



# AGENDA

# Triennial Meeting of the Taranaki Regional Council

Venue: 47 Cloten Road, Stratford



26 October 2022 01:00 PM

<b>Agenda Topic</b>	<b>Page</b>
1. Karakia	3
2. First meeting of the Taranaki Regional Council following the 2022 Triennial Election	4
3. Election of Chairperson and Deputy Chairperson	33
4. General Explanation of the Local Government Official Information and Meetings Act 1987 and other Law affecting Members	42
5. Pecuniary Interest Register	47
6. Meeting Date for Ordinary Meeting	52



### **Whakataka te hau**

#### ***Karakia to open and close meetings***

Whakataka te hau ki te uru	Cease the winds from the west
Whakataka te hau ki tonga	Cease the winds from the south
Kia mākinakina ki uta	Let the breeze blow over the land
Kia mātaratara ki tai	Let the breeze blow over the ocean
Kia hī ake ana te atakura	Let the red-tipped dawn come with a sharpened air
He tio, he huka, he hauhu	A touch of frost, a promise of glorious day
Tūturu o whiti whakamaua kia tina.	Let there be certainty
Tina!	Secure it!
Hui ē! Tāiki ē!	Draw together! Affirm!

### **Nau mai e ngā hua**

#### ***Karakia for kai***

Nau mai e ngā hua	Welcome the gifts of food
o te wao	from the sacred forests
o te ngakina	from the cultivated gardens
o te wai tai	from the sea
o te wai Māori	from the fresh waters
Nā Tāne	The food of Tāne
Nā Rongo	of Rongo
Nā Tangaroa	of Tangaroa
Nā Maru	of Maru
Ko Ranginui e tū iho nei	I acknowledge Ranginui above and
Ko Papatūānuku e takoto ake nei	Papatūānuku below
Tūturu o whiti whakamaua kia	Let there be certainty
tina	Secure it!
Tina! Hui e! Taiki e!	Draw together! Affirm!



**Date** 26 October 2022

**Subject:** **First meeting of the Taranaki Regional Council following the 2022 triennial election of members (Triennial Meeting)**

**Approved by:** M J Nield, Director - Corporate Services  
S J Ruru, Chief Executive

**Document:** 3114028

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### **Purpose**

1. The purpose of this memorandum is to inform Members of the legal requirements of the first meeting of a local authority following a triennial election.

### **Executive summary**

2. Schedule 7 of the *Local Government Act 2002* outlines a number of procedural steps that must be followed at the first meeting of a new Council following a triennial election.
3. This report serves to outline those requirements and enable the Council to complete them.

### **Recommendations**

That the Taranaki Regional Council:

- a) receives this report First meeting of the Taranaki Regional Council following the 2022 triennial general election of members (Triennial Meeting)
- b) endorses the Code of Conduct as being appropriate to be used by the Council and its committees during the 2022-2025 triennium.

### **Background**

4. The first meeting of a local authority following a triennial general election is governed by clause 21 of schedule 7 of the *Local Government Act 2002* (the Act).
5. The meeting is to be chaired by the Chief Executive (as the principal administrative officer) until a Chairperson has been elected and has completed the required declaration (sub-clause 4 of clause 21 of schedule 7 of the Act).
6. The order of business is required to be:
  - the making and signing of the declarations required of the Members

- the election of a Chairperson and the making and signing of the declaration required of the Chairperson
- the election of a Deputy Chairperson – signing of a declaration by the Deputy Chairperson is not required
- a general explanation of various legislative requirements that directly apply to elected members
- the fixing of the date and time of the first Ordinary Meeting of the Council
- any other items of general business.

### **Declarations**

7. The declaration to be made and signed by Members and the elected Chairperson is outlined in Schedule 7 of the Act. A blank copy of the declarations for a Member and the Chairperson are attached to this Agenda.
8. As well as the individual declaration, a declaration from the whole Council is signed, framed and mounted in the Boardroom.

### **Legislative Requirements**

9. A separate agenda item addressing legislative requirements has been included. The Chief Executive will address the Council on these matters.

### **Meeting Dates**

10. Included in the Agenda is the proposed meeting date for the first Ordinary Meeting of the Council, being Tuesday 8 November 2022 at 10.30am.
11. Once the Council has decided upon its Committee structures at the 8 November 2022 Ordinary Meeting, the meeting dates for the rest of 2022 will be set. The meeting dates for 2023 will be set at the December 2022 Ordinary Meeting.

### **Code of Conduct**

12. Attached for Members' information is the Council's Code of Conduct. The Code of Conduct is required by Schedule 7 of the *Local Government Act 2002*. While there is no statutory obligation to review or reconfirm the Code following an election it is recommended that Council endorse the current Code of Conduct so that it is clear that they support its application during the new triennium.
13. Members may wish to undertake a review of the Code of Conduct. A 75% majority is required to amend the Code of Conduct, the Council is required to have a Code and the Code can be reviewed, but it cannot be revoked without being replaced.

### **Financial considerations—LTP/Annual Plan**

14. This memorandum and the associated recommendations are consistent with the Council's adopted Long-Term Plan and estimates. Any financial information included in this memorandum has been prepared in accordance with generally accepted accounting practice.

### **Policy considerations**

15. This memorandum and the associated recommendations are consistent with the policy documents and positions adopted by this Council under various legislative frameworks including, but not restricted to, the *Local Government Act 2002*, the *Resource Management Act 1991* and the *Local Government Official Information and Meetings Act 1987*.

### **Iwi considerations**

16. This memorandum and the associated recommendations are consistent with the Council's policy for the development of Māori capacity to contribute to decision-making processes (schedule 10 of the *Local Government Act 2002*) as outlined in the adopted long-term plan and/or annual plan.

### **Community considerations**

17. This memorandum and the associated recommendations have considered the views of the community, interested and affected parties and those views have been recognised in the preparation of this memorandum.

### **Legal considerations**

18. This memorandum and the associated recommendations comply with the appropriate statutory requirements imposed upon the Council.

### **Appendices/Attachments**

Document 3116417 & 3116415: Member's Declaration

Document 3116416: Chairperson's Declaration

Document 3113332: Taranaki Regional Council Code of Conduct for Elected Members

## **Appendix 1**

- (1) *The first meeting of a local authority following a triennial general election of members must be called by the chief executive as soon as practicable after the results of the election are known.*
- (2) *The chief executive must give the persons elected to the local authority not less than 7 days' notice of the meeting.*
- (3) *Despite subclause (2), if an emergency exists, the chief executive may give notice of the meeting as soon as practicable.*
- (4) *The chief executive (or, in the absence of the chief executive, a nominee of that officer) must chair the meeting until the mayor or chairperson has made and attested the declaration required under clause 14*
- (5) *The business that must be conducted at the meeting must include –*
  - (a) *the making and attesting of the declarations required of the mayor (if any) and members under clause 14; and*
  - (b) *the election of the chairperson (if any) and the making and attesting of the declaration required of the chairperson under clause 14; and*
  - (c) *a general explanation, given or arranged by the chief executive, of –*
    - (i) *the Local Government Official Information and Meetings Act 1987; and*
    - (ii) *other laws affecting members, including –*
      - (A) *the appropriate provisions of the Local Authorities (Members' Interests) Act 1968; and*
      - (B) *sections 99, 105, and 105A of the Crimes Act 1961; and*
      - (C) *the Secret Commissions Act 1910; and*
      - (D) *the [Financial Markets Conduct Act 2013]; and*
  - (d) *the fixing of the date and time of the first ... meeting of the local authority, or the adoption of a schedule of ... meetings; and*
  - (e) *the election of the deputy mayor or deputy chairperson in accordance with clause 17.*





## Declaration by member

Ko ahau, ko **Bonita Joanne Bigham**, 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 rohe o Taranaki hei kaikaunihera o te Kaunihera-a-rohe o Taranaki 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 Whakaahurangi i tēnei rā rua tekau mā ono o Whiringa-ā-nuku i te tau rua mano rua tekau mā rua.

Waitohu mai ki mua i a

**Stephen John Te Kaiapa Ruru**  
Chief Executive

TARANAKI REGIONAL COUNCIL





## Declaration by member

I, **Maurice John Cloke** declare that I will faithfully and impartially, and according to the best of my skill and judgement, execute and perform, in the best interests of the Taranaki region, the powers, authorities and duties vested in or imposed upon me as a member of the Taranaki Regional Council by virtue of the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, or any other Act.

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Dated at STRATFORD 26 October 2022.

