

# The Good Governance Guide



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# Welcome to the heart of local democracy

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Tēnā koe, talofa lava, mālō e lelei, ni sa bula and welcome! Congratulations on being elected as a member of local government.

Whether this is your first time in council (kaunihera) or you have served your community before, I can assure you that the years ahead will be filled with new and memorable experiences, with challenge and reward. At the heart of each of these will be the people of the communities that you now represent.

The role you now hold carries with it great mana and great responsibility. You are charged with making decisions for the long-term benefit of the people you serve. Not just those who voted for you, and not only those who share your views, but for the community as a whole – the people of today and the generations still to come.

Your neighbours, colleagues, friends and others have gifted you the responsibility of delivering long-term community wellbeing across all aspects of how we live, work and play – a healthy and sustainable environment, thriving local economy, societal stability and a diverse and vibrant community culture that enables everyone to feel a sense of belonging.

Fortunately, you do not carry this weight alone; you are now part of a team who all share the same role and responsibilities. The strength and success of your community reflects how well you are now able to work together.

Being an elected member is not easy, but it is highly rewarding. At Local Government New Zealand, our role is to support you in achieving success. We bring the collective knowledge of all who have gone before and an in-depth understanding of today's operating environment. We are connected across all levels of local and central government. We offer advice and support, advocacy and development and the ability to influence outcomes at a national level.

This Guide is just one of the ways we support elected members. Inside, you will find information on what your role and responsibilities entail, why your role is so important and how you can achieve success for your community. It also provides guidance on legislation, the inner workings of kaunihera and all the day-to-day administration tasks of being an elected member.

Arguably, the role of local government has never been so critical nor held so much opportunity. Our society is changing; people expect more from their elected representatives than ever before. Communities want more involvement, more information and more influence. It is our role to support that while working for the benefit of all.

I hope this guide will go a long way towards helping you to achieve the objectives your community is seeking and fulfil your expectations while in office.

Stuart Crosby

President

## Who is LGNZ?

Local Government New Zealand (LGNZ) provides the vision and voice for local democracy in Aotearoa. Our aim is to be the most active and inclusive local democracy in the world – and we need your help.

We support and advocate for our member councils across New Zealand, ensuring the needs and priorities of their communities are heard at the highest levels of central government. We promote the good governance of councils and communities, as well as providing business support, advice, and training to our members.

We support the success of the entire local government sector through our four leadership pillars.

## Connect // Whakaono:

We connect people and create strong networks to bring strength to every corner of local government.

## Advocate // Whakamana:

We are local government's source of credibility and authority, and we influence others based on what's important to your communities

## Develop // Whanake:

We build capability and expertise, enabling kaunihera to excel

## Include // Whakauru:

We ensure everyone can participate, thrive and be represented by local government

## Supporting your Success

It takes some time to learn all you need to know to be a successful elected member. LGNZ provides a number of ways for elected members to bring themselves up-to-date with current issues, new policy initiatives and generally upskill themselves. These include:

**Ākona:** our new learning and development programme designed especially for people elected to local government. Our online modules and Ako hours combine in person and virtual workshops to bring you tailored learning for every stage and level of experience over the course of your local government career.

**Conferences:** The annual LGNZ Conference provides an opportunity to meet other elected members, be briefed by senior politicians and international experts, and attend workshop sessions on topical issues. There are also many specialist conferences such as conferences for council engineers; recreation specialists; rating officers and planners. Many of these welcome elected members as well.

**Zone Meetings:** These are regional meetings of councils that occur three-four times a year and all elected members are invited. Zone meetings involve good practice presentations, briefings on current issues and information distribution.

**Sector Meetings:** Sector meetings bring councils together by type. The Metropolitan Sector brings together the mayor/koromatua and chief executives of our 10 biggest councils; the Regional Sector does the same for regional and unitary councils; while the Rural and Provincial Sector includes all elected members.



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# Wāhanga **ONE**

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**Local government - the voice of  
Aotearoa's communities >>**



## A short history

Formal local government began after the colonisation of Aotearoa in 1840. The Colonial Office in London instructed British governors to promote as far as possible ‘the establishment of municipal and district governments for the conduct of all local affairs’, by issuing proclamations ‘dividing our said colony into districts, counties, hundreds, towns, townships and parishes’. (Te Ara, The encyclopaedia of New Zealand; <https://teara.govt.nz/en/local-and-regional-government/page-2#1>; last accessed 16 September 2022.)

