



WHANGANUI DISTRICT COUNCIL

Te Kaunihera a Rohe o Whanganui

AGENDA

Council Meeting 31 October 2019

NOTICE IS HEREBY GIVEN that a Meeting of Whanganui District Council will be convened on:

Date: Thursday, 31 October 2019

Time: 4.00pm

**Location: Royal Wanganui Opera House
69 St Hill Street
Whanganui**

**Kym Fell
Chief Executive**

Whanganui District Council

Mayor Hamish McDouall (Chair)

Crs Charlie Anderson, Philippa Baker-Hogan, James Barron, Jenny Duncan,
Josh Chandulal-Mackay, Brent Crossan, Helen Craig, Kate Joblin, Hadleigh Reid, Alan Taylor,
Rob Vinsen and Graeme Young.

Order Of Business

1	Opening	3
2	Apologies	3
3	Reports to Council	3
3.1	Result of Triennial Elections - 12 October 2019	3
3.2	Declaration of Mayor and Councillors.....	5
3.3	Mayoral Announcements	7
3.4	Council Appointments to Whanganui Rural Community Board	8
3.5	Establishment of Youth Committee	9
3.6	Schedule of meetings - remainder of 2019	16
3.7	General explanation of laws affecting Members	17
4	Motion to Exclude the Public	20
5	Confidential Reports to Council	22
5.1	Sarjeant Gallery Project Update - October 2019	22
6	Confirmation of Information and Decisions in Open Meeting	22

1 OPENING

The meeting will open with a mihi whakatau, led by Kaumatua John Maihi.

The Chief Executive, Kym Fell will welcome members' elect and their guests.

2 APOLOGIES

The Chief Executive, chairing the meeting, will call for apologies.

3 REPORTS TO COUNCIL

3.1 RESULT OF TRIENNIAL ELECTIONS - 12 OCTOBER 2019

Author: Noeline Moosman – Electoral Officer

Authoriser: Kym Fell - Chief Executive

References: 1. Whanganui District Council Declaration of Results October 2019

The triennial elections were held on 12 October 2019. The results were formally declared, as per the Local Electoral Act 2001, on 17 October 2019. They are attached for Council's information.

Declaration of result of 2019 triennial local authority elections

In accordance with section 86 of the Local Electoral Act 2001, I declare the result of the election held on Saturday, 12 October 2019, for the Whanganui District to be:

Mayor of Whanganui District 1 vacancy

McDOUALL, Hamish Crichton	Independent	
---------------------------	-------------	--

As the number of candidates did not exceed the number of vacancies, Hamish Crichton McDouall is elected unopposed as Mayor of Whanganui District.

I declare Hamish Crichton McDouall to be elected.

Councillors for Whanganui District 12 vacancies

CHANDULAL-MACKAY, Joshua Buchanan (Josh)	Independent	9055
REID, Peter Hadleigh (Hadleigh)	Independent	8658
DUNCAN, Jennifer Ruth (Jenny)	Independent	8265
CRAIG, Helen Marguerite Mary	—	8238
JOBLIN, Kathleen Frances (Kate)	Independent	7583
ANDERSON, Charles George (Charlie)	Independent	7343
VINSEN, Robin Victor (Rob)	Ratepayer Focused	6918
BAKER-HOGAN, Philippa June	Velodrome Events Centre	5853
TAYLOR, Alan Richard	—	5602
CROSSAN, Brent Raymond	—	5163
BARRON, Ross James (James)	—	4663
YOUNG, Graeme Walker	—	4492
LEBO, Danielle Lija (Dani)	—	4248
BARON, Steve	Truly Independent	4203
FALLEN, William Ross (Ross)	Independent	4148
BENNETT, Mary Bessina	—	3677
PRASAD, Vijeshwar	Independent	3388
FIRMIN, Kiritahi Jennifer Charmaine	—	3200
DUFF, Sharon Stuart	Independent	3178
BRIGHTWELL, Raymond John (Ray)	Independent	2979
EDMONDS, Matthew Lyle	Independent	2836
MEIKLEJOHN, Jo Ann (Jo)	Independent	2237
REWETI, Phillip Tuhinga (Bear)	—	2214
ANDERSON, Rodger David	—	2048
SHAND, Daniel James (Dan)	—	1905
MORDEY, Sam William	—	1850