Signed in the presence of:

**Stephen John Te Kaiapa Ruru**  
Chief Executive

TARANAKI REGIONAL COUNCIL



## Declaration by member

I, **Donna Maree Cram** declare that I will faithfully and impartially, and according to the best of my skill and judgement, execute and perform, in the best interests of the Taranaki region, the powers, authorities and duties vested in or imposed upon me as a member of the Taranaki Regional Council by virtue of the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, or any other Act.

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Dated at STRATFORD 26 October 2022.

Signed in the presence of:

**Stephen John Te Kaiapa Ruru**  
Chief Executive

TARANAKI REGIONAL COUNCIL





## Declaration by member

I, **Susan Wendy Hughes** declare that I will faithfully and impartially, and according to the best of my skill and judgement, execute and perform, in the best interests of the Taranaki region, the powers, authorities and duties vested in or imposed upon me as a member of the Taranaki Regional Council by virtue of the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, or any other Act.

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Dated at STRATFORD 26 October 2022.

Signed in the presence of:

**Stephen John Te Kaiapa Ruru**  
Chief Executive

TARANAKI REGIONAL COUNCIL



## Declaration by member

I, **Alan Lloyd Jamieson** declare that I will faithfully and impartially, and according to the best of my skill and judgement, execute and perform, in the best interests of the Taranaki region, the powers, authorities and duties vested in or imposed upon me as a member of the Taranaki Regional Council by virtue of the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, or any other Act.

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Dated at STRATFORD 26 October 2022.

Signed in the presence of:

**Stephen John Te Kaiapa Ruru**  
Chief Executive

TARANAKI REGIONAL COUNCIL





## Declaration by member

I, **Michael Gerard Davey** declare that I will faithfully and impartially, and according to the best of my skill and judgement, execute and perform, in the best interests of the Taranaki region, the powers, authorities and duties vested in or imposed upon me as a member of the Taranaki Regional Council by virtue of the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, or any other Act.

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Dated at STRATFORD 26 October 2022.

Signed in the presence of:

**Stephen John Te Kaiapa Ruru**  
Chief Executive

TARANAKI REGIONAL COUNCIL



## Declaration by member

I, **David Lloyd Lean** declare that I will faithfully and impartially, and according to the best of my skill and judgement, execute and perform, in the best interests of the Taranaki region, the powers, authorities and duties vested in or imposed upon me as a member of the Taranaki Regional Council by virtue of the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, or any other Act.

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Dated at STRATFORD 26 October 2022.

Signed in the presence of:

**Stephen John Te Kaiapa Ruru**  
Chief Executive

TARANAKI REGIONAL COUNCIL





## Declaration by member

I, **Charlotte Lucy Littlewood** declare that I will faithfully and impartially, and according to the best of my skill and judgement, execute and perform, in the best interests of the Taranaki region, the powers, authorities and duties vested in or imposed upon me as a member of the Taranaki Regional Council by virtue of the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, or any other Act.

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Dated at STRATFORD 26 October 2022.

Signed in the presence of:

**Stephen John Te Kaiapa Ruru**  
Chief Executive

TARANAKI REGIONAL COUNCIL





## Declaration by member

I, **Donald Hugh McIntyre** declare that I will faithfully and impartially, and according to the best of my skill and judgement, execute and perform, in the best interests of the Taranaki region, the powers, authorities and duties vested in or imposed upon me as a member of the Taranaki Regional Council by virtue of the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, or any other Act.

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Dated at STRATFORD 26 October 2022.

Signed in the presence of:

**Stephen John Te Kaiapa Ruru**  
Chief Executive

TARANAKI REGIONAL COUNCIL



## Declaration by member

I, **Neil William Walker** declare that I will faithfully and impartially, and according to the best of my skill and judgement, execute and perform, in the best interests of the Taranaki region, the powers, authorities and duties vested in or imposed upon me as a member of the Taranaki Regional Council by virtue of the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, or any other Act.

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Dated at STRATFORD 26 October 2022.

Signed in the presence of:

**Stephen John Te Kaiapa Ruru**  
Chief Executive

TARANAKI REGIONAL COUNCIL





## Declaration by member

I, **Craig Stuart Williamson** declare that I will faithfully and impartially, and according to the best of my skill and judgement, execute and perform, in the best interests of the Taranaki region, the powers, authorities and duties vested in or imposed upon me as a member of the Taranaki Regional Council by virtue of the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, or any other Act.

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Dated at STRATFORD 26 October 2022.

Signed in the presence of:

**Stephen John Te Kaiapa Ruru**  
Chief Executive

TARANAKI REGIONAL COUNCIL



## Declaration by Chairperson

I, \_\_\_\_\_ declare that I will faithfully and impartially, and according to the best of my skill and judgement, execute and perform, in the best interests of the Taranaki region, the powers, authorities and duties vested in or imposed upon me as Chairperson of the Taranaki Regional Council by virtue of the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, or any other Act.

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Dated at STRATFORD 26 October 2022.

Signed in the presence of:

**Stephen John Te Kaiapa Ruru**  
Chief Executive

**TARANAKI REGIONAL COUNCIL**





# Elected Members

## **CODE OF CONDUCT**



## Introduction/Kupu whakataki

1. The *Local Government Act 2002* (the Act) came into force on 1 July 2003. One of the provisions required of the Taranaki Regional Council (the Council) under this Act is the adoption of a Code of Conduct for Elected Members (the Code).
2. Schedule 7, Clause 15 of the Act details what the Code must contain. It is important to note that once adopted, the Code can only be amended or replaced at a full meeting of the Council, provided that the motion is supported by 75% of the members present. The Code cannot be revoked without replacement.
3. Once adopted all elected members of the Council are required to comply with the Code.
4. The Code promotes effective local governance by helping elected members establish and maintain working relationships built on trust and respect. The Code sets out the principles of good conduct and standards of behaviour for elected members of the Taranaki Regional Council in their dealings with:
  - each other
  - the Chief Executive of the Council
  - the staff of the Council
  - the media
  - the general public.
5. The Code **does not apply** where specific legislation governs a matter.
6. The objective of the Code is to enhance:
  - the effectiveness of the Council as the autonomous local authority with statutory responsibilities for the good local government of the Taranaki region
  - the credibility and accountability of the Council within its community
  - mutual trust, respect and tolerance between the elected members as a group and between the elected members and management.



## Legislative Requirements

7. Schedule 7, clause 15 of the Local Government Act 2002 states the following:

*15 Code of conduct*

- (1) A local authority must adopt a code of conduct for members of the local authority as soon as practicable after the commencement of this Act.*
- (2) The code of conduct must set out—*
  - (a) understandings and expectations adopted by the local authority about the manner in which members may conduct themselves while acting in their capacity as members, including—*
    - (i) behaviour toward one another, staff, and the public; and*
    - (ii) disclosure of information, including (but not limited to) the provision of any document, to elected members that—*
      - (A) is received by, or is in the possession of, an elected member in his or her capacity as an elected member; and*
      - (B) relates to the ability of the local authority to give effect to any provision of this Act; and*
  - (b) a general explanation of—*
    - (i) the Local Government Official Information and Meetings Act 1987; and*
    - (ii) any other enactment or rule of law applicable to members.*
- (3) A local authority may amend or replace its code of conduct, but may not revoke it without replacement.*
- (4) A member of a local authority must comply with the code of conduct of that local authority.*
- (5) A local authority must, when adopting a code of conduct, consider whether it must require a member or newly elected member to declare whether or not the member or newly elected member is an undischarged bankrupt.*
- (6) After the adoption of the first code of conduct, an amendment of the code of conduct or the adoption of a new code of conduct requires, in every case, a vote in support of the amendment of not less than 75% of the members present.*
- (7) To avoid doubt, a breach of the code of conduct does not constitute an offence under this Act.*

## Principles of the Code of Conduct for Elected Members

The Code is based on the following principles of good governance:

### Public Interest

8. Members should serve only the interests of the region as a whole and should not improperly confer an advantage or disadvantage on any one person.

### Honesty and Integrity

9. Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

### Objectivity

10. Members should make decisions on merit including making appointments, awarding contracts, or recommending individuals for rewards or benefits. Elected members should also note that, once elected, their primary duty is to the interests of the entire region and not just the constituency they represent.

### Accountability

11. Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with the scrutiny appropriate to their particular office.

### Openness

12. Members should be as open as possible about their actions and those of the Council, and should be prepared to justify their actions.

### Personal Judgement

13. Members can and will take account of the views of others, but should reach their own conclusions on the issues before them, and act in accordance with those conclusions.