However, early governors were not enthusiastic, citing the small number of settlers and the cost as issues to overcome. Eventually the option of provincial government was agreed, however, by the late 1860s a consistent form of borough and county government had emerged, and the provinces were disbanded in 1875. The establishment of national system of local government followed shortly after.

The following century saw the number of councils expanded and special purpose elected boards, such as road boards, hospital boards, harbour boards, rabbit control boards, and catchment boards, were established to undertake specific functions. The proliferation of special-purpose boards and local authorities resulted in numerous attempts to reform and restructure the sector over the next century.

Between 1946 and 1985 seven different local government commissions were appointed to facilitate local government reform. It was not until 1989 that a commission finally achieved its goal when 852 local bodies were re-organised into 85 multi-functional local authorities.

The local government re-organisation of 1989 was the biggest local government reform for more than a century, and one of the most comprehensive local government reform processes undertaken internationally.

The next major change occurred when, in October 2007, the government established The Royal Commission on Auckland Governance to make recommendations on local and regional government arrangements for the Auckland region in the future. In 2010 the new Auckland Council was formed, incorporating seven former territorial and regional councils.

Today, local government is a Big Deal, with approximately 30,000 staff and responsibility for \$123 billion of assets, see table 1.

Table 1: Statistical Overview 2021

Public Equity	\$123 billion
Operating Revenue	\$10.4 billion
Operating Expenditure	\$11.7 billion
Rates Revenue	\$6.7billion
Expenditure as a share of GDP	2.1%
Number of staff	29,851 <sup>1</sup>
Share of total public expenditure	10.2%
Local government's share of taxes	6.7%

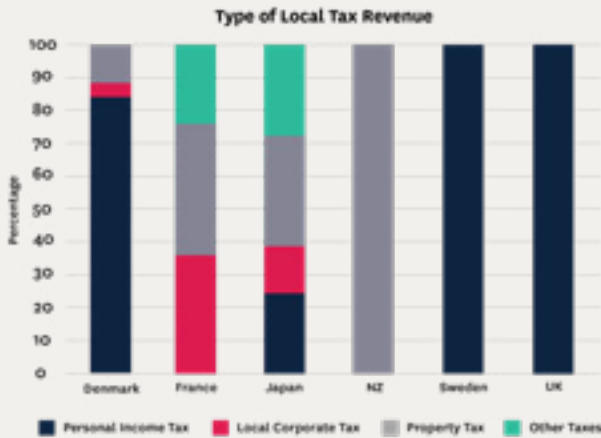
## How does Aotearoa compare internationally?

The size of councils varies significantly around the world as countries seek to find the balance between democratic responsiveness and local capacity or efficiency. Our local government system has fewer responsibilities than local government systems in the OECD, with little to no role in education, policing, and health. Unlike many countries, kaunihera areas in Aotearoa are relatively large and we have a very small number of local politicians.

One of the areas of considerable difference is the way local government is funded. Our kaunihera raise more of their own revenue than most other countries and receive proportionally less funding from central government than any other system.

Aotearoa's funding system is unique with a greater reliance on property taxes than many other countries (see Figure 1). Since 1958 at least eight local government funding reviews have been undertaken, with virtually every review recommending that councils be given additional income streams.

Figure 1: Type of tax Revenue



**Aotearoa New Zealand is a diverse and vibrant nation built on local communities and voices.**

**At the heart of these communities is local government**

Local government is the way our communities make democratic decisions about how their towns, cities and regions work and how they’ll develop into the future for the benefit of all.

Like central government, local government is established by Parliament. It is a creature of statute; its role and powers are defined in legislation. However, councils (kaunihera) are accountable to their communities for what they deliver and for the decisions they make.

Elected mayors/koromatua, chairs, councillors, and local and community board members are responsible for enhancing the collective social, environmental, economic, and cultural wellbeing of their communities. Their job is to ensure a healthy natural environment, thriving businesses, safe spaces for all and a diverse and vibrant culture that supports every individual’s sense of belonging.

Local government receives its powers and authority through legislation and is subject to more than 100 different statutes. The overall empowering statute is the Local Government Act (LGA) 2002. This spells out local government’s purpose, its general powers, its specific bylaw-making powers and the principles and processes that councils must abide by when making decisions.

