

# Hastings District Council

Civic Administration Building Lyndon Road East, Hastings

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### **OPEN**

# AGENDA

# **COUNCIL MEETING**

## First meeting following the 2019 Triennial Elections

Meeting Date: Thursday, 7 November 2019

Time: **1.00pm** 

Venue: Council Chamber

**Ground Floor** 

**Civic Administration Building** 

**Lyndon Road East** 

**Hastings** 

Council Members	Chair: Mayor Hazlehurst Councillors Barber, Corban, Dixon, Harvey, Kerr, Lawson, Nixon, O'Keefe, Oli, Redstone, Schollum, Siers, Travers and Watkins
Officer Responsible	Chief Executive – Mr N Bickle
Democracy & Governance Advisor	Mrs C Hunt (Extn 5634)

# HASTINGS DISTRICT COUNCIL COUNCIL MEETING

### **THURSDAY, 7 NOVEMBER 2019**

**VENUE:** Council Chamber

**Ground Floor** 

Civic Administration Building

Lyndon Road East

Hastings

TIME: 1.00pm

### AGENDA

#### 1. Karanga and Karakia

#### 2. Apologies & Leave of Absence

Apologies from Councillor Lawson and Councillor Schollum have been received.

At the close of the agenda no requests for leave of absence had been received.

#### 3. Seal Register

#### 4. Conflict of Interest

Members need to be vigilant to stand aside from decision-making when a conflict arises between their role as a Member of the Council and any private or other external interest they might have. This note is provided as a reminder to Members to scan the agenda and assess their own private interests and identify where they may have a pecuniary or other conflict of interest, or where there may be perceptions of conflict of interest.

If a Member feels they <u>do</u> have a conflict of interest, they should publicly declare that at the start of the relevant item of business and withdraw from participating in the meeting. If a Member thinks they <u>may</u> have a conflict of interest, they can seek advice from the General Counsel or the Manager: Democracy and Governance (preferably before the meeting).

It is noted that while Members can seek advice and discuss these matters, the final decision as to whether a conflict exists rests with the member.

#### 5. Confirmation of Minutes - No minutes to confirm.

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12.	Additional Business Items	
13.	Extraordinary Business Items	

MEETING DATE: THURSDAY 7 NOVEMBER 2019

FROM: MANAGER: DEMOCRACY AND GOVERNANCE

**JACKIE EVANS** 

SUBJECT: MAKING AND ATTESTING OF DECLARATION OF THE

**MAYOR** 

# 1.0 PURPOSE AND SUMMARY - TE KAUPAPA ME TE WHAKARĀPOPOTOTANGA

- 1.1 The purpose of this report is to describe the process for receiving the declarations of the Mayor and Councillors.
- 1.2 This first meeting of the Council following the 2019 triennial elections will be opened by the Chief Executive, Mr Nigel Bickle, in the Chair. The Chief Executive will receive and witness the oral declaration of Her Worship the Mayor (Attachment 1)
- 1.3 Mayor Hazlehurst will then assume the Chair and receive the oral declarations of the Councillors which will be witnessed by the Mayor and Chief Executive.

#### 2.0 BACKGROUND - TE HOROPAKI

2.1 Schedule 7. Part 1. clause 21 of the Local Government Act 2002 states:

"The chief executive (or, in the absence of the chief executive, a nominee of that officer) must chair the meeting until the chairperson has made and attested the declaration required under clause 14"

- 2.2 Schedule 7, Part 1, clause 14 of the Local Government Act 2002 states:
  - "(1) A person may not act as a member of a local authority until
    - (a) That person has, at a meeting of the local authority following the election of that person, made an oral declaration in the form set out in subclause (3); and
    - (b) A written version of the declaration has been attested as provided under subclause (2)
  - (2) The written declaration must be signed by the member and witnessed by:
    - (b) the mayor; or ...
    - (d) the chief executive of the local authority."

A) That the Council receives the report titled Making and Attesting of Declaration of the Mayor.