### Respect for Others

14. Members should promote equality by not discriminating unlawfully against any person and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation, or disability. They should respect the impartiality and integrity of the Council staff.

### Duty to Uphold the Law

15. Members should uphold the law, and on all occasions, act in accordance with the trust the public places in them.

### Stewardship

16. Members must ensure that the Council uses resources prudently and for lawful purposes, and that the Council maintains sufficient resources to meet its statutory obligations.

### Leadership

17. Members should promote and support these proposals by example, and should always endeavour to act in the best interests of the region.

## Relationship and Behaviours

This part of the Code sets out the Council's agreed standards of behaviour for elected members.

### Relationships with Other Members

18. Successful teamwork is a critical element in the success of any democratically elected organisation. No team will be effective unless mutual respect exists between members. With this in mind elected members will conduct their dealings with each other in ways that:
- maintain public confidence in the Council
  - are open and honest
  - focus on issues rather than personalities
  - avoid aggressive, offensive or abusive conduct.

### Relationships with Staff

19. The effective performance of the Council requires a high level of co-operation and mutual respect between elected members and staff. To ensure that level of co-operation and trust is maintained, elected members will:
- recognise that the Chief Executive is the employer of all Council employees, and as such only the Chief Executive may hire, dismiss or instruct or censure an employee
  - make themselves aware of the obligations that the Council and the Chief Executive have as employers and observe those requirements at all times
  - treat all employees with courtesy and respect (including the avoidance of aggressive, offensive or abusive conduct towards employees)
  - observe any guidelines that the Chief Executive puts in place regarding contact with employees
  - not do anything which compromises, or could be seen as compromising, the impartiality of an employee
  - avoid publicly criticising any employee in any way, but especially in ways that reflect on the competence and integrity of the employee
  - raise concerns about employees with the Chief Executive only, and concerns about the Chief Executive with the Chairperson only.
20. Elected members should be aware that failure to observe this portion of the code of conduct might compromise the Council's obligations to act as a good employer and may expose the Council to civil litigation.

### Relationships with the Community

21. Effective council decision-making depends on productive relationships between elected members and the community at large.
22. Members should ensure that individual citizens are accorded respect in their dealings with the Council, have their concerns listened to, and deliberated on in accordance with the requirements of the Act. Members should act in a manner that encourages and values community involvement in local democracy.

### Contact with the Media

23. The media plays an important part in local democracy. In order to fulfil this role the media needs access to accurate, timely information about the affairs of Council. From time to time, individual members will be approached to comment on a particular issue either on behalf of Council, or as an elected member in their own right.

24. This part of the code deals with the rights and duties of elected members when speaking to the media on behalf of the Council, or in their own right.
25. The following rules apply for media contact **on behalf of Council**:
- the Chairperson is the first point of contact for the official view on any issue. Where the Chairperson is absent, any matters are to be referred to the Deputy Chairperson or relevant Committee Chairperson
  - the Chairperson may refer any matter to the relevant Committee Chairperson or to the Chief Executive for their comment
  - no other member may comment **on behalf of Council** without having first obtained the approval of the Chairperson.
26. Members are free to express a **personal view** in the media, at any time, provided the following is observed:
- media comments must not state or imply that they represent the views of the Council
  - where an elected member is making a statement that is contrary to a Council decision or Council policy, the member must not state or imply that his or her statements represent a majority view
  - media comments must observe the other requirements of the code of conduct, e.g. not disclose confidential information, or compromise the impartiality or integrity of Council staff.

#### Confidential Information

27. In the course of their duties members will occasionally receive information that may need to be treated as confidential. This will generally be information that is either commercially sensitive or is personal to a particular individual or organisation.
28. Elected members must not use or disclose confidential information for any purpose other than the purpose for which the information was supplied to the elected member.
29. Disclosing confidential information could expose the Council to prosecution under the *Privacy Act 1993* and/or civil litigation.

#### Conflicts of Interest

30. Elected members must be careful that they maintain a clear separation between their personal interests and their duties as an elected member to ensure the duties of an elected member are performed free from bias (real or perceived).
31. Members need to familiarise themselves with the provisions of the *Local Authorities (Members' Interests) Act 1968* which concerns financial interests, and with other legal requirements concerning non-financial conflicts of interest.
32. The *Local Authorities (Members' Interests) Act 1968* provides that an elected member is disqualified from office, or from election to office, if that member is concerned or interested in contracts under which payments made by or on behalf of the Council exceed \$25,000 in any financial year (GST inclusive).
33. Elected members are prohibited from participating in any Council discussion or vote on any matter in which they have a pecuniary interest, other than an interest in common with the general public. The same also applies where the member's spouse contracts with the authority or has a pecuniary interest. Elected members must declare their interests at Council meetings where matters in which they have a pecuniary interest arise.
34. Members shall make a general declaration of interest as soon as practicable after becoming aware of any such interests.

35. If an elected member is in any doubt as to whether or not a particular course of action raises a conflict of interest, then the member should seek guidance from the Chief Executive.
36. Members may also contact the Office of the Auditor-General for guidance as to whether that member has a pecuniary interest.

#### Ethics

37. The Taranaki Regional Council seeks to promote the highest standards of ethical conduct amongst its elected members. Accordingly, elected members will:
  - not influence, or attempt to influence, any Council employee to take actions that may benefit the member, or the member's family or business interests
  - not use Council resources for personal business (including campaigning)
  - not solicit, demand, or request any gift, reward or benefit by virtue of their position
  - notify the Chief Executive if any gifts are offered to a member
  - notify the Chief Executive if any gifts are accepted.

## Disqualification of Elected Members from Office

38. Elected members are automatically disqualified from office if they are convicted of a criminal offence punishable by two or more years imprisonment, or if they cease to be or lose their status as an elector, or of certain breaches of the *Local Authorities (Members' Interests) Act 1968*.
39. Under the *Local Government Act 2002*, the Council, when adopting a code of conduct, must consider whether they will require members to declare if they are an undischarged bankrupt. The Council believes that bankruptcy does raise questions about the soundness of a person's financial management skills and their judgement in general. The Council therefore requires elected members who are declared bankrupt to notify the Chief Executive as soon as practicable after being declared bankrupt.

## Compliance and review

### Compliance

40. Elected members are bound to comply with the provisions of this code of conduct as per the *Local Government Act 2002 (Schedule 7, section 15(4))*.
41. A Conduct Review Committee will monitor compliance with the Code. This committee will be constituted when a breach of the Code has been alleged and reported to the Chairperson. The Chairperson will be an ex-officio member. All alleged breaches of the code will be reported to the committee. Any allegation of a breach of a code of conduct must be in writing, must be specific and provide corroborating evidence. The committee will investigate the alleged breach and prepare a report for the consideration of Council. Before beginning any investigation, the committee will notify the elected member(s) in writing of the complaint and explaining when and how they will get the opportunity to put their version of events. The Council will consider the report in open meeting of Council, except where the alleged breach relates to the misuse of confidential information or could impinge on the privacy of a member of staff or of the general public.

### Responses to Breaches of the Code

42. In response to a breach of the Code, the action the Council may take depends on the nature of the breach and whether there are statutory provisions dealing with the breach.
43. Where there are statutory provisions:
  - breaches relating to members' interests render members liable for prosecution by the Auditor-General under the *Local Authority (Member's Interests) Act 1968*
  - breaches which result in the Council suffering financial loss or damage may be reported on by the Auditor-General under the *Local Government Act 2002*, which may result in the member having to make good the loss or damage
  - breaches relating to the commission of a criminal offence may leave the elected member liable for criminal prosecution.
44. In these cases the Council may refer an issue to the relevant body or the body itself may take action of its own initiative.
45. Where there are no statutory provisions, the council may take the following action:
  - censure
  - removal of the elected member from Council committees and/or other representative type bodies
  - dismissal of the elected member from a position as Deputy Chairperson or Chair of a committee.
46. A decision to apply one or more of these actions requires a Council resolution to that effect.

### Review

47. Once adopted, a code of conduct continues in force until amended by the Council. The Code can be amended at any time but cannot be revoked unless the Council replaces it with another code. Once adopted, amendments to the Code require a resolution supported by 75 per cent or more of the members of the Council present. Council will formally review the code as soon as practicable after the beginning of each triennium.



## Legislation Bearing on the Role and Conduct of Elected Members

This is a summary of the legislation requirements that has some bearing on the duties and conduct of elected members. Copies of these statutes are available upon request.