SHEEHY, Jill Faith	—	1477
FOTHERGILL, Graeme Robinson	—	1439
URRY, Matthew Joseph	—	942
Informal		55
Blank		41

I declare Joshua Buchanan Chandulal-Mackay, Peter Hadleigh Reid, Jennifer Ruth Duncan, Helen Marguerite Mary Craig, Kathleen Frances Joblin, Charles George Anderson, Robin Victor Vinsen, Philippa June Baker-Hogan, Alan Richard Taylor, Brent Raymond Crossan, Ross James Barron and Graeme Walker Young to be elected.

Members for Whanganui Rural Community Board

Whanganui subdivision 2 vacancies

WELLS, David John	—	
-------------------	---	--

As the number of candidates did not exceed the number of vacancies, David John Wells is elected unopposed. A by-election to fill the remaining vacancy will be held early in 2020.

I declare David John Wells to be elected.

Kai Iwi subdivision 3 vacancies

DICK, Michael Kenneth	—	
FALKNER, Sandra Faye	—	
SKILTON, Grant Andrew	—	

As the number of candidates did not exceed the number of vacancies to be filled for this election, Michael Kenneth Dick, Sandra Faye Falkner and Grant Andrew Skilton are elected unopposed.

I declare Michael Kenneth Dick, Sandra Faye Falkner and Grant Andrew Skilton to be elected.

Kaitoke subdivision 2 vacancies

ASHWORTH, William Mataio (Bill)	—	
DUFF, Alistair Keith	—	

As the number of candidates did not exceed the number of vacancies, William Mataio Ashworth and Alistair Keith Duff are elected unopposed.

I declare William Mataio Ashworth and Alistair Keith Duff to be elected.



Poll Results

Electoral System Poll

The result of this poll is **binding** on Whanganui District Council for the 2022 and 2025 triennial local authority elections.

Do you want to elect candidates using the First Past the Post electoral system, or the Single Transferable Vote system?

I vote for First Past the Post (FPP)	10608
I vote for Single Transferable Voting (STV)	2590
Informal	10
Blank	915

Representation Poll – Basis of election

The result of this poll is **non-binding** on Whanganui District Council.

Do you want to elect candidates based on a ward system, or do you want them to stand 'at large' (across the whole district)?

I vote to keep the voting area system as it is now – 'at large'	10373
I vote for a ward system to be considered by the Council	2327
Informal	8
Blank	1415

Representation Poll – Number of councillors

The result of this poll is **non-binding** on Whanganui District Council.

Do you want to keep the number of Whanganui district councillors at 12, or do you want to reduce the number to 10?

I vote for the number of councillors to be reduced to 10	8072
I vote for the number of councillors to remain at 12	5252
Informal	5
Blank	794

Noeline Moosman
Electoral Officer
Whanganui District Council
101 Guyton Street, Whanganui
Email: noeline.moosman@whanganui.govt.nz
Visit: www.whanganui.govt.nz/election2019

Thursday, 17 October 2019

3.2 DECLARATION OF MAYOR AND COUNCILLORS

Author: Kate Barnes - Senior Democracy Advisor

Authoriser: Kym Fell - Chief Executive

The Chief Executive will swear the Mayor, Hamish McDouall, into office, and witness his signing of the written declaration.

"I, Hamish Crichton McDouall, 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 Whanganui District, the powers, authorities, and duties vested in, or imposed upon me, as Mayor of the Whanganui District Council by virtue of the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, or any other Act."

The Chief Executive will present the Mayor with his robe and chains. He will also present Mayoress Elinor Harvey McDouall with the Mayoress' Chain.

The Mayor will assume the Chair.

The Members elected to the Whanganui District Council will take the Oath of Office and sign their written declaration.

1. Josh Chandulal-Mackay
2. Hadleigh Reid
3. Jenny Duncan
4. Helen Craig
5. Kate Joblin
6. Charlie Anderson
7. Rob Vinsen
8. Philippa Baker-Hogan
9. Alan Taylor
10. Brent Crossan
11. James Barron
12. Graeme Young

Each member will make the following declaration:

"I, _____, declare that I will faithfully and impartially, and according to the best of my skill and judgment, execute and perform, in the best interests of the Whanganui District, the powers, authorities, and duties vested in, or imposed upon me, as a Councillor of the Whanganui District Council by virtue of the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, or any other Act."