#### **Attachments:**

1 □ Declaration by Mayor

CG-14-1-01533

a)	Declaration by the Mayor
	"I,, declare that I will faithfully and impartially, and according to the best of my skill and judgment, execute and perform, in the best interests of the Hastings District, the powers, authorities, and duties vested in, or imposed upon, me as <b>Mayor</b> of the Hastings District Council by virtue of the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, or any other Act".
	"Ko ahau, ko, e oati ana ka whai ahau i te pono me te tōkeke, i runga hoki i te mutunga kē mai nei o āku pūkenga, o āku whakatau hoki kia whakatutuki, kia mahi anō hoki i te mana whakahaere, te mana whakatau me ngā momo mahi kua uhia ki runga i a au kia whiwhi painga mō te takiwā o Heretaunga, hei <b>Koromatua</b> o te Kaunihera ā-Rohe o Heretaunga e ai hoki ki te Ture Kāwanatanga ā-Taiao 2002, ki te Ture Kāwanatanga ā-Taiao Whakapae me te Hui 1987, me ētahi Ture anō rānei".
	He mea whakaū tēnei i Heretaunga i tēnei rā te tuawhitu o Whiringa-ā-rangi i te tau rua mano tekau mā iwa.
	Waitohu:

Waitohu mai ki mua i a:

MEETING DATE: THURSDAY 7 NOVEMBER 2019

FROM: MANAGER: DEMOCRACY AND GOVERNANCE

**JACKIE EVANS** 

SUBJECT: MAKING AND ATTESTING OF DECLARATIONS OF

**MEMBERS** 

# 1.0 PURPOSE AND SUMMARY - TE KAUPAPA ME TE WHAKARĀPOPOTOTANGA

- 1.1 The purpose of this report is to describe the process for receiving the declarations of the Councillors.
- 1.2 The Chief Executive having received and witnessed the oral declaration of Her Worship the Mayor, Mayor Hazlehurst will then assume the Chair and receive the oral declarations of the Councillors (Attachment 1) which will be witnessed by the Mayor and Chief Executive.

#### 2.0 BACKGROUND - TE HOROPAKI

2.1 Schedule 7, Part 1, clause 21 of the Local Government Act 2002 states:

"The chief executive (or, in the absence of the chief executive, a nominee of that officer) must chair the meeting until the chairperson has made and attested the declaration required under clause 14"

- 2.2 Schedule 7, Part 1, clause 14 of the Local Government Act 2002 states:
  - "(1) A person may not act as a member of a local authority until -
    - (a) That person has, at a meeting of the local authority following the election of that person, made an oral declaration in the form set out in subclause (3); and
    - (b) A written version of the declaration has been attested as provided under subclause (2)
  - (2) The written declaration must be signed by the member and witnessed by:-(b) the mayor; or ...
    - (d) the chief executive of the local authority."

A) That the Council receives the report titled Making and Attesting of Declarations of Members.

#### **Attachments:**

1. Delcaration of Members

CG-14-1-01534

### a) Declaration by Members

"I, (Full name), declare that I will faithfully and impartially, and according to the best of my skill and judgment, execute and perform, in the best interests of the Hastings District, the powers, authorities, and duties vested in, or imposed upon, me as <b>Member</b> of the Hastings District Council by virtue of the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, or any other Act".
"Ko ahau, ko, e oati ana ka whai ahau i te pono me te tōkeke, i runga hoki i te mutunga kē mai nei o āku pūkenga, o āku whakatau hoki kia whakatutuki, kia mahi anō hoki i te mana whakahaere, te mana whakatau me ngā momo mahi kua uhia ki runga i a au kia whiwhi painga mō te takiwā o Heretaunga, hei <b>Mema</b> o te Kaunihera ā-Rohe o Heretaunga e ai hoki ki te Ture Kāwanatanga ā-Taiao 2002, ki te Ture Kāwanatanga ā-Taiao Whakapae me te Hui 1987, me ētahi Ture anō rānei".
He mea whakaū tēnei i Heretaunga i tēnei rā te tuawhitu o Whiringa-ā-rangi i te tau rua mano tekau mā iwa.
Waitohu:

Waitohu mai ki mua i a:

MEETING DATE: THURSDAY 7 NOVEMBER 2019

FROM: MANAGER: DEMOCRACY AND GOVERNANCE

**JACKIE EVANS** 

SUBJECT: APPOINTMENT OF DEPUTY MAYOR FOLLOWING 2019

TRIENNIAL ELECTIONS

# 1.0 PURPOSE AND SUMMARY - TE KAUPAPA ME TE WHAKARĀPOPOTOTANGA

- 1.1 In accordance with section 21 of the Local Government Act 2002, at its first meeting of the triennium the council is required to elect a deputy mayor under clause 17 of schedule 7 of the Local Government Act 2002.
- 1.2 Section 41A of the Local Government Act 2002 empowers the Mayor among other things to appoint a deputy mayor.

Section 41A provides in part:

- 41A Role and powers of mayors
  - (1) The role of a mayor is to provide leadership to—
    - (a) the other members of the territorial authority; and
    - (b) the people in the district of the territorial authority.
  - (2) Without limiting subsection (1), it is the role of a mayor to lead the development of the territorial authority's plans (including the long-term plan and the annual plan), policies, and budgets for consideration by the members of the territorial authority.
  - (3) For the purposes of subsections (1) and (2), a mayor has the following powers:
    - (a) to appoint the deputy mayor:
    - (b) to establish committees of the territorial authority:
    - (c) to appoint the chairperson of each committee established under paragraph (b), and, for that purpose, a mayor—
    - (i) may make the appointment before the other members of the committee are determined; and
    - (ii) may appoint himself or herself
- 2.0 In accordance with the provisions of Section 41A(3)(a) of the local government act 2002 Mayor Hazlehurst has indicated that she will appoint a deputy mayor.
- 2.1 Clause 5.1 of the Council's Standing Orders require that the name of any appointment is tabled at the first meeting after the appointment.

- A) That the Council receives the report titled Appointment of Deputy Mayor following 2019 Triennial Elections
- B) That .....be appointed as Deputy Mayor.

#### **Attachments:**

There are no attachments for this report.

MEETING DATE: THURSDAY 7 NOVEMBER 2019

FROM: GENERAL COUNSEL

**SCOTT SMITH** 

SUBJECT: LEGISLATION AFFECTING MEMBERS

# 1.0 PURPOSE AND SUMMARY - TE KAUPAPA ME TE WHAKARĀPOPOTOTANGA

- 1.1 The Chief Executive has asked for a report for Councillors and Community Board members summarising legislation affecting elected members. Such a paper is attached to fulfil the requirements of Clause 21 of Schedule 7 of the Local Government Act 2002 (Attachment 1).
- 1.2 The paper refers specifically to Councillors rather than "members". Members of the Rural Community Board are similarly bound by the same provisions in respect of the operations of the Board.
- 1.3 The Chief Executive arranged for a more detailed briefing of Councillors during their induction.

#### 2.0 RECOMMENDATIONS - NGĀ TŪTOHUNGA

A) That the Council receives the report titled Legislation Affecting Members.

#### Attachments:

1. Legislation Affecting Members

CG-14-1-01535

#### **KEY LEGISLATION AFFECTING COUNCILLORS IN THEIR DUTIES**

#### A) Local Government Act 2002

This is the main piece of legislation setting out the role and functions of councils.

It covers a huge range of council functions. Key areas include:

- Purpose of Local Government and Role and Powers of Local Authorities
- Structure and Reorganisation of Local Government
- Local Government Commission
- Governance and Management of Local Authorities, Local Boards and Community Boards
- Council-controlled Organisations and Council Organisations
- Decision-making
- Consultation
- Community Outcomes
- Planning The Long-Term Plan
- Infrastructure Strategy
- Annual Report
- Financial Management
- Borrowing & Security
- Water Services
- Bylaws
- Enforcement Powers
- Development Contributions
- Offences and Legal Proceedings
- Reorganisation of Local Authorities
- Minister's Powers in relation to Local Authorities
- Constitution of Communities
- Provisions regarding members & meetings & employment matters

#### B) Local Government Act 1974

The provisions of the Local Government Act 1974 remain in relation to roading and some drainage provisions.