### *Local Authority (Members' Interests) Act 1968*

48. This Act regulates situations where members' personal interests impinge, or could be seen as impinging on their duties as an elected member. The Act provides that an elected member is disqualified from office if that member is concerned or interested in contracts under which payments made by or on behalf of the local authority exceed \$25,000 in any financial year. Additionally, elected members are prohibited from participating in any Council discussion or voting on any matter in which they have a pecuniary interest, other than an interest in common with the general public. The same rule also applies where the member's spouse contracts with the authority or has a pecuniary interest.
49. The Office of the Auditor-General publication *Financial Conflicts of Interests of Members of Governing Bodies (2001)* provides further guidance on this Act.
50. Members may also contact the Office of the Auditor-General for guidance as to whether that member has a pecuniary interest, and if so, may seek an exemption to allow that member to participate or vote on a particular issue in which they may have a pecuniary interest. The latter must be done before the discussion or vote. The Chief Executive must also seek approval from the Office of the Auditor-General for contractual payments to members, their spouses or their companies that exceed the \$25,000 annual limit.
51. Failure to observe these requirements could also leave the elected member open to prosecution under the *Local Authority (Members' Interests) Act 1968*. In the event of a conviction elected members can be ousted from office.

### *Local Government Official Information and Meetings Act 1987*

52. The *Local Government Official Information and Meetings Act 1987* sets out a list of meetings procedures and requirements. Of particular importance for the roles and conduct of elected members is the fact that the chair has the responsibility to maintain order at meetings, but all elected members should accept a personal responsibility to maintain acceptable standards of address and debate.

### *Secret Commissions Act 1910*

53. Under this Act it is unlawful for an elected member (or officer) to advise anyone to enter into a contract with a third person and receive a gift or reward from that third person as a result, or to present false receipts to Council.
54. If convicted of any offence under this Act, a person can be imprisoned for up to 2 years, or fines up to \$1,000, or both. A conviction therefore would trigger the ouster provisions of the *Local Government Act 2002* and result in the removal of the elected member from office.

### *Crimes Act 1961*

55. Under this Act it is unlawful for an elected member (or officer) to:
  - accept or solicit for themselves (or anyone else) any gift or reward for acting or not acting in relation to the business of Council
  - use information gained in the course of their duties for their, or another persons, monetary gain or advantage.
56. These offences are punishable by a term of imprisonment of 7 years or more. Elected members convicted of these offences will also be automatically ousted from office.

*Securities Act 1978*

57. The *Securities Act 1978* essentially places elected members in the same position as company directors whenever Council offers stock to the public. Elected members may be personally liable if investment documents such as a prospectus contain untrue statements and may be liable for criminal prosecution if the requirements of the Act are not met.

*Protected Disclosures (Protection of Whistleblowers) Act 2022*

58. The Protected Disclosures (Protection of Whistleblowers) Act 2022 is designed to facilitate the disclosure and investigation of serious wrongdoing in the workplace, and to provide protection for employees and other workers who report concerns. A protected disclosure occurs when the discloser believes, on reasonable grounds, that there is, or has been, **serious wrongdoing** in or by their organisation, they disclose in accordance with the Act, and they do not disclose in bad faith.
59. A discloser is a person who has an employment type relationship with the organisation they are disclosing about and includes current and former employees, homeworkers, secondees, contractors, volunteers, and board members. Serious wrongdoing includes:
- an offence
  - a serious risk to public health, or public safety, or the health or safety of any individual, or to the environment
  - a serious risk to the maintenance of the law including the prevention, investigation and detection of offences or the right to a fair trial
  - an unlawful, corrupt, or irregular use of public funds or public resources
  - oppressive, unlawfully discriminatory, or grossly negligent or that is gross mismanagement by a public sector employee or a person performing a function or duty or exercising a power on behalf of a public sector organisation or the Government
60. The Council need to have appropriate internal procedures that identify who in the organisation a protected disclosure may be made to, describe the protections available under the Act, and explain how the organisation will provide practical assistance and advice to disclosers. A discloser does not have to go through their organisation first. An appropriate authority can include the head of any public sector organisation and any officer of Parliament, such as the Ombudsman and Controller and Auditor-General. Ombudsmen are also an "appropriate authority" under the Protected Disclosures (Protection of Whistleblowers) Act 2022.

*The Local Government (Pecuniary Interests Register) Act 2022*

61. Following passage of the Local Government (Pecuniary Interests Register) Amendment Bill in 2022, a local authority must now keep a register of the pecuniary interests of their members, including community and local board members. The purpose of the register is to record members' interests to ensure transparency and strengthen public trust and confidence in local government processes and decision-making. Registers must comprise the following:
- the name of each company of which the member is a director or holds or controls more than 10% of the voting rights and a description of the 30 main business activities of each of those companies,
  - the name of every other company or business entity in which the member has a pecuniary interest, other than as an investor in a managed investment scheme, and a description of the main business activities of each of those companies or business entities,
  - if the member is employed, the name of each employer of their employer and a description of the main business activities of those employers,
  - the name of each trust in which the member has a beneficial interest,

- the name of any organisation or trust and a description of the main activities of that organisation or trust if the member is a member of the organisation, a member of the governing body of the organisation, or a trustee of the trust, and the organisation or trust receives funding from the local authority, local board, or community board to which the member has been elected,
- the title and description of any organisation in which the member holds an appointment by virtue of being an elected member,
- the location of real property in which the member has a legal interest, other than an interest as a trustee, and a description of the nature of the real property,
- the location of real property, and a description of the nature of the real property, held by a trust if the member is a beneficiary of the trust and it is not a unit trust (disclosed under subclause 20) or a retirement scheme whose membership is open to the public.

62. Each council must make a summary of the information contained in the register publicly available; and ensure that information contained in the register is only used or disclosed in accordance with the purpose of the register; and is retained for seven years.

*The Health and Safety Act at Work Act 2015*

63. The Health and Safety at Work Act 2015 aims to create a new culture towards health and safety in workplaces. A council is termed a Person Conducting a Business or Undertaking (PCBU) - all involved in work, including elected members, are required to have a duty of care. Elected members are "officers" under the Act and officers are required to exercise due diligence to ensure that the PCBU complies with its duties. However, certain officers, such as elected members, cannot be prosecuted if they fail in their due diligence duty. Despite this, as officers, the key matters to be mindful of are:

- stepping up and being accountable,
- identifying and managing your risks,
- making health and safety part of your organisation's culture, and
- getting your workers involved.

64. Councils have wide discretion about how these matters might be applied, for example:

- adopting a charter setting out the elected members' role in leading health and safety – with your chief executive,
- publishing a safety vision and beliefs statement,
- establishing health and safety targets for the organisation with your chief executive,
- ensuring there is an effective linkage between health and safety goals and the actions and priorities of your chief executive and their senior management, or
- having effective implementation of a fit-for-purpose health and safety management system.

65. Elected members, through their chief executive need to ensure their organisations have sufficient personnel with the right skill mix and support, to meet the health and safety requirements. This includes making sure that funding is sufficient to effectively implement and maintain the system and its improvement programmes.



**Date** 26 October 2022

**Subject:** **Election of Chairperson**

**Approved by:** M J Nield, Director - Corporate Services  
S J Ruru, Chief Executive

**Document:** 3115755

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### **Purpose**

1. The purpose of this memorandum is to enable the Council to elect a chairperson.

### **Executive summary**

2. The Council is required to elect a chairperson at the triennial meeting.
3. Relevant considerations for the Council when undertaking this task include the additional rights and responsibilities and obligations carried by the member in this position in addition to those of an ordinary member; and the significant impact this position can have on the effective operation of Council and its ability to meet its obligations to its regional communities.
4. In the event that there is more than one nomination, Council needs to decide on the system of voting to be used to elect a Chairperson. It is also recommended that Council also determine how a tied vote will be resolved (i.e. by way of a toss of a coin or the random selection of names from a hat) and that voting should be recorded by division so that there is a clear record of the vote cast by each elected member. In this way, the result will be clear.

### **Recommendations**

That the Taranaki Regional Council:

- a) receives the report *Election of Chairperson*
- b) determines that pursuant to clause 25 (2) of Schedule 7 of the *Local Government Act 2002*, the Council adopts system A or B as the voting procedure for the election of the chairperson of the Council, and
- c) determines that in the event of a tie, the selection will be by way of random selection of names by the Chief Executive.
- d) determines that voting will be recorded by way of a division

- e) determines that this decision be recognised as not significant in terms of section 76 of the *Local Government Act 2002*
- f) determines that it has complied with the decision-making provisions of the *Local Government Act 2002* to the extent necessary in relation to this decision; and in accordance with section 79 of the Act, determines that it does not require further information, further assessment of options or further analysis of costs and benefits, or advantages and disadvantages prior to making a decision on this matter.