3.3 MAYORAL ANNOUNCEMENTS

Author: Kate Barnes - Senior Democracy Advisor

Authoriser: Kym Fell - Chief Executive

The Mayor will address the meeting, and announce various appointments made under his mayoral powers as per section 41A of the Local Government Act 2002.

3.4 COUNCIL APPOINTMENTS TO WHANGANUI RURAL COMMUNITY BOARD**Author:** Kate Barnes - Senior Democracy Advisor**Authoriser:** Kym Fell - Chief Executive

Significance of decision – In terms of the Significance and Engagement Policy 2018, the recommended decision is not significant.

Recommendation

That Council appoints Cr _____ and Cr _____ to the Whanganui Rural Community Board.

The Local Government Commission's Determination (2019) of representation arrangements applies to the Whanganui District Council and Whanganui Rural Community Board elections held on 12 October 2019. Part of the determination states that the Whanganui Rural Community Board comprises two members of the Council elected by the electors of the Whanganui 'district as a whole'. The Council is required to appoint two Councillors by resolution to the Whanganui Rural Community Board and is asked to do so at this meeting.

3.5 ESTABLISHMENT OF YOUTH COMMITTEE

Author: Kate Barnes - Senior Democracy Advisor

Authoriser: Kym Fell - Chief Executive

References: 1. Youth Committee Terms of Reference

Significance of decision – In terms of the Significance and Engagement Policy 2018, the recommended decision is not significant.

Recommendation

That Council

- (a) establishes the Youth Committee with the attached terms of reference
- (b) appoints the following persons to the Youth Committee
 - (i) Ahimsha Saravanapavan
 - (ii) Ariana Cronshaw
 - (iii) Brianne Drefko
 - (iv) Charith De Silva
 - (v) Charlotte Hardy
 - (vi) Firooze Colaabavala
 - (vii) Haris Khan
 - (viii) Jonty Tripe
 - (ix) Mia Perkins
 - (x) Nikita Ebbutt-Moorhouse
 - (xi) Sophie Archer
 - (xii) Cr _____
- (c) appoints Ahimsha Saravanapavan and Mia Perkins as Co-Chairs of the Youth Committee.

The Mayor recommends to the Council that the Youth Committee is established in advance of the wider Council committee structure to enable the members to immediately carry on the good work of the Youth Committee of 2016-19.



**WHANGANUI
DISTRICT COUNCIL**
Te Kaunihera a Rohe o Whanganui



Whanganui District Council Youth Committee Terms of Reference

Introduction

The Whanganui District Council's Youth Committee is a forum for young people to act as advocates for youth in the Whanganui district. This is achieved by advising the Council, delivering activities and contributing to policy development. As a result, the Youth Committee provides a strong youth voice in Council decision making.

Membership of the Youth Committee is open to 14 young people between the ages of 12 and 24 years. These young people are expected to 'speak up and be heard' on behalf of all youth in the Whanganui district.

Committee's purpose

To empower Whanganui young people to be the best they can be by providing the resources and opportunities that they need to succeed.

Committee's vision

To ensure that Whanganui is a vibrant, inclusive, empowering community, where young people love to be.

Background

The Youth Committee was formed in March 2006 to provide a specific platform for youth perspectives to be integrated into Council decisions and projects. This role is formalised within Council's official committee structure as a way of recognising the importance of the contributions our young people make and the significance with which Council views this engagement.

Approximately 8000 people aged 12 – 24 years live in the Whanganui District. They represent a very widespread group, with differing needs and a wealth of youth experience and knowledge. The Youth Councillors are their voice and are expected to connect with and inform these young people through their individual peer networks, the Youth Committee's activities and the use of social media. The Youth Committee has expanded its influence and leadership capacity significantly since it was established, through specific training programmes relating

to governance and leadership, and through the development of youth/community initiatives.

Standing orders

The Youth Committee is conducted in accordance with the Whanganui District Council's Standing Orders (adopted by the Council 8 March 2017 and amended 4 April 2017).

