



Ōtorohanga

District Council

*Ōtorohanga - where kiwi can fly
A dynamic, inclusive and unique district*

OPEN AGENDA

Notice is hereby given that the Inaugural meeting of the Ōtorohanga District Council will be held in the Council Chambers, Ōtorohanga District Council, 17 Maniapoto Street, Ōtorohanga on Tuesday, 1 November 2022 commencing at 9.00am.

Tanya Winter
CHIEF EXECUTIVE

27 October 2022

Ōtorohanga District Council

Te Kaunihera ā-rohe o Ōtorohanga

Chairperson

Deputy Chairperson and Kāwhia Tihiroa Councillor

Kāwhia Tihiroa Councillor

Kio Kio Korakonui Councillor

Ōtorohanga Councillor

Ōtorohanga Councillor

Rangiātea Councillor

Rangiātea Councillor

Waipā Councillor

Wharepūhanga Councillor

His Worship the Mayor, Max Baxter

Deputy Mayor, Annette Williams

Kit Jeffries

Rodney Dow

Katrina Christison

Steve Hughes

Jaimee Tamaki

Roy Willison

Roy Johnson

Cathy Prendergast

Quorum: A majority of members (including any vacancies)

Meeting frequency: Monthly or as required

All attendees at this meeting are advised that the meeting will be electronically recorded (audio and video) for the purpose of webcasting to the Council's YouTube channel. Every care will be taken to maintain individuals' privacy; however, attendees are advised they may be recorded as part of the general meeting proceedings.

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PLEASE NOTE

The reports attached to this Open Agenda set out recommendations and suggested resolutions only. Those recommendations and suggested resolutions DO NOT represent Ōtorohanga District Council policy until such time as they might be adopted by Council resolution. This Open Agenda may be subject to amendment either by the addition or withdrawal of items contained therein.

COMMENCEMENT OF MEETING

The Chief Executive will declare the meeting open.

OPENING PRAYER - KARAKIA TIMATANGA**APOLOGIES - TONO AROHA**

The Chief Executive will announce any apologies received, if any.

MAKING AND ATTESTING OF DECLARATION OF MAYOR ELECT

The Local Government Act 2002 (schedule 7 clause 14) states that a person cannot act as a member of a local authority until that have made an oral and written declaration in the form set out in the Act.

The Chief Executive will invite the Mayor Elect to make his declaration. Following the declaration, His Worship the Mayor will assume the Chairperson role.

MAKING AND ATTESTING OF DECLARATIONS OF COUNCILLORS ELECT

The Local Government Act 2002 (schedule 7 clause 14) states that a person cannot act as a member of a local authority until that have made an oral and written declaration in the form set out in the Act.

His Worship the Mayor will invite the Councillors Elect to make their declarations individually.

ITEM 1: FIXING OF A DATE AND TIME FOR THE FIRST MEETING

The Local Government Act 2002 (Schedule 7 Clause 21(5)(d)) requires Council, at its first meeting after a triennial election, to fix the date and time of the first meeting of the local authority for the new term.

Staff recommendation

That Ōtorohanga District Council confirm the first meeting of the Council for the 2022-25 Triennium to be held on Tuesday, 22 November 2022 commencing at 10am.

ITEM 2: APPOINTMENT OF COUNCILLORS TO COMMUNITY BOARDS

TO: HIS WORSHIP THE MAYOR AND COUNCILLORS OF ŌTOROHANGA DISTRICT COUNCIL

FROM: CHIEF EXECUTIVE

DATE: 1 NOVEMBER 2022

Relevant Community Outcomes

Empowered

Enduring

United



1 PURPOSE

1.1 To appoint ward councillors to the Ōtorohanga and Kāwhia community boards.

2 EXECUTIVE SUMMARY

- 2.1 It is a requirement of the Local Electoral Act 2001, that appointees to community boards be ward members.
- 2.2 The Ōtorohanga Community Board has two vacancies. The Ōtorohanga ward has two members: Katrina Christison and Steve Hughes.
- 2.3 The Kāwhia Community Board has one vacancy. The Kāwhia-Tihiroa ward has two members: Annette Williams and Kit Jefferies.

3 STAFF RECOMMENDATION

That Ōtorohanga District Council, pursuant to section 50(b) of the Local Government Act 2002 and section 19(f) of the Local Electoral Act 2001 makes the following appointments to the Community Boards for the 2022-2025 triennium:

a Ōtorohanga Community Board

- i Councillor Katrina Christison and Councillor Steve Hughes from the Ōtorohanga general ward;

b Kāwhia Community Board

- ii Councillor Kit Jeffries from the Kāwhia Tihiroa general ward.