## Background

5. The Council is required to elect one of its members to act as chairperson (refer section 41 and clause 21(5)(b) of Schedule 7 of the *Local Government Act 2002* (LGA)) at the first meeting following the triennial election. Until the election of the chairperson and the completion of the declarations required by clause 14 of Schedule 7 of the LGA, the Chief Executive is required to chairperson the meeting.
6. As one of the elected councillors, the chairperson shares the same responsibilities as other councillors. In addition to this the chairperson is:
  - The presiding councillor at Council meetings, although this could be shared with the deputy at the chairperson's option.
  - Responsible for ensuring the orderly conduct of business during meetings (as determined by Standing Orders) and may exercise a casting vote at Council meeting when votes are evenly split.
  - The ceremonial head of Council.
  - Responsible for representing Council and for providing leadership and feedback to members.
  - A justice of the peace (while the chairperson holds office).
7. The chairperson is obliged to follow the same rules as other councillors with respect to making public statements and committing Council to a particular course of action, unless acting in accordance with the rules for media contact under delegated authority from the Council.
8. The chairperson carries a high level of accountability to the Council and the regional community and can be expected to work longer hours in their elected role than other members due to the need to attend to additional duties. In recognition, the Chairperson has their remuneration set at a higher rate than other members by the Remuneration Authority.
9. Councillors are to nominate one of their members as chairperson. Where there is more than one nomination, a vote will be required in accordance with the provisions of clause 25 of Schedule 7 of the LGA. This requires Council to determine by resolution that the appointments are made under one of two voting systems (A or B).
10. System A allows for a progressive vote requiring election by a majority of members present and voting. The person receiving the fewest votes is excluded from further rounds until a majority outcome is reached. A tied vote, for the lowest polling candidate, is resolved by lot.\*

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\* Two options are available for resolving by lot: a) a toss of a coin b) random selection of names.

11. System A has the following characteristics:
  - a) Each councillor can vote for one candidate in each round of voting; and
  - b) There is a first round of voting for all candidates; and
  - c) If no candidate is successful gaining a majority of votes in that round, there is a second round of voting from which the candidate with the fewest votes in the first round is excluded; and
  - d) If no candidate is successful gaining a majority of votes in that round, there is a second round of voting from which the candidate with the fewest votes in the first round is excluded; and
  - e) In any round of voting, if two or more candidates tie for the lowest number of votes, the person excluded from the next round is resolved by lot.
12. System B provides for election of the person receiving the highest number of votes in one round only. A tie is resolved by lot. A person is elected if he or she receives more votes than any other candidate. System B has the following characteristics:
  - a) There is only one round of voting in which each councillor can vote for one candidate; and
  - b) If two or more candidates tie for the most votes, the tie is resolved by lot.
13. Irrespective of the system chosen it is also recommended that Council agree to have the results of voting recorded by way of a division. In this way there will be a level of certainty about the vote made by each councillor and the overall outcome.

## **Process**

14. *Standing Orders* apply, and the process is set out below:
  - a) The Chief Executive will call for nominations for the position of chairperson. Each nomination requires a seconder.
  - b) If there is only one nomination, the Council will resolve to appoint the unopposed nominee by moving and seconding the appointment and resolving by vote.
  - c) Where there is more than one nominee, the Chief Executive will call for members to move the adoption of a voting system to determine the appointment. A Motion will require a seconder and will be put to the vote. Where the motion fails, a motion for the adoption of the alternative voting system will be called for, seconded and put to the vote.
  - d) A result is reached once a motion for a voting system is carried.
  - e) The Chief Executive will call for a motion to decide the method of resolving a tied vote. The motion will be moved and second and put to the vote.
  - f) A result is reached once a motion is carried.
  - g) Once a chairperson has been elected, they will make their oral and written declaration as chairperson as prescribed by clause 14 of Schedule 7 of the LGA (this is in addition to the declaration made initially as a member).

## **Significance**

15. Having regard to the decision-making provisions in the LGA and the Council's *Significance Policy*, a decision in accordance with the recommendations is not considered

to have a high degree of significance. The election of a chairperson is an internal governance matter that the Council is required to complete by law.

### **Financial considerations—LTP/Annual Plan**

16. This memorandum and the associated recommendations are consistent with the Council's adopted Long-Term Plan and estimates. Any financial information included in this memorandum has been prepared in accordance with generally accepted accounting practice.

### **Policy considerations**

17. This memorandum and the associated recommendations are consistent with the policy documents and positions adopted by this Council under various legislative frameworks including, but not restricted to, the *Local Government Act 2002*, the *Resource Management Act 1991* and the *Local Government Official Information and Meetings Act 1987*.

### **Iwi considerations**

18. This memorandum and the associated recommendations are consistent with the Council's policy for the development of Māori capacity to contribute to decision-making processes (schedule 10 of the *Local Government Act 2002*) as outlined in the adopted long-term plan and/or annual plan.

### **Community considerations**

19. This memorandum and the associated recommendations have considered the views of the community, interested and affected parties and those views have been recognised in the preparation of this memorandum.

### **Legal considerations**

20. This memorandum and the associated recommendations comply with the appropriate statutory requirements imposed upon the Council.

### **Appendices/Attachments**

Clause 25, Schedule 7 Local Government Act 2002



Local Government Act 2002

Schedule 7, Clause 25 Voting systems for certain appointments

1. This clause applies to—
  - a) the election or appointment of the chairperson and deputy chairperson of a regional council; and
  - b) the election or appointment of the deputy mayor; and
  - c) the election or appointment of the chairperson and deputy chairperson of a committee; and
  - d) the election or appointment of a representative of a local authority.
  
2. If this clause applies, a local authority or a committee (if the local authority has so directed) must determine by resolution that a person be elected or appointed by using one of the following systems of voting:
  - a) the voting system in subclause (3) (system A);
  - b) the voting system in subclause (4) (system B).
  
3. System A—
  - a) requires that a person is elected or appointed if he or she receives the votes of a majority of the members of the local authority or committee present and voting; and
  - b) has the following characteristics:
    - a. there is a first round of voting for all candidates; and
    - b. if no candidate is successful in that round there is a second round of voting from which the candidate with the fewest votes in the first round is excluded; and
    - c. if no candidate is successful in the second round there is a third, and if necessary subsequent, round of voting from which, each time, the candidate with the fewest votes in the previous round is excluded; and
    - d. in any round of voting, if 2 or more candidates tie for the lowest number of votes, the person excluded from the next round is resolved by lot.
  
4. System B—
  - a) requires that a person is elected or appointed if he or she receives more votes than any other candidate; and
  - b) has the following characteristics:
    - a. there is only 1 round of voting; and
    - b. if 2 or more candidates tie for the most votes, the tie is resolved by lot.



**Date** 26 October 2022

**Subject:** **Election of Deputy Chairperson**

**Approved by:** M J Nield, Director - Corporate Services  
S J Ruru, Chief Executive

**Document:** 3115756

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### **Purpose**

1. The purpose of this memorandum is to enable the Council to elect a deputy chairperson.

### **Executive summary**

2. The Council is required to elect a deputy chairperson at the triennial meeting.
3. Relevant considerations for Council when undertaking this task include the additional rights and responsibilities and obligations carried by the member in this position in addition to those of an ordinary member; and the significant impact this position can have on the effective operation of the Council and its ability to meet its obligations to its regional communities.
4. In the event that there is more than one nomination, the Council needs to decide on the system of voting to be used to elect a Deputy Chairperson. It is also recommended that the Council also determine how a tied vote will be resolved (i.e. by way of a toss of a coin or the random selection of names from a hat) and that voting should be recorded by division so that there is a clear record of the vote cast by each elected member. In this way, the result will be clear.

### **Recommendations**

That the Taranaki Regional Council:

- a) receives the report *Election of Deputy Chairperson*
- b) determines that pursuant to clause 25 (2) of Schedule 7 of the *Local Government Act 2002*, Council adopts system A or B as the voting procedure for the election of a deputy chairperson of the Council
- c) determines that in the event of a tie, the selection will be by way of random selection of names by the Chairperson.
- d) determines that voting will be recorded by way of a division

- e) determines that this decision be recognised as not significant in terms of section 76 of the *Local Government Act 2002*
- f) determines that it has complied with the decision-making provisions of the *Local Government Act 2002* to the extent necessary in relation to this decision; and in accordance with section 79 of the Act, determines that it does not require further information, further assessment of options or further analysis of costs and benefits, or advantages and disadvantages prior to making a decision on this matter.

