



WHANGANUI DISTRICT COUNCIL

Te Kaunihera a Rohe o Whanganui

AGENDA

Council Meeting 26 Oct 2022

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

Date: 26 Oct 2022

Time: 5.15pm

Location: Putiki Marae
30 Takarangi Street
Putiki
Whanganui

**David Langford
Chief Executive**

Whanganui District Council

Mayor Andrew Tripe (Chair)

Crs Charlie Anderson, Charlotte Melser, Glenda Brown, Helen Craig, Jenny Duncan, Josh Chandulal-Mackay, Kate Joblin, Michael Law, Peter Oskam, Philippa Baker-Hogan, Rob Vinsen, and Ross Fallen

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1 OPENING PRAYER / KARAKIA**2 APOLOGIES****3 LEAVE OF ABSENCE****4 DECLARATIONS OF INTEREST**

Elected Members will be provided with the opportunity to declare any disclosable pecuniary or other non-pecuniary interest in any matter to be considered at this meeting, or declare any new conflicts that have arisen since last completing the Elected Members' Interests Register.

5 CORRESPONDENCE / LATE ITEMS / ADDITIONAL INFORMATION

6 REPORTS TO COUNCIL

6.1 RESULT OF TRIENNIAL ELECTIONS - 8 OCTOBER 2022

Author: Shaona Raj - Democracy Support Officer

Authoriser: Kate Barnes - Democracy Services Manager

References: 1. Final results notice - Whanganui District Council - 14 October 2022 [↓](#) 

Recommendation

That the Council receive the report – Result of Triennial Elections - 8 October 2022.

Executive Summary

The triennial elections were held on 8 October 2022. The results were formally declared, as per the Local Electoral Act 2001, on 14 October 2022. They are attached for Council's information.



Whanganui District Council

2022 Triennial Elections

DECLARATION OF RESULT

The final result for the Whanganui District Council elections held on Saturday 8th October is as follows.

Mayorality		Votes Received
TRIPE, Andrew	The Change We Need	8,518
MCDOUALL, Hamish	Independent	6,337
HARDING, DC		675
INFORMAL		15
BLANK VOTING PAPERS		333

Andrew TRIPE is declared elected.

At Large (12 vacancies)		Votes Received
CRAIG, Helen	Independent	9,308
JOBLIN, Kate	Independent	8,811
VINSEN, Rob	Ratepayer Focused	8,531
CHANDULAL-MACKAY, Josh	A Vote for Integrity	8,522
DUNCAN, Jenny	Independent	7,637
ANDERSON, Charlie	Independent	7,475
LAW, Michael	Independent	7,457
MELSER, Charlotte		7,171
BROWN, Glenda	Independent	7,046
BAKER HOGAN, Philippa	Sport, Community and Business Focused	6,558
OSKAM, Peter	No Spin. Straightforward.	6,498
FALLEN, Ross	Independent	5,720
BARRON, James	Independent	5,654
NEWELL, James		5,631
JACKSON, Dan	Independent	5,425
HILL, Dave		5,120
TROTT, Rod		5,000
BROWN, Roy	Independent	4,514
SMITH, Rory	Independent	4,419
HARDING, DC	Your Voice, Heard First	3,317
REWETI, Phillip (Bear)		3,050
BODENSTEIN, Andreas		2,968
PHILLIPS, Scott		2,737
BEAZLEY, Aisha	Whānau rising together	2,713
PACKER, Cerise	Independent	2,578
JONES, B	Independent	1,476
HOWARD, Gill		1,312
INFORMAL		49
BLANK VOTING PAPERS		123

Charlie ANDERSON, Philippa BAKER HOGAN, Glenda BROWN, Josh CHANDULAL-MACKAY, Helen CRAIG, Jenny DUNCAN, Ross FALLEN, Kate JOBLIN, Michael LAW, Charlotte MELSER, Peter OSKAM and Rob VINSEN are declared elected.

The voter return was 46.44%, being 15,611 votes, excluding special votes.

Elections were not required for the following positions.**Whanganui Community Subdivision (2 Vacancies)**

As the number of nominations received did not exceed the number of vacancies, Peter OSKAM and David WELLS are declared elected.