The purpose of local government is defined in section 10:

// **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 wellbeing of communities in the present and for the future.

**How we are structured in Aotearoa**

Local government in Aotearoa is made up of 78 local, regional, and unitary councils (also referred to as local authorities).

- » Eleven regional kaunihera, of which, six will have Māori constituencies in the 2022 local elections
- » Sixty-one territorial authorities consisting of 11 cities and 50 districts and
- » Six unitary kaunihera which are territorial authorities with regional council responsibilities.
  - » Auckland Council,
  - » Gisborne District Council,
  - » Chathams Islands Council,
  - » Marlborough District Council,
  - » Nelson City Council and
  - » Tasman District Council.

There are also democratically elected local and community boards that operate below the level of cities and districts.

## Community and local boards:

Established as part of the 1989 re-organisation of local government, there are now around 110 community boards, ranging in size from those representing only a few hundred residents to more than 60,000 residents.

Community boards are elected bodies that are both a community voice and a mechanism for decentralising local services. Common responsibilities include community facilities, local parks, road and traffic, hearing committees, resource management functions and community liaison.

Local boards were originally established in 2010 within the newly created Auckland Council. To date, there are 21, exclusively in Auckland. They were designed to make decisions on local matters so that the governing body could concentrate on metropolitan or kaunihera-wide matters.

*For more info see Chapter 12: Community boards - the heart of local communities*

## Māori wards and constituencies

Māori wards and constituencies are the local government equivalent of the Māori seats in parliament and are elected by voters registered on the Māori roll. Their creation gives effect to the commitments made to Māori by the Crown, in Te Tiriti o Waitangi.

The first position in local government elected by those on the Māori roll occurred in 2000, when parliament amended the Local Electoral Act 2001 to allow for Māori constituencies in the Bay of Plenty Regional Council.<sup>2</sup>

Following further changes to the Local Electoral Act, elections for Māori wards and constituencies were held in 33 kaunihera at the 2022 election, creating 59 positions.

## Role and functions

Today, kaunihera have a unique role as they are the only form of government with responsibility for a specific geographic area or rohe – a role often known as ‘place making’ or ‘place shaping’. It involves the representation of community members, and the governance and accountability for local public services and infrastructure.

Responsibilities can be distinguished as those required by legislation (approximately 30 regulations are required by law, ranging from dog control to the requirements of the Control of Alcohol Act), and those desired by the community. Kaunihera also provide leadership in honouring Te Tiriti o Waitangi by actively delivering on the commitment to partnership that was made.

*"City, district and regional kaunihera play a broad range of roles taking responsibility for the social, cultural, environmental, and economic wellbeing of their communities; from making sure safe water flows freely from the taps, managing building permits and resource consents, providing car parks so people can borrow books from the library, beautifying the area with parks and green spaces, collecting rubbish and recycling, keeping streets well-lit with safe footpaths, to encouraging a thriving arts and culture scene supporting festivals, events, and parades as well as sporting events."*

City and district councils have the widest range of responsibilities, which include:

- » infrastructure services, such as the ‘three waters’ - waste water, storm water and drinking water (kaunihera own assets worth more than \$120 billion) and local roads (kaunihera own 87 per cent of all roads),
- » town planning and resource management,
- » local regulatory services, such as building consenting, dog control and liquor licensing (councils undertake more than 30 separate regulatory functions), Tasman District Council.
- » developing and maintaining parks, recreation and cultural facilities, sports arenas, swimming pools, libraries, art galleries, museums and cemeteries,
- » civil defence and emergency management,
- » economic development (spending more than \$250 million per annum) and tourism promotion, and
- » supporting and promoting the arts and cultures of the rohe.

Regional councils play a core role in the management of the natural resources of an area. This includes:

- » biosecurity control (including pest control and harmful plants),
- » resource management (quality of water, soil, coastal planning) including food and river management,
- » public transport,
- » civil defence (natural disasters, marine oil spills), and
- » regional transport planning and passenger transport services.

Functions may vary from place to place as responsibilities can be transferred between territorial and regional kaunihera.

## Giving effect to Te Tiriti o Waitangi

As Aotearoa's founding charter, Te Tiriti of Waitangi sets a framework within which local authorities have to work. The different statutes which give kaunihera their powers, roles and functions require that they take account of the principles of Te Tiriti.