## **Background**

- 5. The Council is required to elect one of its members to act as deputy chairperson (refer section 41 and clause 21(5)(b) of Schedule 7 of the *Local Government Act 2002* (LGA)) at the first meeting following the triennial election.
- 6. As one of the elected councillors, the deputy chairperson shares the same responsibilities as other councillors. In addition to this the deputy chairperson:
  - a) May preside over council meetings if the chairperson is exercising the option to do so.
  - b) Undertake the responsibilities of the chairperson, should they be unable to.
- 7. The deputy chairperson is obliged to follow the same rules as other councillors with respect to making public statements and committing Council to a particular course of action, unless acting in accordance with the rules for media contact under delegated authority from the Council.
- 8. The deputy chairperson carries a high level of accountability to the Council and the regional community and may work longer hours in their elected role than other members due to the need to attend to additional duties. Recognition of any additional remuneration for the deputy chairperson will be made by the Council operating under the regime established by the Remuneration Authority.
- 9. Councillors are to nominate one of their members as chairperson. Where there is more than one nomination, a vote will be required in accordance with the provisions of clause 25 of Schedule 7 of the LGA. This requires the Council to determine by resolution that the appointments are made under one of two voting systems (A or B).
- 10. System A allows for a progressive vote requiring election by a majority of members present and voting. The person receiving the fewest votes is excluded from further rounds until a majority outcome is reached. A tied vote, for the lowest polling candidate, is resolved by lot.\*
- 11. System A has the following characteristics:
  - a) Each councillor can vote for one candidate in each round of voting; and
  - b) There is a first round of voting for all candidates; and
  - c) If no candidate is successful gaining a majority of votes in that round, there is a second round of voting from which the candidate with the fewest votes in the first round is excluded; and

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\* Two options are available for resolving by lot: a) a toss of a coin b) random selection of names.

- d) If no candidate is successful gaining a majority of votes in that round, there is a second round of voting from which the candidate with the fewest votes in the first round is excluded; and
  - e) In any round of voting, if two or more candidates tie for the lowest number of votes, the person excluded from the next round is resolved by lot.
12. System B provides for election of the person receiving the highest number of votes in one round only. A tie is resolved by lot. A person is elected if he or she receives more votes than any other candidate. System B has the following characteristics:
- a) There is only one round of voting in which each councillor can vote for one candidate; and
  - b) If two or more candidates tie for the most votes, the tie is resolved by lot.
13. Irrespective of the system chosen it is also recommended that the Council agree to have the results of voting recorded by way of a division. In this way there will be a level of certainty about the vote made by each councillor and the overall outcome.

### **Process**

14. *Standing Orders* apply, and the process is set out below:
- a) The Chairperson will call for nominations for the position of deputy chairperson. Each nomination requires a seconder.
  - b) If there is only one nomination, the Council will resolve to appoint the unopposed nominee by moving and seconding the appointment and resolving by vote.
  - c) Where there is more than one nominee, the Chairperson will call for members to move the adoption of a voting system to determine the appointment. A motion will require a seconder and will be put to the vote. Where the motion fails, a motion for the adoption of the alternative voting system will be called for, seconded and put to the vote.
  - d) A result is reached once a motion for a voting system is carried.
  - e) The Chairperson will call for a motion to decide the method of resolving a tied vote. The motion will be moved and second and put to the vote.
  - f) A result is reached once a motion is carried.

### **Significance**

15. Having regard to the decision-making provisions in the LGA and the Council's *Significance Policy*, a decision in accordance with the recommendations is not considered to have a high degree of significance. The election of a chairperson is an internal governance matter that the Council is required to complete by law.

### **Financial considerations—LTP/Annual Plan**

16. This memorandum and the associated recommendations are consistent with the Council's adopted Long-Term Plan and estimates. Any financial information included in this memorandum has been prepared in accordance with generally accepted accounting practice.

**Policy considerations**

17. This memorandum and the associated recommendations are consistent with the policy documents and positions adopted by this Council under various legislative frameworks including, but not restricted to, the *Local Government Act 2002*, the *Resource Management Act 1991* and the *Local Government Official Information and Meetings Act 1987*.

**Iwi considerations**

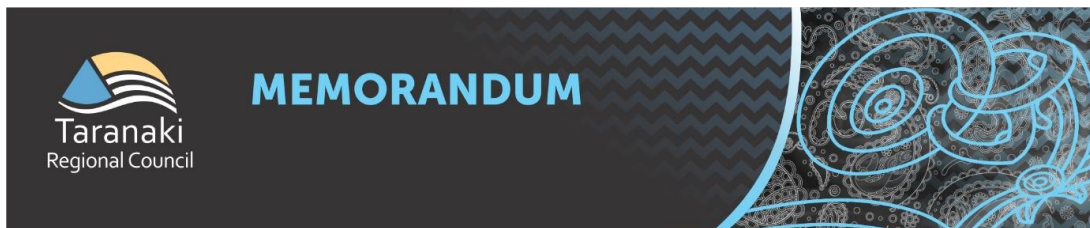
18. This memorandum and the associated recommendations are consistent with the Council's policy for the development of Māori capacity to contribute to decision-making processes (schedule 10 of the *Local Government Act 2002*) as outlined in the adopted long-term plan and/or annual plan.

**Community considerations**

19. This memorandum and the associated recommendations have considered the views of the community, interested and affected parties and those views have been recognised in the preparation of this memorandum.

**Legal considerations**

20. This memorandum and the associated recommendations comply with the appropriate statutory requirements imposed upon the Council.



**Date:** 26 October 2022

**Subject:** **General explanation of the Local Government Official Information and Meetings Act 1987 and other law affecting Members**

**Approved by:** M J Nield, Director - Corporate Services  
S J Ruru, Chief Executive

**Document:** 3114063

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### **Purpose**

1. The purpose of this memorandum is to advise Members of the relevant statutes affecting them, pursuant to the Chief Executive's statutory obligation to do so in accordance with clause 21(5)(c) of Schedule 7 Local Government Act 2002.

### **Executive summary**

2. The chief executive of a local authority is bound by clause 21 (5) of schedule 7 of the Local Government Act 2002 to provide an explanation to elected members on certain legislation which controls the way in which the Council's business may be conducted and the way in which elected members are required to undertake their duties.
3. This report provides an overview of the relevant legislation identified in the Act in addition to some other relevant information.

### **Recommendations**

That the Taranaki Regional Council:

- a) Receives this report titled General Explanation of the Local Government Official Information and Meetings Act 1987 and other law affecting Members.
- b) Notes that the Chief Executive, pursuant to clause 21 of Schedule 7 Local Government Act 2002, has provided Councillors with a general explanation of the Local Government Official Information and Meetings Act 1987 and of other laws affecting Members.

### **Background**

4. As a local authority, the work of Council is constrained by a number of statutes. The Chief Executive has a statutory obligation at the Council's first meeting following the triennial election to bring certain statutory obligations to Councillors' attention. In the main, these statutes provide for the protection of the public in terms of how the Council

transacts its business and, equally importantly, for the protection of Councillors in undertaking their duties.

### **Local Government Act 2002 (LGA)**

5. The LGA is the principal piece of empowering legislation for local authorities. The purpose of the Act is to provide for democratic and effective local government that recognises the diversity of New Zealand communities and, to that end, this Act:
  - a) States the purpose of local government
  - b) Provides a framework and powers for local authorities to decide which activities they undertake and the manner in which they will undertake them
  - c) Promotes the accountability of local authorities to their communities
  - d) Provides for local authorities to play a broad role in promoting the social, economic, environmental and cultural well-being of their communities, taking a sustainable development approach.
6. Section 10 of the act defines the purposes of local government as being
  - a) To enable democratic local decision making and action by, and on behalf of, communities, and
  - b) To promote the social, economic, environmental and cultural well-being of communities in the present and for the future.
7. Section 12 grants a power of general competence to local authorities to carry on or undertake any business, do any act or enter into any transaction for the purpose of performing their role. This power is subject to compliance with the other relevant provisions of the Act, particularly those relating to decision-making processes.
8. Part 6 of the Act contains detailed provisions relating to planning, decision-making and accountability. These include a requirement to follow a particular process in making decisions, principles governing consultation, consideration of the views of those likely to be affected by or have an interest in the decisions being made and the contribution of Māori to decision making processes.