Section 88A of the Local Electoral Act provides that if a person is declared to be elected as a member of the council, and that person is also declared to be elected as a member of a community board, that person must be treated as having vacated office as a member of the community board. Peter OSKAM is therefore withdrawn from this election, creating an extraordinary vacancy on the Whanganui Community Board. A by-election to fill the extraordinary vacancy will be held after the triennial elections have been finalised.

Kai Iwi Community Subdivision (3 Vacancies)

As the number of nominations received did not exceed the number of vacancies, Michael DICK, Sandra FALKNER and Grant SKILTON are declared elected.

Kaitoke Community Subdivision (2 Vacancies)

As the number of nominations received did not exceed the number of vacancies, Bill ASHWORTH and Julian BAILEY are declared elected.

Warwick Lampp
Electoral Officer
Whanganui District Council
13 October 2022

6.2 DECLARATION OF MAYOR AND COUNCILLORS - OCTOBER 2022

Author: Shaona Raj - Democracy Support Officer
Authoriser: Kate Barnes - Democracy Services Manager
References: Nil

Key Information

The Chief Executive, David Langford, will welcome members-elect and their guests. He will then swear the Mayor, Andrew Tripe, into office and witness his signing of the written declaration.

"I, Andrew Garwyn Tripe, 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."

Mayor Tripe will swear in the Members elected to the Whanganui District Council and witness their written declarations.

1. Helen Craig
2. Kate Joblin
3. Rob Vinsen
4. Josh Chandulal-Mackay
5. Jenny Duncan
6. Charlie Anderson
7. Michael Law
8. Charlotte Melser
9. Glenda Brown
10. Philippa Baker Hogan
11. Peter Oskam
12. Ross Fallen

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 Whanganui District, the powers, authorities, and duties vested in, or imposed upon me, as 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."

6.3 MAYORAL ANNOUNCEMENTS - OCTOBER 2022

The Mayor will address the meeting.

6.4 COUNCIL APPOINTMENTS TO WHANGANUI RURAL COMMUNITY BOARD

Author: Shaona Raj - Democracy Support Officer
Authoriser: Kate Barnes - Democracy Services Manager
References: Nil

Significance of decision – In terms of the Significance and Engagement Policy 2021, the recommended decision is not significant.

Recommendation

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

Executive Summary

This report requests Council appoint two Councillors to the Whanganui Rural Community Board.

Background

Per the Local Government Commission's determination, the Whanganui Rural Community Board comprises two members of the Council elected by the electors of the Whanganui district as a whole. To meet this requirement, the Council is asked to appoint two Councillors to the Whanganui Rural Community Board by resolution at this meeting.

6.5 GENERAL EXPLANATION OF LAWS AFFECTING MEMBERS - OCTOBER 2022

Author: Shaona Raj - Democracy Support Officer

Authoriser: Rob Goldsbury - General Counsel

References: Nil

Recommendation

That the Council receive the report – General Explanation of Laws Affecting Members - October 2022.

Executive Summary

The Local Government Act 2002 requires the Chief Executive to provide a general explanation of laws affecting members at the first meeting of Council following the triennial elections. This report covers the following legislation:

- 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;
 - the Financial Markets Conduct Act 2013.
 - the Local Government (Pecuniary Interests Register) Amendment Act 2022

Key Information

The specified legislation is not the entirety of laws that apply to local authorities and their members. Members are encouraged to further inform themselves about the various legislation underpinning their role. Opportunities for upskilling will be provided through the Council induction programme and beyond. Members can also seek legal advice through the Chief Executive for specific issues.

Local Government Official Information and Meetings Act 1987 (LGOIMA)

The LGOIMA focuses on two things. The first is the retention and release of official information held by Council, including responses to requests for official information, and the conduct of Council meetings.

The fundamental principle in LGOIMA is that information held by the Council is publicly available, unless there is good reason to withhold and the interest in withholding outweighs the public interest in release.

That principle applies to all information held by Council. The definition of 'all information held by Council' is wide. It is reasonably well known that it includes all Council reports and other documents prepared for the purposes of Council business (including information that might be confidential). What is, potentially, less well known is that it includes any emails, texts, posts etc. that you create

or receive in your capacity as a Councillor. It does not matter that the “information” is created on a Council owned device or on your private device.

