

Tuesday, 28 May 2024

Te Hui o Te Kaunihera ā-Rohe o Heretaunga
Hastings District Council
Council Meeting

Kaupapataka
Agenda

Te Rā Hui:
Meeting date: **Tuesday, 28 May 2024**

Te Wā:
Time: **2.00pm**

Te Wāhi:
Venue: **Council Chamber
Ground Floor
Civic Administration Building
Lyndon Road East
Hastings**

Te Hoapā:
Contact: **Democracy and Governance Services
P: 06 871 5000 | E: democracy@hdc.govt.nz**

Te Āpiha Matua:
Responsible Officer: **Chief Executive - Nigel Bickle**

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Agenda

Tiamana

Chair: Mayor Sandra Hazlehurst

Mematanga:

Membership:

Ngā KaiKaunihera

Councillors: Ana Apatu, Marcus Buddo, Alwyn Corban, Malcolm Dixon, Michael Fowler, Damon Harvey, Henry Heke, Kellie Jessup, Tania Kerr (Deputy Mayor), Eileen Lawson, Simon Nixon, Wendy Schollum and Kevin Watkins + 2 x Vacancies

Tokamatua:

Quorum:

8 members

Apiha Matua

Officer Responsible:

Chief Executive – Nigel Bickle

*Te Rōpū Manapori me te
Kāwanatanga*

Democracy and

Governance Services:

Louise Stettner (Extn 5543)

Te Rārangi Take

Order of Business

1.0 Opening Prayer – *Karakia Whakatūwheratanga*

2.0 Apologies & Leave of Absence – *Ngā Whakapāhatanga me te Wehenga ā-Hui*

At the close of the agenda no apologies had been received.

Leave of Absence had previously been granted to Councillor Nixon

3.0 Conflict of Interest – *He Ngākau Kōnatunatu*

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 do 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 may 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.

4.0 Confirmation of Minutes – *Te Whakamana i Ngā Miniti*

No Minutes to Confirm.

5.0 Making and Attesting Declarations of Elected Members 7

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7.0 Legislation Affecting Members 13

8.0	Schedule of Appointments to Committees and Subcommittees Amendments	19
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9.0	Proposed Amendments To Schedule Of Meetings	21
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10.0	Minor Items – <i>Ngā Take Iti</i>	
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11.0	Urgent Items – <i>Ngā Take Whakahihiri</i>	
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12.0	Recommendation to Exclude the Public from Item 13	23
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13.0	Commercial Transaction	
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Tuesday, 28 May 2024

Te Hui o Te Kaunihera ā-Rohe o Heretaunga
Hastings District Council: Council Meeting

Te Rārangi Take

Report to Council

Nā:
From: **Louise Stettner, Manager, Democracy & Governance Services**

Te Take:
Subject: **Making and Attesting Declarations of Elected Members**

1.0 Purpose and summary - Te Kaupapa Me Te Whakarāpopototanga

- 1.1 The purpose of this report is to describe and enact the process for receiving the declarations of the newly elected Councillor for the Takitimu Ward and the Councillor for the Heretaunga Ward.
- 1.2 Mayor Hazlehurst will receive the oral declarations of each Councillor (**Attachment 1**) which will be witnessed by the Mayor and Chief Executive.

2.0 Recommendations - Ngā Tūhunga

That Council receive the report titled Making and Attesting Declarations of Elected Members dated 28 May 2024.

3.0 Background – Te Horopaki

- 3.1 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.”*

Attachments:

- 1 [↓](#) Declaration wording for the Councillors following 2024 by-elections including Māori translation.DOCX CG-17-1-00889

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 **Member** 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 **Mema** 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”.*

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Te Hui o Te Kaunihera ā-Rohe o Heretaunga
Hastings District Council: Council Meeting

Te Rārangi Take

Report to Council

Nā:
From: **Scott Smith, General Counsel**

Te Take:
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 titled '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 20.7 and 20.8 of the Hastings District Council Standing Orders provides as follows:

"20.7 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.

“20.8 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”.