4 CONTEXT

Ōtorohanga Community Board

4.1 The number of vacancies is equal to the number of ward members.

Kāwhia Community Board

4.2 In the 2019-22 Triennium, each ward member was appointed for a period of 18 months each:

- Councillor Annette Williams was appointed to the Kāwhia Community Board for a period of 18 months from 5 November 2019 to 5 May 2021.
- Councillor Kit Jeffries was appointed to the Kāwhia Community Board for a period of 18 months from 6 May 2021 until the end of the triennium.

5 CONSIDERATIONS

Significance and engagement

5.1 Staff consider the matters set out do not trigger the policy.

Impacts on Māori

5.2 Staff consider the matters set out in this report do not have a direct impact on cultural wellbeing, sites of significance or waterways.

Risk Analysis

5.3 Please refer to the options analysis.

Policy and plans

5.4 There are no policies or plans that may impact a decision to appoint ward members to community boards.

Legal

5.5 Section 19(f) of the Local Electoral Act 2001 requires persons appointed as members of the community board to be members representing a ward in which the community is situated.

Financial

5.6 There are no financial implications to the recommended option.

6 OPTIONS ANALYSIS

Option 1: Appoint the required number of ward members to fill the Board vacancies

- 6.1 Council could appoint two ward members to Ōtorohanga Community Board and one ward member to the Kāwhia Community Board for the duration of the Triennium.
- 6.2 This option would ensure continuity of representation on the Kāwhia Community Board however would restrict the remaining ward member from participating in the activities of the Board.

Option 2: Split the term of the Kāwhia Community Board to each ward member

- 6.3 Council could appoint two ward members to Ōtorohanga Community Board and one ward member to the Kāwhia Community Board for a period of 18 months with a specified end date, and the other ward member for a period of 18 months commencing the day after the specified end date.
- 6.4 This would be consistent with the resolution passed by Council in 2019 for the previous Triennium.

7 RECOMMENDED OPTION

- 7.1 To appoint the required number of ward members to fill the Board vacancies including the appointment of Councillor Kit Jeffries to the Kāwhia Community Board for the duration of the Triennium.

Rationale

- 7.2 Councillor Annette Williams has been appointed the Deputy Mayor and has additional duties associated with that role.
- 7.3 Councillor Kit Jeffries lives in the Kāwhia township and staff note the development of the Kāwhia and Aotea town concept plan is to be undertaken during the Triennium which will require additional community engagement and Board meetings.

Tanya Winter
CHIEF EXECUTIVE

ITEM 3: APPOINTMENT OF DEPUTY MAYOR

TO: HIS WORSHIP THE MAYOR AND COUNCILLORS OF ŌTOROHANGA DISTRICT COUNCIL

FROM: CHIEF EXECUTIVE

DATE: 1 NOVEMBER 2022

Relevant Community Outcomes

Empowered

Enduring

United



1 PURPOSE

1.1 To advise members that His Worship the Mayor has exercised his power pursuant to section 41A(3)(a) of the LGA to appoint Councillor Annette Williams as the Deputy Mayor.

2 EXECUTIVE SUMMARY

2.1 The election of the Deputy Mayor is an item of business that is required to be conducted following a triennial election of members of the local authority under clause 21(5)(e) of Schedule 7 of the Local Government Act 2002 (LGA).

2.2 The Deputy Mayor must perform all the responsibilities and duties, and may exercise all the powers, of the Mayor:

- with the consent of the Mayor, at any time during the temporary absence of the Mayor.
- without that consent, at any time while the Mayor is prevented by illness or other cause from performing the responsibilities and duties or exercising the powers of office.
- while there is a vacancy in the office of the Mayor.

3 STAFF RECOMMENDATION

That Ōtorohanga District Council receive the report titled ‘Appointment of Deputy Mayor’ (document number 658308) from Tanya Winter, Chief Executive.

4 DISCUSSION

4.1 The provisions of the Local Government Act 2002 provide for a Mayor to appoint the Deputy Mayor. If the Mayor declines to exercise this power, then the position is elected by Council.

- 4.2 The Mayor has confirmed that he wishes to exercise his power pursuant to section 41A(3)(a) of the LGA to appoint Councillor Annette Williams as the Deputy Mayor.
- 4.3 Section 41A of the LGA provides that Council may remove a Deputy Mayor appointed by the Mayor, however, Council must follow a process set out in clause 18 of Schedule 7 of the LGA.