#### C) Secret Commissions Act 1910

This makes it an offence for a councillor to accept (or attempt to obtain) for the councillor or any other person a gift, inducement or reward for doing or not doing something. The maximum penalty is seven years imprisonment.

There are similar provisions against bribery in the Crimes Act (also a maximum penalty of 7 years imprisonment)

#### D) Local Authorities (Members' Interests) Act 1968

This is a very important Act.

It is designed to maintain *natural justice*, to ensure that councillors' decisions are not affected by any personal motive.

#### **Pecuniary Interest**

A councillor must not discuss or vote on any matter in which the councillor or his/her spouse has a <u>direct</u> or <u>indirect</u> pecuniary (i.e. monetary) interest.

A failure to abide by the pecuniary interest prohibition is an offence and is likely to lead to prosecution and removal from office.

If you believe you have a pecuniary interest, you need to declare your interest to the meeting (you do not need to give details). You need to ensure that the minutes of the meeting subsequently record your declaration and abstention from discussion and voting.

The Council maintains a voluntary register of councillors' interests to assist staff in giving councillors help with this area. It is, however, <u>your responsibility</u> as a councillor to declare a potential interest, not the staff's responsibility to police it.

#### **Contracts**

A councillor cannot be involved in contracts with a council for which total payments exceed \$25,000 in a financial year. This includes contracts made by the councillor, or their spouse, <u>or</u> contracts with any company in which the councillor or the councillor's spouse has ten percent or more of the issued capital or of which either the councillor or spouse is the managing director or general manager (however named).

It may be possible to obtain **prior** Audit New Zealand approval for contracts greater than \$25,000.

#### An example of a pecuniary interest

A member who voted on a roading proposal affecting a shopping centre in which he had a shop was held to have a pecuniary interest.

The moral of the story is:
"When in doubt, don't discuss it or vote on it and make sure your abstention is recorded."

#### E) Local Government Official Information and Meetings Act 1987

The principal purposes of this Act are:

- To make official information held by local authorities more freely available.
- To provide for proper access by each person to official information relating to that person.

- To provide for the admission of the public to meetings of local authorities.
- To protect official information held by local authorities and the deliberations of local authorities to the extent consistent with the public interest and the protection of personal privacy.

The fundamental principle of the Act is that information should be made available unless there is good reason for withholding it. A number of procedures are set out under the Act for the achievement of this principle and these purposes. The Council's Standing Orders are in many respects a combination of parts of the Local Government Act 2002 and the requirements of the Local Government Official Information and Meetings Act 1987.

#### F) Crimes Act 1961

Sections 105 and 105A of the Crimes Act 1961 prescribe a maximum penalty of seven years' imprisonment for any member or officer found guilty of bribery and corruption as well as any member or officer of the Council who corruptly uses information to obtain a pecuniary gain for that person or any other person. Section 99 defines bribery and makes it clear that both staff and councillors are covered by the provisions.

#### G) Resource Management Act 1991

Members of the Council on the Hearings Committee and members of the Planning & Regulatory Committee will have extensive involvement with this Act. The purpose of the Act is to promote the sustainable management of natural and physical resources.

#### H) Financial Markets Conduct Act 2013

The Council is subject to the Financial Markets Conduct Act 2013 in relation to the issue of securities to the public, in particular the form and content of prospectuses.

#### I) Local Electoral Act 2001

This Act and its subordinate regulations control the running of council elections.

#### J) Local Government (Rating) Act 2002

This Act provides a code for the setting and collection rates.