2.0 Recommendations - Ngā Tūtohunga

That Council receive the report titled Conflicts of Interest dated 28 May 2024.

Attachments:

There are no attachments for this report.

Tuesday, 28 May 2024

Te Hui o Te Kaunihera ā-Rohe o Heretaunga
Hastings District Council: Council Meeting

Te Rārangi Take

Report to Council

Nā:
From: **Scott Smith, General Counsel**

Te Take:
Subject: **Legislation Affecting Members**

1.0 Purpose and summary - *Te Kaupapa Me Te Whakarāpopototanga*

- 1.1 This report for the newly elected Councillors summarises legislation affecting elected members. The summary is contained in **Attachment 1** and fulfils the requirements of Schedule 7, Clause 21 of the Local Government Act 2002.

2.0 Recommendations - *Ngā Tūhunga*

That Council receive the report titled Legislation Affecting Members dated 28 May 2024.

Attachments:

1 [↓](#) Legislation Affecting Members

CG-17-1-00003

CG-17-1-00003

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.

CG-17-1-00003

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 direct or indirect 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 register of councillors' interests to assist staff in giving councillors help with this area. It is, however, your responsibility as a councillor to declare a potential interest, not the staff's responsibility to police it.

Non-pecuniary interest

Non-pecuniary interest is any interest the member may have in an issue that does not involve money. A common term for this is "bias". Rules about bias operate not only to ensure that there is no actual bias, but also so there is no appearance or possibility of bias. The principle is that justice should not only be done, but it should be seen to be done. Bias may be exhibited where: -

- By their statements or conduct a member may indicate that they have predetermined the matter before hearing or considering all of the relevant information on it; or
- The member has a close relationship with an individual or organisation affected by the matter.

Non-pecuniary interest is a difficult issue as it often involves matters of perception and degree. The question you need to consider, drawn from case law, is:

Is there, to a reasonable, fair minded and informed observer, a real indication of bias on the part of a member of the decision making body, in the sense that they might unfairly regard with favour (or disfavour) the case of a party to the issue under consideration?"

If there is, the member should declare their interest and withdraw from the debate. The law about bias does not put you at risk of personal liability. Instead, the validity of the Council's decision could be at risk. The need for public confidence in the decision-making process is paramount and perception can be an important factor.

CG-17-1-00003

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, or 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.

CG-17-1-00003

G) Resource Management Act 1991

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

H) Local Electoral Act 2001

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

I) Local Government (Rating) Act 2002

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

J) Protected Disclosures (Protection of Whistleblowers) Act 2022

Protection under the Act applies where an employee has information about a serious wrongdoing; a reasonable belief that the information is true or likely to be true; the employee wishes to have the matter investigated; and desires protection under the Act.

The employee may come to you in the first instance, but the Act requires disclosure by an employee to follow the internal procedures to address the receipt of and dealing with information about serious wrongdoing in or by the Council.

K) Public Records Act 2005

This Act sets out obligations on local authorities over how they create, maintain, transfer and dispose of records.

Tuesday, 28 May 2024

Te Hui o Te Kaunihera ā-Rohe o Heretaunga
Hastings District Council: Council Meeting

Item 8

Te Rārangi Take

Report to Council

Nā:
From: Sandra Hazlehurst, Mayor

Te Take: **Schedule of Appointments to Committees and Subcommittees**
Subject: **Amendments**

1.0 Purpose and summary - Te Kaupapa Me Te Whakarāpopototanga

- 1.1 The purpose of this report is to advise Council of amendments I have made to the Schedule of Appointments to Committees and Subcommittees.
- 1.2 These changes have been required to include the two newly elected councillors in the Appointments to Committees and Subcommittees Schedule.
- 1.3 The two newly elected Councillors will fulfil the roles of 'Lead Councillors'.
- 1.4 Councillor Kevin Watkins will fill the vacant position of 'Working Groups / Subcommittee Chair' as he will be the Chair of the Infrastructure Advisory Group.
- 1.5 The current positions are outlined below.