Local Government Act 2002, Schedule 7, Clause 18

- 18 Power to remove chairperson, deputy chairperson, or deputy mayor**
- (1) At a meeting that is in accordance with this clause, a territorial authority or regional council may remove its chairperson, deputy chairperson, or deputy mayor from office.
 - (2) If a chairperson, deputy chairperson, or deputy mayor is removed from office at that meeting, the territorial authority or regional council may elect a new chairperson, deputy chairperson, or deputy mayor at that meeting.
 - (3) A meeting to remove a chairperson, deputy chairperson, or deputy mayor may be called by—
 - (a) a resolution of the territorial authority or regional council; or
 - (b) a requisition in writing signed by the majority of the total membership of the territorial authority or regional council (excluding vacancies).
 - (4) A resolution or requisition must—
 - (a) specify the day, time, and place at which the meeting is to be held and the business to be considered at the meeting; and
 - (b) indicate whether or not, if the chairperson, deputy chairperson, or deputy mayor is removed from office, a new chairperson, deputy chairperson, or deputy mayor is to be elected at the meeting if a majority of the total membership of the territorial authority or regional council (excluding vacancies) so resolves.
 - (5) A resolution may not be made and a requisition may not be delivered less than 21 days before the day specified in the resolution or requisition for the meeting.
 - (6) The chief executive must give each member notice in writing of the day, time, place, and business of any meeting called under this clause not less than 14 days before the day specified in the resolution or requisition for the meeting.
 - (7) A resolution removing a chairperson, deputy chairperson, or deputy mayor carries if a majority of the total membership of the territorial authority or regional council (excluding vacancies) votes in favour of the resolution.

Tanya Winter
CHIEF EXECUTIVE

ITEM 4: GENERAL EXPLANATION OF LAWS AFFECTING ELECTED MEMBERS

TO: HIS WORSHIP THE MAYOR AND COUNCILLORS OF ŌTOROHANGA DISTRICT COUNCIL

FROM: CHIEF EXECUTIVE

DATE: 1 NOVEMBER 2022

Relevant Community Outcomes

United

Responsible

Enduring



1 PURPOSE

1.1 To provide a general explanation of legislation affecting elected members as required by the Local Government Act 2002.

2 EXECUTIVE SUMMARY

2.1 Clause 21(5)(c) of Schedule 7 to the Local Government Act 2002 requires Council to include in the business to be conducted at its first meeting a general explanation of the Local Government Official Information and Meetings Act 1987 and other legislation affecting elected members.

2.2 In addition to these core legal requirements affecting elected members, there are many other statutes relevant to council decisions (for example the Resource Management Act 1991 and the Reserves Act 1977). Elected members will receive further advice from staff as part of their general induction over the coming weeks, and on a case-by-case basis to ensure that they understand their legal obligations when making decisions.

3 SUGGESTED RESOLUTION

That Ōtorohanga District Council receive the report titled ‘General explanation of laws affecting elected members’ (document number 658307) from Tanya Winter, Chief Executive.

4 DISCUSSION

Local Government Official Information and Meetings Act 1987 (‘LGOIMA’)

Access to Local Authority information

4.1 LGOIMA enables members of the public to request ‘official information’ from Council.

- 4.2 Official information is any information held by a local authority. This can include hard copies of documents, electronic data (including emails and text messages) and audio and audio-visual material.
- 4.3 Council is required to make a decision on the request as soon as possible and in any event no later than 20 working days after the day on which the request was received.
- 4.4 LGOIMA is based on the principle that if a person requests information from a local authority the information “*shall be made available unless there is good reason for withholding it*”.
- 4.5 LGOIMA also recognises that not all information should be made available, and provides for its protection, where necessary, and sets out an exhaustive list of grounds for withholding information.
- 4.6 All responses by Council are reviewable by the Office of the Ombudsman.
- 4.7 Any information provided in good faith and in accordance with Council’s duties does not give rise to legal remedies.

Local Authority Meetings

- 4.8 LGOIMA requires meetings of Council, its committees, subcommittees, and community boards to be publicly notified and for agendas and reports to be available to the public at least two working days before every meeting.
- 4.9 Anyone may attend meetings, but Council has the right to exclude the public for the whole or any part of the meeting if there are grounds under the Act to do so. The Chief Executive may exclude from the public reports that are reasonably expected to be discussed with the public excluded.
- 4.10 Matters not on the agenda may be dealt with as supplementary items if the meeting resolves to do so, and the chairperson explains why the matter was not on the agenda and why it cannot be left for another meeting.
- 4.11 The Act also contains provisions that apply when a meeting is open to the public, including the maintenance of order. If the behaviour of any member of the public is likely to prejudice the orderly conduct of the meeting, the chairperson has the right to require that person to leave.
- 4.12 The publication of defamatory material contained in publicly available agendas or minutes is privileged, unless it can be proven that Council was predominantly motivated by ill will or took improper advantage of the occasion of publication.

LOCAL AUTHORITIES (MEMBERS’ INTERESTS) ACT 1968

Contracting Rule

- 4.13 A member is automatically disqualified from office if they are ‘concerned or interested’ in contracts with Council worth more than \$25,000 (including GST) in any financial year (“Contracting Rule”).
- 4.14 The Contracting Rule does not apply

- if the Auditor General has provided prior approval or, in limited cases, retrospective approval to the contract;
- if the contract was entered into by a Council committee or a Council officer acting under delegation, and the member is not a member of that committee and did not know, and had no reasonable opportunity of knowing, about the contract at the time it was made; or
- to certain exempted contracts e.g. a lease granted to the Council.