Key tasks

The role of the Youth Committee is to:

- Represent the community's young people
- Promote opportunities for youth participation
- Develop and monitor policy on youth issues
- Provide opportunities for youth to contribute to the decision-making of Council
- Advise the Council on matters of interest for youth in the Whanganui District

Membership

- The committee will consist of 14 members. Membership is open to all Whanganui district residents between the ages of 12 and 24 years.
- An annual recruitment drive will be conducted.
- All Youth Councillors over the age of 16 will be required to undertake a police check prior to appointment.
- The recruitment panel, consisting of the two Co-Chairs, the Youth Committee Administrator, a Governance representative and the appointed Whanganui District Councillor will shortlist successful candidates.
- Unsuccessful candidates will be contacted via email and encouraged to resubmit their application in the next recruitment round. The panel will not hold on to unsuccessful applications.
- The panel will then conduct interviews in order to fill all the vacant seats on the Committee.
- The panel will keep hold of up to five applicants who just missed out on the appointment and will keep those applications to use for vacancies that may arise to ensure the process is fair for all youth in Whanganui.
- The new Youth Councillor/s will be formally appointed by Council and then sworn in by the Youth Committee.
- The term of membership will be two years with the ability to reapply at the end of this term. This will be subject to approval by the Mayor. Youth Councillors can reapply as many times as they like. Performance reviews will be conducted every six months as an opportunity to 'check in' and ensure expectations are being met.
- The Youth Committee Co-Chairs, the Youth Committee Administrator and the Councillor appointment will make the reappointment recommendations to the Mayor.

- The Youth Committee elects two Co-Chairs, with one Co-Chair to preside at each meeting of the Youth Committee.
- The voting system will be that the two nominated Youth Councillors receiving more votes than any other nominee are elected as Co-Chairs of the Youth Committee, the Mayor and Councillor appointment receive a vote.
- The term of the Co-Chairs will conclude after one year and a new election will be held at the formal meeting.
- Co-Chairs are eligible to stand for re-election.
- The Co-Chairs' evaluation will be conducted at the same time as the six month membership review.
- The Co-Chairs review will be conducted by the Youth Committee Administrator and the Councillor appointment.
- A follow up on the membership and Co-Chair evaluations will be conducted by the panel.
- The Youth Committee will also be able to co-opt youth volunteers to its working parties subject to adherence to its volunteer guidelines.

Council appointment

At the start of each Council term, the Mayor appoints a Whanganui District Councillor to the Youth Committee. This person will act as a liaison between the Committee and the Council as well as a youth advocate and a mentor.

Responsibilities

- When a young person submits an application to be considered for a position on the Youth Committee they are agreeing to meet the key responsibilities.
- Meeting and event participation and performance is monitored – if a Youth Councillor is not contributing at the level required, their membership may be terminated.
- In the event of a serious conduct issue Co-Chairs should inform the Mayor, Councillor appointment and Youth Committee Administrator immediately. Council's standard Code of Conduct process will then be followed. Less serious conduct issues will be dealt with in accordance with the Youth Committee's behavioural guidelines.
- Formal committee meetings are compulsory; apologies for lateness and for leaving the meeting early must be tendered to the Co-Chairs prior to the meeting.
- Other compulsory events include the annual Youth Committee Retreat at the beginning of each Committee term and the 'Flagship' event. Youth Councillors must apply in writing to the Co-Chairs and Youth Committee Administrator for an exemption from participating in compulsory events.
- It is expected that Youth Councillors participate in workshops and other meetings as well as the compulsory events.

- Exemptions are considered if a Youth Councillor is representing their community (for example, their school, Whanganui or New Zealand) at a significant event (sports, cultural, arts, academic, community), when attending a planned family event, or in the event of a serious personal issue.
- If three consecutive formal meetings or compulsory events are missed without sufficient reason the Youth Councillor's membership will be terminated.
- Resignation from the Youth Committee should be in writing to the Co-Chairs at least two weeks before a scheduled formal meeting or compulsory event.
- If requested, the Co-Chairs and Youth Committee Administrator will provide a character reference to a Youth Councillor upon their resignation from the Youth Committee.
- A Youth Councillor's conduct must reflect the behaviour outlined within the Whanganui District Council Code of Conduct and the Youth Committee's behavioural guidelines at all times. A restorative practices approach will be the Youth Committee's preferred option to resolve conflict.