Additional Responsibilities	Number of Members Per Position	Councillors
Deputy Mayor	1	Councillor Kerr
Chairs of the Committee of the Whole	2	Councillor Fowler Councillor Schollum
Committee Chairs	2	Councillor Corban Councillor Dixon
Working Groups / Subcommittee Chairs	3	Councillor Apatu Councillor Buddo Councillor Watkins
Deputy Chairs	3	Councillor Heke

		Councillor Lawson Councillor Nixon
Lead Councillors	4	Councillor Jessup Councillor Harvey Takitimu Māori Ward Councillor (newly elected) Heretaunga General Ward Councillor (newly elected)

- 1.6 The changes outlined in the table above will have an impact on the remuneration of some Councillors. These changes can be made via payroll processes that will take effect from the day after the official results of the election have been publicly notified.
- 1.7 I have made these decisions in accordance with section 41A of the Local Government Act 2002, which relates to the Role and Powers of Mayors.

2.0 Recommendations - Ngā Tūtohunga

That Council receive the report titled Schedule of Appointments to Committees and Subcommittees Amendments dated 28 May 2024.

Attachments:

There are no attachments for this report.

Tuesday, 28 May 2024

Te Hui o Te Kaunihera ā-Rohe o Heretaunga
Hastings District Council: Council Meeting

Item 9

Te Rārangi Take

Report to Council

Nā:
From: Louise Stettner, Manager, Democracy & Governance Services

Te Take:
Subject: Proposed Amendments To Schedule Of Meetings

1.0 Purpose and summary - *Te Kaupapa Me Te Whakarāpopototanga*

1.1 The purpose of this report is to consider amendments to the schedule of Council and Committee Meetings for the 2024 Meetings Calendar which was adopted by Council on 14 November 2023.

This report recommends that the 2024 Meeting Schedule as amended below be adopted.

The Local Government Act 2002, Schedule 7, Clause 19 states:

“A local authority must hold meetings at the times and places that it appoints”.

If a local authority adopts a schedule of meetings-

a) The schedule-

i) may cover any future period that the local authority considers appropriate, and

ii) may be amended.

Although a local authority must hold the ordinary meetings appointed, it is competent for the authority at a meeting to amend the schedule of dates, times and number of meetings to enable the business of the Council to be managed in an effective way.

1.2 It is proposed that the meeting schedule be amended as outlined in the recommendations of this report.

2.0 Recommendations - *Ngā Tūtohunga*

- A) That Council receive the report titled Proposed Amendments To Schedule Of Meetings dated 28 May 2024.
- B) That Council adopt changes to the 2024 Schedule of Meetings as follows:

Monday, 10 June 2024 9.00am (Was 4 June 2024)	Meeting Postponed	Hastings District Rural Community Board
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Attachments:

There are no attachments for this report.

HASTINGS DISTRICT COUNCIL

COUNCIL MEETING

TUESDAY, 28 MAY 2024

Item 12

RECOMMENDATION TO EXCLUDE THE PUBLIC

SECTION 48, LOCAL GOVERNMENT OFFICIAL INFORMATION AND MEETINGS ACT 1987

THAT the public now be excluded from the following part of the meeting, namely:

13 Commercial Transaction

The general subject of the matter to be considered while the public is excluded, the reason for passing this Resolution in relation to the 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 is as follows:

<i>GENERAL SUBJECT OF EACH MATTER TO BE CONSIDERED</i>	<i>REASON FOR PASSING THIS RESOLUTION IN RELATION TO EACH MATTER, AND PARTICULAR INTERESTS PROTECTED</i>	<i>GROUND(S) UNDER SECTION 48(1) FOR THE PASSING OF EACH RESOLUTION</i>
13 Commercial Transaction	<p>Section 7 (2) (a) The withholding of the information is necessary to protect the privacy of natural persons, including that of a deceased person.</p> <p>Section 7 (2) (i) The withholding of the information is necessary to enable the local authority to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations). Protect the privacy of individuals and negotiation purposes..</p>	<p>Section 48(1)(a)(i) Where the Local Authority is named or specified in the First Schedule to this Act under Section 6 or 7 (except Section 7(2)(f)(i)) of this Act.</p>