The LGOIMA regulates the handling of requests for official information. Anyone can make a request for official information. Where the information is held by the Council, a decision as to its release must be made within 20 working days of receipt. The LGOIMA provides a limited number of reasons for declining to release information. The Chief Executive administers the release of official information and makes decisions as to whether any of the grounds for declining exist. Decisions can be appealed to the Office of the Ombudsman.

Secondly, the LGOIMA also sets out the requirements for the conduct of Council meetings, including agendas and reports as well as meeting procedures. For instance, Members generally cannot discuss items not on the agenda unless:

- It is a minor matter, or
- The meeting resolves to discuss the item and the Chair explains why the item is not on the agenda but requires urgent discussion.

In regard to meeting processes, the LGOIMA is backed up by Standing Orders which are adopted by the Council.

It also regulates the grounds on which the public may be excluded from a Council meeting. Ordinarily anyone can attend meetings, but the public can be excluded from all or a part of a meeting for the reasons set out in the Act.

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 meeting can also resolve to allow specified persons to stay, but they must state why the person is staying and what items the person is staying for.

Reasons for public exclusion are provided in all agendas where there are reports which are proposed to be discussed with the public excluded. Members can also resolve to release public excluded reports to the public after the meeting.

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

The LAMIA is overseen by the Auditor-General It regulates situations where an elected member has a personal interest that may conflict, or be seen to conflict with, their duties as an elected member. It applies to what are called “pecuniary interests”.

LAMIA has two main rules:

1. The Contracting Rule

No person can serve as a councillor if the person has an interest in a contract or multiple contracts with the Council totalling \$25,000 or more in any financial year unless the member obtains approval from the Auditor-General. Section 3(2) of the LAMIA lists situations where a member is deemed to have a pecuniary interest. Of note is that this captures interests held by a member’s spouse or partner as well as members directly. 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

This rule states 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. Section 6(2) of the Act provides a list of situations where a member is deemed to hold a pecuniary interest. Please note this, again, captures interests held by spouses or partners. The penalty for breach of the discussing and voting rule constitutes an offence, and on conviction results in vacation of office. The obligations imposed by LAMIA are in addition to those imposed by the Local Government (Pecuniary Interests Register) Amendment Act 2022.

The LAMIA applies to pecuniary interests. Voting where there is a conflict of interest but not one which is “pecuniary” does not incur a potential criminal sanction but could still lead to a decision being challenged in a Court.

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

These provisions are intended to prevent officials from improperly using their office for personal gain. 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 are included in the definition of ‘official’. Breach of either provision may result in imprisonment for up to 7 years.

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 accept, or agree to accept, a gift or secret reward or any other consideration as an inducement to reward for any action in relation to the Council’s affairs or business. The Act also requires agents to disclose a pecuniary interest they may have in a contract held with Council. The definition of pecuniary interest includes those interests held by immediate family members.

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 (insider trading).

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.

Local Government (Pecuniary Interests Register) Amendment Act 2022

This new legislation requires all elected members to file an annual return disclosing a specified list of pecuniary interests. A summary of the information provided will be uploaded to the Council website. Members are responsible for ensuring returns are accurate and filed on time, as well as correcting errors and omissions as soon as possible. Failure to file a return on time, failing to file an accurate return and failing to correct an error or omission are offences under the Local Government Act 2002. Offences are punishable by a fine of up to \$5000.

The legislation is intended to promote greater public trust and transparency in decision-making by publicly recording members' pecuniary interests. The obligations imposed by this Act are in addition to those imposed by LAMIA, described above.

6.6 SCHEDULE OF MEETINGS - REMAINDER OF 2022

Author: Shaona Raj - Democracy Support Officer
Authoriser: Kate Barnes - Democracy Services Manager
References: Nil

Significance of decision – In terms of the Significance and Engagement Policy 2021, the recommended decision is not significant.

Recommendation

That Council holds meetings on 15 November 2022 and 13 December 2022.

Executive Summary

This report recommends meeting dates for the remainder of 2022 – 15 November and 13 December. This schedule covers Council for the remainder of 2022 and does not include committee meetings. A schedule for 2023, including committee meetings, will be provided for Council's consideration at its next meeting.