Plan covers operational matters (updated annually) such as resources and staff while Part Two deals with administrative issues.

14.8 Kai Iwi Lakes (Taharoa Domain) Reserve Management Plan

Council is responsible for administering the Kai Iwi Lakes (Taharoa Domain) on behalf of the Crown. The Plan sets out how the governance, operational management and future development of the Domain will be undertaken on an ongoing basis.

14.9 Reserves and Open Space Strategy (ROSS)

The Reserves and Open Space Strategy (ROSS) identifies opportunities and recommends actions to achieve the desired reserves and open space within the district along with a policy framework for the different types of reserves and open spaces.

Copies of the key approved planning and policy documents (and the process for their development and review) may be obtained from the Council Customer Service Centre or from the website www.kaipara.govt.nz.

15 Public access to Council and its Elected Members

Contact details for Mayor and Councillors can be found on the Kaipara District Council website www.kaipara.govt.nz.

Requests for Council services should be made directly to the relevant Council department by calling 0800 727 059.

Council meetings are held in public and the times and venues for these are advertised on Council's website and in local newspapers.

16 Process for requests for official information

Under the Local Government Official Information and Meetings Act 1987 (LGOIMA) any person may request information from Council. Any request for information is a request made under LGOIMA. You do not have to say you are making a request under LGOIMA.

Once a request is made Council must supply the information unless reason exists for withholding it. LGOIMA says that information may be withheld if release of the information would:

- endanger the safety of any person;
- prejudice maintenance of the law;
- compromise the privacy of any person;
- reveal confidential or commercially sensitive information;
- cause offence to tikanga Maori or would disclose the location of waahi tapu;
- prejudice public health or safety;
- compromise legal professional privilege;
- disadvantage the local authority while carrying out negotiations or commercial activities.

Council must answer requests within 20 working days (although there are certain circumstances where this timeframe may be extended). Council may charge for official information under guidelines set down by the Ministry of Justice.

In the first instance you should address requests for official information to:

- Chief Executive, Kaipara District Council, Private Bag 1001, Dargaville 0340

17 Appendices

Appendix 1 Comprehensive List of Legislation

Appendix 2 Committee Terms of Reference

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