### **Local Government Official Information and Meetings Act 1987 (LGOIMA)**

9. The Local Government Official Information and Meetings Act 1987 governs the availability of information and is based on the principle that information should be made publicly available, unless one or more specific withholding grounds apply. Matters relating to requests and release of information are administered by staff and the chief executive has statutory authority to make decisions in relation to administration of these requests.
10. LGOIMA also sets meeting procedures and requirements. These include:
  - a) The requirement to give public notice of meetings
  - b) The public availability of the agenda and supporting papers for meetings of the Council, and its committees and subcommittees
  - c) The circumstances when the Council may resolve to exclude the public from meetings, and the procedures that must be followed in such circumstances
  - d) The responsibility of the chair to maintain order at meetings and the power they have, under section 50, to require any person to leave the meeting should they

believe on reasonable grounds that their behaviour could prejudice the orderly conduct of the meeting

11. What is official information?
  - a) Formal documents, any writing on any material, any information recorded or stored by means of a tape recorder or computer
  - b) Draft reports, correspondence etc
  - c) Handwritten notes
  - d) Emails- including on your home computer or emails sent from your personal accounts and any deleted emails
  - e) Pictures
  - f) Recordings
  - g) Text messages
  - h) Information that is known to elected members and/or staff but is not necessarily recorded
12. It is useful to ask:
  - a) Is this a personal record or a Council record?
  - b) Do I need to keep this personal record in Council systems?
  - c) Do I need to make this record in this way using this language?
  - d) How would this look on the front page of the newspaper?
13. Elected members should be aware that all information that they receive or 'know' in their official capacity falls within the scope of official information covered by LGOIMA. This includes, for example, any information that they may receive on a private email. As a general rule elected members should forward a copy of any such information to a staff member so that it can be formally filed in Council's record management system. It is an offence to destroy official information.

### **Local Authority (Members' Interest) Act 1968 (LAMIA)**

14. The LAMIA, which has two main aspects:

#### **Contracts**

15. The Act provides that no person shall be elected or appointed to be a member of a local authority or any committee of a local authority, if the total payments made by that local authority in respect of a contract with which that person is concerned or interested exceeds \$25,000 in any financial year (although the local authority can seek approval of the Auditor General on a case by case basis).
16. If a member breaches the \$25,000 limit, they are disqualified from holding office and there is an extraordinary vacancy created. The disqualification remains until the next triennial election.

#### **Pecuniary Interest**

17. The Act further provides that a member of a local authority shall not vote on or take part in the discussion of any matter in which they have directly or indirectly any pecuniary



interest, other than an interest in common with the public. The same applies if a member's spouse or partner has directly or indirectly a pecuniary interest other than an interest in common with the public.

18. Members who are prohibited from voting on or discussing a matter are under a duty to declare their interest to the meeting, and their abstention from discussion or voting is to be recorded in the minutes.
19. If a member acts in breach of this prohibition, he/she commits an offence and is liable to a fine of \$100. The member is required to vacate office creating an extraordinary vacancy.
20. Proceedings, under the Act must be initiated by the Auditor-General.

### **Crimes Act**

21. Under the Crimes Act 1961 a member of a local authority who obtains or accepts or offers to accept any bribe to do, or not do, something, or who corruptly uses information obtained in an official capacity to get a direct or indirect pecuniary advantage, is liable to a term of imprisonment of up to seven years.

### **Secret Commissions Act 1910**

22. Under the Secret Commissions Act 1910, an elected member who accepts a gift or obtains any advantage from any other party as a reward for doing any act in relation to Council business commits an offence. It is also an offence not to disclose a pecuniary interest in any contract, and also to aid or abet or be involved in any way in an offence under this Act. Conviction can lead to imprisonment for up to two years and a fine of up to \$1,000.

### **Financial Markets Conduct Act 2013**

23. The Financial Markets Conduct Act 2013 essentially placed elected members in the same position as company directors whenever the Council offers financial products (such as an issue of debt or equity securities). Elected members may be personally liable if documents that are registered under the Act, such as a product disclosure statement, contain false or misleading statements. Elected members may also be liable if the requirements of the Act are not met in relation to offers of financial products.

### **Health and Safety at Work Act 2015**

24. Health and Safety at Work Act 2015 allocates duties to those people who are in the best position to control risks to health and safety as appropriate to their role in the workplace. It also requires the person conducting a business or undertaking (PCBU) (i.e the Council) to provide for, as far as is reasonably practicable, the safety of workers and others who may be impacted by the work the business undertakes.
25. For the purposes of the act, elected members (which includes the Chair, Councillors and appointed committee members) and the chief executive are by default identified as "officers". An Officer is any person occupying a position in relation to the business or undertaking that allows the person to exercise significant influence over the management of the business or undertaking.
26. Officers have due diligence obligations, which include:

To acquire, and keep up to date, knowledge of work, health and safety matters

- a) To gain an understanding of the nature of the operations of the business and the associated hazards and risks
- b) To ensure that sufficient resources have been allocated and processes put in place to eliminate or minimise risks to health and safety for work to be carried out.
- c) To ensure that there are appropriate processes in place for receiving and considering information regarding incidents, hazards and risks.

### **Financial considerations—LTP/Annual Plan**

27. This memorandum and the associated recommendations are consistent with the Council's adopted Long-Term Plan and estimates. Any financial information included in this memorandum has been prepared in accordance with generally accepted accounting practice.

### **Policy considerations**

28. This memorandum and the associated recommendations are consistent with the policy documents and positions adopted by this Council under various legislative frameworks including, but not restricted to, the *Local Government Act 2002*, the *Resource Management Act 1991* and the *Local Government Official Information and Meetings Act 1987*.

### **Iwi considerations**

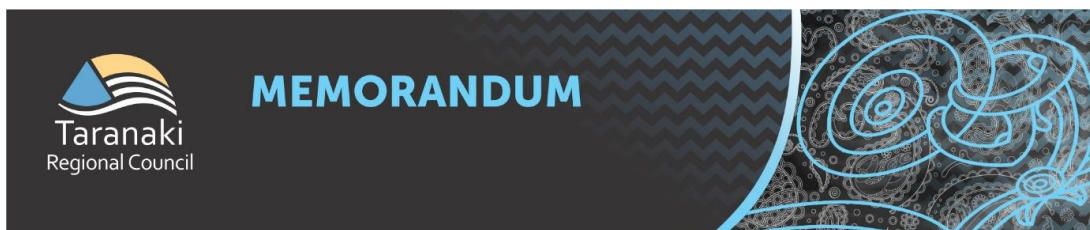
29. This memorandum and the associated recommendations are consistent with the Council's policy for the development of Māori capacity to contribute to decision-making processes (schedule 10 of the *Local Government Act 2002*) as outlined in the adopted long-term plan and/or annual plan.

### **Community considerations**

30. This memorandum and the associated recommendations have considered the views of the community, interested and affected parties and those views have been recognised in the preparation of this memorandum.

### **Legal considerations**

31. This memorandum and the associated recommendations comply with the appropriate statutory requirements imposed upon the Council.



**Date** 26 October 2022

**Subject:** **Pecuniary Interest Register**

**Approved by:** M J Nield, Director - Corporate Services  
S J Ruru, Chief Executive

**Document:** 3113468

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### **Purpose**

1. The purpose of this memorandum is to receive, consider and appoint a registrar to compile a Pecuniary Interests Register.

### **Executive summary**

2. The *Local Government (Pecuniary Interests Register) Amendment Act 2021* come in to force on 21 November 2022.
3. This Amendment Act amends the *Local Government Act (LGA) 2002*, requiring all Councils to have a pecuniary interests register which records members' interests.

### **Recommendations**

That the Taranaki Regional Council:

- a) receives this memorandum on the *Pecuniary Interest Register*
- b) notes that there are a number of key change to the LGA
- c) appoints the Director- Corporate Services as the Registrar in accordance with section 54G(1) of the *Local Government Act 2002*
- d) determines that this decision be recognised as not significant in terms of section 76 of the *Local Government Act 2002*
- e) determines that it has complied with the decision-making provisions of the *Local Government Act 2002* to the extent necessary in relation to this decision; and in accordance with section 79 of the Act, determines that it does not require further information, further assessment of options or further analysis of costs and benefits, or advantages and disadvantages prior to making a decision on this matter.