4.15 If a member breaches the Contracting Rule, the member will be disqualified from holding office as a member of Council (or any committee) and is disqualified from being elected as a member (or appointed to a committee) until the next election. It is a criminal offence for a person to act as a member of Council (or committee) while disqualified.

Non-Participation Rule

4.16 A member may not discuss or vote on any matter before Council or a Council committee in which they have a direct or indirect financial interest, other than an interest in common with the public (“Non-Participation Rule”).

4.17 The Non-Participation Rule does not apply:

- If the Auditor-General has approved an exemption to that requirement; or
- If certain exemptions apply e.g. a member is appointed by Council to represent a particular activity or organisation, and the member’s pecuniary interest is no different from the interest of that activity or organisation.

4.18 If a member has a financial interest in a matter that is before Council, or a committee, that member must:

- declare the existence of the financial interest;
- abstain from discussion and voting on the matter; and
- ensure the disclosure and abstention is recorded in the minutes.

4.19 It is a criminal offence if a member breaches this rule. If convicted, the member becomes incapable of continuing to hold office and a vacancy is created.

Direct/Indirect Interests Apply

4.20 The Contracting Rule and Non-Participation Rule apply to direct and indirect contracts/financial interests including those involving:

- the member or the member’s spouse/partner directly;
- a company in which the member (or their partner/spouse) owns 10% or more of the shares;

- a company in which the member (or their partner/spouse) is a member and a managing director or general manager;
- another party where the member has a personal connection or where the member could personally benefit from that contract e.g. family trust in which the member (or their partner/spouse) is a beneficiary.

CRIMES ACT 1961

4.21 Under sections 105 and 105A of this Act, it is a crime for any elected member – as an ‘official’ – to:

- corruptly accept, obtain or offer to accept any bribe for the member (or anyone else) for acting, or not acting, in that member’s official capacity;
- use or disclose information acquired in that member’s official capacity to obtain (directly or indirectly) an advantage of a pecuniary gain for himself or herself or any other person.

4.22 These offences carry a maximum sentence of seven years’ imprisonment and a conviction for either of these offences would result in an elected member being disqualified from office.

SECRET COMMISSIONS ACT 1910

4.23 This Act prohibits:

- an agent from corruptly accepting or obtaining or soliciting any gift or other consideration (including to the member’s close relatives or associates) as an inducement or reward for doing, or not doing, something or showing favour or disfavour to any person in relation to Council’s affairs or business.
- an agent from entering into a contract on behalf of Council and failing to disclose the existence of any pecuniary interest the agent has in the contract (including those of the member’s close relatives or associates).
- an agent from providing Council with a receipt, invoice, or account (or similar document) in relation to the business or affairs of Council which the agent knows to be materially false or defective, or likely to mislead Council, and which omits to state the fact of any commission, or other consideration having been received by or promised to the agent.

4.24 Under this Act, every Council officer or member is deemed to be an agent of Council.

4.25 Any person who commits an offence against the Act is liable to imprisonment for a term not exceeding 7 years and a conviction for any of these offences would result in an elected member from being disqualified from office.

FINANCIAL MARKETS CONDUCT ACT 2013

- 4.26 This Act governs how financial products are created, promoted and sold, which includes shares, debt securities and derivatives.
- 4.27 In the event that Council may wish at some point to raise capital through the issue of debt securities, compliance with this Act will be relevant to elected members.
- 4.28 Elected members are in a similar position as company directors, as they could be personally liable for breaches of provisions under this Act.

LOCAL GOVERNMENT ACT 2002

- 4.29 Sections 44 to 47 of the Local Government Act 2002 relates to financial loss incurred by local authorities, as a result of unlawful expenditure of money, the unlawful sale of an asset, a liability having been unlawfully incurred, or intentional or negligent failure to collect money the local authority is lawfully entitled to receive.
- 4.30 If the Auditor-General is satisfied that such a financial loss has been incurred, the loss is recoverable as a debt due to the Crown from each member of the local authority jointly and severally.
- 4.31 An elected member may have a defence (and not be liable) if they can prove the act (or failure to act) that resulted in the loss:
- occurred without their knowledge,
 - with their knowledge but against their protests made at or before the time when the loss occurred,
 - contrary to the manner in which they voted on the issue at the meeting, or
 - in circumstances where they acted in good faith and relied on reports, information or professional/expert advice given by a council staff member or a professional adviser or expert on matters that the elected members reasonably believed were within the person's competency.

Tanya Winter
CHIEF EXECUTIVE

CLOSING PRAYER - KARAKIA WHAKAMUTUNGA