Formal meeting format

- The quorum for the Youth Committee is half plus one of the current members (including vacancies).
- Formal meetings take place on Mondays approximately every six-weeks; the meetings start at 4pm.
- The meetings are held in the Council Chambers, Whanganui District Council.
- The meetings are chaired by one of the Co-Chairs and the role alternates between the chairs each meeting.
- The meeting adjourns for a short break approximately half way through. Food is provided.

Formal meeting agenda

- Reflection
- Apologies
- Co-Chair's welcome
- Minutes of Previous Meeting
- Presentations and Special Items (if there are any)
- Strategy and Policy Update
- Council Update
- Actions Arising from Previous Minutes
- Youth Committee Governance and Administration
- Youth Committee Business Plan
- Have Your Say
- General Business

Reporting

The minutes of the Youth Committee formal meetings are received by Council and the Co-Chairs provide a direct report to every Council meeting. This should also include upcoming projects and other Youth Committee aspirations and initiatives to enhance information sharing between the Youth Committee and Council. The Co-chairs may be invited to participate in Council workshops.

Compulsory Progress Workshops

Every alternate 6 to 7 weeks, the Youth Committee meets in the Nagaizumi-cho Room (or another designated venue) to discuss ideas, progress projects and generate new items for the formal meetings. The Co-Chairs run the informal meeting, apologies should be submitted to Co-Chairs prior to the meeting. No formal financial decisions can be made at Progress Workshops. Items for the agenda must be forwarded to the Council officers before the Committee's briefing session.

Other working parties will also be established in accordance with the Youth Committee's annual business plan. Working party leaders and co-leaders will be appointed and working party membership may involve the co-opting of youth volunteers.

Financial responsibilities

- The Youth Committee has delegated authority of its annual budget of \$45,000. Council reviews the Youth Committee budget during the Annual Plan process and might change the contributions to the Youth Committee on an annual basis.
- Youth Councillors are paid \$50 per formal meeting that they attend and are responsible for their own tax returns.
- The Co-Chairs receive a \$50 payment for attending the briefing session and they receive a \$50 payment for attending Council meetings.

Strategic links

- Leading Edge Strategy
Whanganui District Council Long-Term Plan

Reference documents

- | | |
|--|--|
| • Youth Committee Application form | • Whanganui District Council Code of Conduct |
| • Youth Councillor Declaration | • Whanganui District Council Standing Orders |
| • Youth Committee Project Plans | • Treaty of Waitangi/Te Tiriti o Waitangi |
| • Youth Committee Annual Business Plan | |

Social media

Facebook: Whanganui District Council Youth Committee
Instagram

Revision

The Terms of Reference will be reviewed every three years from its approval date by the Youth Committee and submitted to the Council for approval. An informal review will take place every year and amendments made if necessary.

3.6 SCHEDULE OF MEETINGS - REMAINDER OF 2019**Author:** Kate Barnes - Senior Democracy Advisor**Authoriser:** Kym Fell - Chief Executive

Significance of decision – In terms of the Significance and Engagement Policy 2018, the recommended decision is not significant.

Recommendation

That Council:

- (a) resolves to hold meetings on 19 November 2019 and 10 December 2019
- (b) notes that a meeting schedule for 2020 will be prepared for consideration at the next meeting of Council

Proposed meeting dates are recommended in accordance with Schedule 7, Clause 21 of the Local Government Act 2002.

This schedule covers Council for the remainder of 2019. A full schedule for 2020 will be provided for Council's consideration at its next meeting.

3.7 GENERAL EXPLANATION OF LAWS AFFECTING MEMBERS

Author: Kate Barnes - Senior Democracy Advisor

Authoriser: Rob Goldsbury - Legal Counsel
Kym Fell - Chief Executive

References: Nil

Significance of decision – In terms of the Significance and Engagement Policy 2018, the recommended decision is not significant.

Recommendation

That the Council receive the report – General explanation of laws affecting Members.