MEETING DATE: THURSDAY 7 NOVEMBER 2019

FROM: GENERAL COUNSEL

**SCOTT SMITH** 

SUBJECT: CONFLICTS OF INTEREST

# 1.0 PURPOSE AND SUMMARY - TE KAUPAPA ME TE WHAKARĀPOPOTOTANGA

- 1.1 The purpose of this report is to inform members about the following Conflicts of Interest statement that appears on order papers for council and committee meetings.
- 1.2 An explanation of the Local Authorities (Members' Interests) Act 1968 (LAMIA) appears in the General Counsel's report under Agenda Item 9, Legislation Affecting Members.
- 1.3 However, members may also have non-financial conflicts of interest. The Conflict of Interest statement serves as a reminder to members to scan the agenda and assess their own private interests and identify where they may have a pecuniary or other conflict of interest, or where there may be perceptions of conflict of interest.
- 1.4 Clauses 19.7 and 19.8 of the Hastings District Council Standing Orders provides as follows:

#### "19.7 Financial conflicts of interests

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

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

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

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

#### 19.8 Non-financial conflicts of interests

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

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

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

1.5 Officers will contact members requesting the appropriate information in due course.

#### 2.0 RECOMMENDATIONS - NGĀ TŪTOHUNGA

A) That the Council receives the report titled Conflicts of Interest.

#### **Attachments:**

There are no attachments for this report.

MEETING DATE: THURSDAY 7 NOVEMBER 2019

FROM: MANAGER: DEMOCRACY AND GOVERNANCE

**JACKIE EVANS** 

SUBJECT: PROPOSED SCHEDULE OF COUNCIL AND STANDING

COMMITTEE MEETINGS FOR NOVEMBER/DECEMBER 2019 AND INTERIM APPOINTMENT AND DELEGATION ARRANGEMENTS PENDING THE INTRODUCTION OF THE

2019-2022 COMMITTEE STRUCTURE

# 1.0 PURPOSE AND SUMMARY - TE KAUPAPA ME TE WHAKARĀPOPOTOTANGA

1.1 The purpose of this report is to obtain a decision from the Council on the adoption of the proposed meeting schedule of Council and committee meetings for November/December 2019, and to make arrangements for minor delegated decisions which cannot wait until the next Council meeting and representation on outside bodies on meetings up until the end of the year.

#### **Interim Appointments and Delegation Arrangements**

- 1.2 The Local Government Act 2002 provides that all existing elected members vacate their positions when the members elected at the triennial election come into office, which is the day after the public notice officially declaring the result of the election is published. Thus even if a member is re-elected they actually leave and then come back into office as a new member.
- 1.3 In addition, any existing committee is deemed to be discharged on the coming into office of the members elected at that election. As a result of these provisions all Committees and appointments need to be re-made. A review of the committee structure and delegation arrangements is currently underway. In the meantime, where possible governing body decisions will be made by full Council.
- 1.4 There are, however a few exceptions where appointments and delegation arrangements need to "roll over" into this triennium to ensure that decision making can continue in the interim which is compliant with relevant legislation.
- 1.5 The Sale and Supply of Alcohol Act 2002 section 189 (2) states the Council must appoint to the licensing committee a chairperson that is a member of the territorial authority or a commissioner. Councillor Tania Kerr was appointed as Chair of the District Licensing Committee in the 2016-9 triennium, and it is recommended that she continues to chair the District Licensing Committee until the new committee structure, appointments and delegations is agreed by full Council later this year.
- 1.6 In the lead up to Christmas and the summer season there are a number of applications under the Sale and Supply of Alcohol Act 2012 which need to be determined. All other members of the District Licensing Committee are

- external appointments and their membership is not effected by the local body elections.
- 1.7 Temporary Road Closures Subcommittee There are some events in November and early December which will require a Council resolution on the temporary closure of some roads under schedule 10 of the local government act 1974. It is therefore recommended to roll over the 2016-19 Temporary Road Closures Subcommittee delegations and membership (Attachment 1) until the new committee structure is adopted in order to determine these temporary road closures.
- 1.8 Local Government New Zealand (LGNZ) Zone 3 meeting LGNZ has organised a Zone 3 meeting (a meeting of all the Councils in the lower North Island (zone 3) on 28 and 29 November 2019 in Palmerston North. In the 2016-19 the Council appointed representatives were Councillors Dixon, Harvey and Redstone (plus Mayor). It is recommended to "rollover" these appointments in the interim period before the new appointments for the 2019-22 have been agreed by Council in order that the Hastings District Council may be represented at this meeting