### **Discussion**

4. The *Local Government (Pecuniary Interests Register) Amendment Act 2021* (the "Amendment Act") requires local authorities to maintain and publish a register of pecuniary interests

for members of authorities. The Amendment Act aims to provide consistency across local authorities and improve the transparency of local authorities and their decision-making.

5. The Amendment Act receive royal assent on 20 May 2022 and comes into force on 20 November 2022.
6. 'Pecuniary Interest' is defined as "*in relation to a member, means a matter or activity of financial benefit to the member*".
7. Council must keep a register of the pecuniary interests (the "Register") of its elected members.
8. The Amendment Act does not apply to 'appointed' members of a committee. So for example, any individual that is appointed as a member to a Council Committee due to their professional skills or knowledge does not need to provide an annual return form.
9. The Register must comprise the pecuniary interest returns that are made by members, any information required to be disclosed by members and any notifications made of errors or omissions in those returns.
10. Council must make a summary of the information contained in the Register publically available (but is not required to make the entire Register available). Information contained in the Register must be retained for seven years after the member has supplied the information.
11. A member must make a pecuniary interests return annually, with the return containing the information required by the Act. In each triennium, the due dates for a member's return are:

Triennium Year	Pecuniary Interest Return due
Year 1	120 days after the date on which the member comes into office under section 115 of the <i>Local Electoral Act 2001</i>
Year 2	The last day of February in the second year of the triennium
Year 3	The last day of February in the third year of the triennium

12. The due date for the first annual return will therefore be 11 February 2023.
13. Returns are made in respect of a 12 month period, being the 12 month period that ended on the day that is one month before the due date of the return. The exact dates of the 12 month period will depend on the due date for the particular return.
14. There are two broad categories of information that members need to disclose in their returns, which is information relating to the member's position (section 54E) and the member's activities (section 54 F).
15. Council has prepared a form for these return, based on the requirements of the legislation. Below is a summary of information to be included in a member's return:
  - a) The name of any company which the member is a director of, or holds or controls more than 10% of the voting rights, and a description of the main business activities of that company.
  - b) The name of any other company or business entity in which the member has a pecuniary interest, and a description of the main business activities of that company or entity.

- c) If the member is employed, the name of each employer of the member and a description of the employer's main business activity.
  - d) The name of any trust in which the member has a beneficial interest.
  - e) The name/description of any organisation or trust for which
    - a. the member is a member of the organisation, a member of the governing body of the organisation, or a trustee to the trust; and
    - b. the organisation or trust receives funding from, or has applied to receive funding from the local authority to which the member has been elected.
  - f) The name/description of any organisation in which the member holds an appointment by virtue of being an elected member.
  - g) The local of real property in which the member has a legal interest, other than an interest as a trustee, and a description of the nature of the real property.
  - h) The location of real property, and a description of the nature of the real property, held by a trust where the member is a beneficiary of the trust and the member knows or ought reasonably to know that the member is a beneficiary of the trust.
  - i) For each country (other than New Zealand) that the member travelled to, they must identify the name of the country, the purpose for the travel and the name of any person who contributed (in whole or part) to the travel and/or accommodation costs.
  - j) A description of each gift received by the member and the name of the donor if:
    - a. The gift has an estimated market value in New Zealand of more than \$500; or
    - b. The combined estimated market value in New Zealand of all gifts from the donor is more than \$500.
  - k) A description of each payment received by the member for activities in which the member is involved other than:
    - a. Any salary or allowances paid to that person under the Remuneration Authority Act 1977 or the LGA;
    - b. Any payment the member receives from an interest required to be disclosed under section 54E (e.g. Directors fees or employment salary or wages); and
    - c. Any payment made in respect of any activity the member ceased to be involved in before becoming a member.
16. Matters not required to be included in a return include a member's spouse's or dependents' pecuniary interests, nor a member's debtors and creditors.
17. Council must appoint a Registrar to compile the Register and provide advice and guidance to members on their obligations.
18. This report puts a recommendation to Council that the Director- Corporate Services be appointed the Registrar.
19. Members are responsible for fulfilling their obligations under this Act and as such the Registrar must not prepare a return on behalf of a member, and the Registrar is not responsible for notifying any member of their failure to make a return, nor any error in their return.

20. In practice, the Registrar will provide guidance to the members on how to make returns and deadlines. But the purpose of section 54H is to make clear that the members are ultimately responsible for complying with their obligations under the Act.
21. New offences have been created that will apply where members fail to comply with their obligations. A member will commit an offence if they:
  - a) Fail to prepare their annual return by the specified time;
  - b) Fail to ensure the contents of the return are accurate; or
  - c) Fail to advise the Registrar of any error or omission in a return as soon as practicable after they become aware of it.
22. Each offence is punishable by a fine of up to \$5,000.
23. Prosecution of these offences will follow existing procedures in the LGA. It is typically up to the Secretary for Local Government to file a charging document and prosecute members who have committed offence. The LGA is however silent on whether Councils are required to report possible offences to the Secretary for Local Government.

### **Issues**

24. The issues being addressed in this item is compliance with the *Local Government (Pecuniary Interests Register) Amendment Act 2021*.

### **Options**

25. Option One: Accepts the recommendation for the Director- Corporate Services to be appointed as the Registrar
26. Under section 54G of the Act, Council must appoint a Registrar to compile the Register and guide members in making their returns.
27. Option Two: Do not accept the recommendation to appoint a Registrar.
28. There are no advantages to this option, as Council is required by the Act to appoint a Registrar.

### **Significance**

29. In terms of the *Significance and Engagement Policy*, the decision is determined as not significant as:
  - the decision does not affect a large number of residents and ratepayers to a moderate extent
  - the consequences of the decision do not affect a small number of residents and ratepayers to a large extent
  - the decision does not have a history of generating wide public interest with the Taranaki region or New Zealand generally.
30. As such, further consultation and/or engagement is not considered warranted.

### **Financial considerations—LTP/Annual Plan**

31. This memorandum and the associated recommendations are consistent with the Council's adopted Long-Term Plan and estimates. Any financial information included

in this memorandum has been prepared in accordance with generally accepted accounting practice.

### **Policy considerations**

32. This memorandum and the associated recommendations are consistent with the policy documents and positions adopted by this Council under various legislative frameworks including, but not restricted to, the *Local Government Act 2002*, the *Resource Management Act 1991* and the *Local Government Official Information and Meetings Act 1987*.

### **Iwi considerations**

33. This memorandum and the associated recommendations are consistent with the Council's policy for the development of Māori capacity to contribute to decision-making processes (schedule 10 of the *Local Government Act 2002*) as outlined in the adopted long-term plan and/or annual plan.

### **Community considerations**

34. This memorandum and the associated recommendations have considered the views of the community, interested and affected parties and those views have been recognised in the preparation of this memorandum.

### **Legal considerations**

35. This memorandum and the associated recommendations comply with the appropriate statutory requirements imposed upon the Council.
36. A member's obligations under this Amendment Act are in addition to (and do not affect) the member's existing obligations under the *Local Authority (Member's Interests) Act 1968*. This 1968 Act has a narrow purpose, as it:
- a) controls the making of contracts worth more than \$25,000 in a financial year between members and Council; and
  - b) prevents members from discussing and voting on matters before Council in which the member has a pecuniary interest, other than an interest in common with the public.
37. There is some potential for overlap between the Amendment Act and the *Local Authority (Member's Interests) Act*. The Register will also be "official information" for the purposes of the *Local Government Official Information and Meetings Act 1987* ("LGOMIA"). Accordingly, the public can request information held on the Register (noting the Register is only a summary of the members' returns). Council officers will need to assess every LGOIMA request on a case by case basis, to assess whether returns can be released or whether there are any grounds (such as privacy grounds) to withhold information.



**Date** 26 October 2022

**Subject:** **Meeting Date for Ordinary Council meeting**

**Approved by:** M J Nield, Director - Corporate Services  
S J Ruru, Chief Executive

**Document:** 3113887

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**Purpose**

1. The purpose of this memorandum is to provide notification to Members of the next Ordinary meeting of Council.

**Meeting Dates**

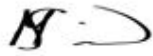
2. The next meeting of the Council is Tuesday 8 November 2022, 1.00pm, in the Port Taranaki Boardroom.



## AGENDA AUTHORISATION

Agenda for the Triennial Meeting of the Taranaki Regional Council held on Wednesday 26 October 2022.

Approved:



20 Oct, 2022 1:16:29 PM GMT+13

M J Nield  
**Director - Corporate Services**



20 Oct, 2022 12:39:11 PM GMT+13

S J Ruru  
**Chief Executive**