Executive Summary

The Local Government Act 2002 requires that at the first meeting of Council following the triennial election the Chief Executive gives or arranges for a general explanation of the laws affecting Members:

- the Local Government Official Information and Meetings Act 1987; and
- other laws affecting members, including—
 - the appropriate provisions of the Local Authorities (Members' Interests) Act 1968; and
 - sections 99, 105, and 105A of the Crimes Act 1961; and
 - the Secret Commissions Act 1910; and
 - the Financial Markets Conduct Act 2013;

Key information

Council officers will briefly summarise the laws outlined in this report. The specified legislation is not the entirety of laws that apply to the local authorities and their members. Members are encouraged to further inform themselves about the various legislation underpinning their role and opportunity for upskilling will be provided through the Council induction programme and beyond.

Local Government Official Information and Meetings Act 1987 (LGOIMA)

The main focus of LGOIMA is the retention and release of official information held by Council and the conduct of Council meetings; the latter being evidenced by Standing Orders.

The fundamental principle in LGOIMA is that information held by the Council is publicly available, unless one or more specified ground for withholding applies. That principle applies to all information held by Council and includes matters discussed in the public excluded section of Council meetings. The Chief Executive administers the release of official information.

LGOIMA regulates the grounds on which the public may be excluded from a Council meeting; generally only when good reason to withhold information exists as defined in sections 7 and 48 of the Act which includes where the subject matter is one where a right of appeal exists to a Court or Tribunal against the decision made by the Council. Before excluding the public the meeting must

pass a resolution stating the subject of each matter to be considered in public excluded and the reason(s) for excluding the public.

The Chairperson of a meeting may ask any member of the public to leave the meeting if that person's behaviour is likely to prejudice or to continue to prejudice the orderly conduct of that meeting if that member of the public is permitted to remain in that meeting.

Councillors whose conduct prevents the orderly conduct of the meeting may be asked to leave by the Chairperson under Standing Orders.

Local Authorities (Members' Interest) Act 1968 (LAMIA)

The LAMIA is overseen by the Auditor-General; it is a small but significant part of the legal framework for local democracy. It regulates situations where an elected member's personal interest impinge on, or could be seen as impinging on, their duties as an elected member.

LAMIA has two main rules:

1. The Contracting Rule

No person shall be capable of being elected as or appointed to be or of being a member of Council or of any committee of Council, if the total of all payments made or to be made by or on behalf of Council in respect of all contracts made by it in which that person is concerned or interested exceeds \$25,000 in any financial year unless approval has been obtained from the Auditor-General.

The \$25,000 limit relates to the value of all payments made in respect of all contracts, in which the member is interested during the financial year. It does not apply separately to each contract; nor is it just the amount of the profit the contractor expects to make or the portion of the payments to be personally received by the member. The contracting rule also applies to subcontracts.

The penalty for breach of this provision is the immediate loss of office and the possibility of a fine being imposed.

2. The Discussing and Voting Rule

An elected member shall not vote on or take part in the discussion of any matter in which the elected member has, directly or indirectly, any pecuniary interest, other than an interest in common with the public, unless a statutory exception applies. The penalty for breach of the discussing and voting rule constitutes an offence, and on conviction results in vacation of office.

Crimes Act 1961 (sections 99, 105, and 105A)

It is an offence against section 105 of the Act for an official to seek or obtain a reward for performing their official duties. It is a further offence, under section 105A of the Act for an official to use any information, acquired in their official capacity, to obtain, directly or indirectly, an advantage or a pecuniary gain for them or any other person. Elected members and employees of any local authority or public body come within the definition of 'official'.

Section 99 of the Act defines 'official' as "any person in the service of the Sovereign in right of New Zealand (whether that service is honorary or not, and whether it is within or outside New Zealand), or any member or employee of any local authority or public body, or any person employed in the education service within the meaning of the State Sector Act 1988".

Section 105 "Every official is liable to imprisonment for a term not exceeding 7 years who, corruptly accepts or obtains, or agrees or offers to accept or attempts to obtain, any bribe for himself or any

other person in respect of any act done or omitted, or to be done or omitted, by him in his official capacity; and that everyone is liable to imprisonment for a term not exceeding 7 years who corruptly gives or offers or agrees to give any bribe to any person with intent to influence any official in respect of any act or omission by him in his official capacity”.