#### Meetings

- 1.9 Schedule 7, part 1, section 21(5)(d) of the Local Government Act 2002 requires the Council to set a date and time for its first ordinary meeting following the triennial local authority elections. The first ordinary meeting of the Council is proposed to be held on Wednesday, 27 November 2019 commencing at 1.00pm.
- 1.10 It is recommended that the following meetings be approved for November/December 2019.

Committee	Date	Time	Venue
Temporary Road Closures	13 November 2019	8.00 am	Green Room
Council	27 November 2019	1.00 pm	Council Chamber
Rural Community Board	2 December 2019	2.00 pm	Landmarks Room
Council (Howard Street Submissions)	3 December 2019	1.00 pm	Council Chamber
Omarunui Landfill	10 December 2019	1.00pm	Council Chamber
Council	12 December 2019	1.00 pm	Council Chamber

1.11 This report concludes by recommending that the Council adopt the meeting schedule as outlined.

- A) That the Council receives the report titled Proposed Schedule of Council and Standing Committee Meetings for November/December 2019 and interim appointment and delegation arrangements pending the introduction of the 2019-2022 Committee Structure.
- B) That Councillor Kerr continue to chair the Hastings District Licensing Committee until the new committee structure, appointments and delegations have been agreed by full Council at a future date, to enable pending applications under the Sale and Supply of Alcohol Act 2012 to be determined.
- C) That the rollover of the 2016-2019 membership and delegations of the Temporary Road Closures Subcommittee (comprising Councillor Nixon and Councillor Watkins, Transportation Manager and Environmental Consents Manager) be approved to enable temporary road closures during November/December 2019 to be determined until the new committee structure and delegations have been agreed by full Council at a future date.
- D) That the rollover of the 2016-2019 Local Government New Zealand (LGNZ) Zone 3 representatives (Councillors Dixon, Harvey and Redstone, plus Mayor Hazlehurst) be approved for an interim period prior to the new appointments for the 2019-2022 triennium, in order that the Hastings District Council may be represented at the LGNZ meeting to be held in Palmerston North on 28 and 29 November 2019 until the new committee structure and delegations have been agreed by full Council at a future date.
- E) That the first ordinary meeting of the Council is Wednesday 27 November 2019 at 1.00pm.
- F) That the Council approve the following meetings for November/December 2019:

Committee	Date	Time	Venue
Temporary Road Closures	13 November 2019	8.00am	Green Room
Council	27 November 2019	1.00 pm	Council Chamber
Rural Community Board	2 December 2019	2.00 pm	Landmarks Room
Council (Howard Street	3 December 2019	1.00 pm	Council Chamber
Submissions)			
Omarunui Landfill	10 December 2019	1.00pm	Council Chamber
Council	12 December 2019	1.00 pm	Council Chamber

#### Attachments:

1 Temporary Road Closure Terms of Reference CG-14-1-01588

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### **Temporary Road Closures Subcommittee**

A subcommittee of the Works and Services Committee

#### **Fields of Activity**

The Road Closure Subcommittee is responsible for assisting Council by:

Reviewing, considering submissions and deciding applications for temporary closure of roads.

#### Membership

Chairman appointed by the Council (who shall be an elected member)
Deputy Chairman appointed by the Council (who shall be an elected member)
Transportation Manager
Environmental Manager Consents

**Quorum** – 2 members of whom one shall be the Chairman or the Deputy Chairman.

#### **DELEGATED POWERS**

All the Council's powers and functions in respect to temporary prohibition of traffic under Section 342(1)(b) and clause 11(e) of Schedule 10 of the Local Government Act 1974.

The Subcommittee reports to the Works and Services Committee.