Section 105A “Every official is liable to imprisonment for a term not exceeding 7 years who, whether within New Zealand or elsewhere, corruptly uses or discloses any information, acquired by him in his official capacity, to obtain, directly or indirectly, an advantage or a pecuniary gain for himself or any other person”.

Secret Commissions Act 1910

Every elected member is deemed to be an agent of Council. Under the Secret Commissions Act it is an offence for a member of a local authority to either corruptly give or agree to offer or give to any agent any gift or other consideration as an inducement to reward for any action of forbearance in relation to the Council’s affairs or business, or for showing favour or disfavour to any person, in relation to the Council’s affairs or business.

Financial Markets Conduct Act 2013 (FMCA)

The Financial Markets Conduct Act 2013 (FMCA) governs how financial products are created, promoted and sold, and the ongoing responsibilities of those who offer, deal and trade them.

The main purposes of the FMCA are to:

- Promote the confident and informed participation of businesses, investors, and consumers in the financial markets.
- Promote and facilitate the development of fair, efficient, and transparent financial markets.

The FMCA imposes on elected members the same responsibilities as company directors whenever Council offers securities (debt or equity) to the public. Members may be personally liable if investment documents such as a disclosure statement contain untrue statements and may be liable for criminal prosecution if the requirements of the FMCA are not met.

The Act also prohibits any elected member who has information about a listed company that is not generally available to the market, from trading in that company’s shares or from disclosing that information.

The penalties for certain offences under this Act (false or misleading statements in disclosure documents – 10 years; or insider trading – 5 years) are such that if an elected member was convicted, that conviction would result in ouster from office.

Council at this time does not offer securities to the public therefore the FMCA does not impact on Council’s current business activities.

4 MOTION TO EXCLUDE THE PUBLIC

RESOLUTION TO EXCLUDE THE PUBLIC

Section 48, Local Government Official Information and Meetings Act 1987.

Recommendation

That the public be excluded from the following parts of the proceedings of this meeting, namely items listed overleaf.

Reason for passing this resolution: good reason to withhold exists under section 7. Specific grounds under section 48(1) for the passing of this resolution: Section 48(1)(a)

Note

Section 48(4) of the Local Government Official Information and Meetings Act 1987 provides as follows:

“(4) Every resolution to exclude the public shall be put at a time when the meeting is open to the public, and the text of that resolution (or copies thereof):

- (a) Shall be available to any member of the public who is present; and
- (b) Shall form part of the minutes of the local authority.”

This resolution is made in reliance on Section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section 6 or Section 7 of that Act which would be prejudiced by the holding of the whole or relevant part of the proceedings of the meeting in public are as follows:

ITEM NO.	GENERAL SUBJECT OF EACH MATTER TO BE CONSIDERED	SECTION	SUBCLAUSE AND REASON UNDER THE ACT	PLAIN ENGLISH REASON	WHEN REPORTS CAN BE RELEASED
5.1	Sarjeant Gallery Project Update - October 2019	s7(2)(b)(ii), s7(2)(i)	Commercial Position, Negotiations	To protect commercially sensitive information relating to the tendering process	

THAT Gaye Batty (Project Director – Sarjeant Gallery Redevelopment), be permitted to remain at this meeting, after the public has been excluded, because of her knowledge of Item 5.1: Sarjeant Gallery Project Update – October 2019. This knowledge, which will be of assistance in relation to the matter to be discussed, is relevant to that matter because of her position as Project Director – Sarjeant Gallery Redevelopment.

5 CONFIDENTIAL REPORTS TO COUNCIL**5.1 SARJEANT GALLERY PROJECT UPDATE - OCTOBER 2019****6 CONFIRMATION OF INFORMATION AND DECISIONS IN OPEN MEETING****Recommendation**

That Council confirms that the preamble, discussion and resolutions associated with **Item 5.1: Sarjeant Gallery Project Update – October 2019** remain confidential until all parties have either accepted to the terms of the proposals or agreed to cease negotiations, unless otherwise specified in the agenda. The Council and Chief Executive may then release press reports on the matter.