### Requirements under the Local Government Act 2002

The LGA 2002 imposes certain obligations on local government to reflect the obligations of the Treaty. Section 4 of the LGA states:

*In order to recognise and respect the Crown's responsibility to take appropriate account of the principles of the Treaty of Waitangi, and to maintain and improve opportunities for Māori to contribute to local government decision-making processes, Parts 2 and 6 provide principles and requirements for local authorities that are intended to facilitate participation by Māori in local government decision-making processes.*

Section 81 of the LGA 2002 states that a local authority must:

- » establish and maintain processes to provide opportunities for Māori to contribute to the decision-making processes of the local authority,
- » consider ways in which it may foster the development of Māori capacity to contribute to the decision-making processes of the local authority, and
- » provide relevant information to Māori for the purposes of contributing to, and building capacity to contribute to, the local authority's decision-making processes.

The intent of the legislation is two-fold: firstly, to encourage Māori (and others) to participate in democratic local processes, and secondly to promote the development of meaningful relationships between kaunihera and Māori in their areas.

Capacity, for the purposes of the LGA 2002, is the ability of a person (or group) to participate knowledgeably in local decision-making processes. Kaunihera will need to assess whether Māori can contribute, given their resources and their understanding of the requisite skills, tools and systems. Capacity does not imply paying Māori for submissions, but may involve some of the following:

- » training workshops on local government processes held on marae,
- » providing information in te reo Māori,
- » providing technical expertise, and
- » access to local authority resources or skill.

### Co-governance as part of Te Tiriti settlements

A crucial role for kaunihera is the implementation of Treaty settlement arrangements; it is common for these to establish co-governance or co-management arrangements over significant natural resources and reserve lands. A kaunihera's role includes establishing and maintaining co-governance entities, providing technical advice, and plan development.

Treaty settlement arrangements provide valuable connectivity between iwi and local government. They are increasingly providing mechanisms for local government to work with iwi authorities to govern nationally and regionally significant natural resources.

## Other statutory obligations

A range of other statutes also place obligations on local government in relation to both the Te Tiriti, and Māori interests and values more generally as follows.

- » Under the RMA, local authorities are required to consult with Māori early in the statutory planning processes. The Act places further responsibilities on local government with regard to Treaty principles when making decisions about the environment.
- » Under the Land Transport Management Act 2003 there are specific requirements on local authorities to consult with Māori.
- » A number of Treaty settlement statutes require local authorities to engage with Māori in relation to certain areas and processes.

## How councils work

Local authorities consist of a governing body, usually referred to as the council or committee of the whole, which will consist of at least six members who must be elected and a maximum of either 30 in the case of a territorial authority or 14 in the case of a regional kaunihera.

The number of elected members is usually proportional to the population of the authority, although currently only Auckland Council has more than 20. Kaunihera cannot appoint unelected people to the governing body.

Aotearoa's governance approach is based on well-established divisions between the political and administrative side of kaunihera. The governing body, for example, directly employs the chief executive who then employs the council kaimahi (staff) on its behalf. However, the mayor/koromatua of Auckland Council is unique in holding a range of executive-type powers, some of which are also available to other mayors/koromatua if they so choose.

The mayor/koromatua of a territorial authority is directly elected by the community, whereas the chair of a regional authority is elected by his or her fellow councillors. Normally chairs are chosen for a three-year term; however, regional councillors have, on rare occasions, changed their chairs during the term.

The governing body is the predominant decision-making body within the kaunihera. It is required to operate in an open and transparent manner and the decisions are implemented by the kaunihera's chief executive and their kaimahi. Kaunihera will generally delegate a range of decision-making powers to subordinate bodies, such as committees and local or community boards. The chief executive will also have a range of delegations to enable the kaunihera to operate on a day-to-day basis and they will pass on some of those decision-making roles to officials.

## How Auckland council work

Auckland Council is a slightly different model with two complementary decision-making parts:

- » the governing body, consisting of a mayor/koromatua elected at large and 20 governing body members elected on a ward basis, and
- » twenty-one local boards, with between five and 12 members, elected on the basis of each local board area.

Other major differences are:

- » the additional leadership powers given to the mayor/koromatua, such as the ability to establish committees, appoint the deputy mayor/koromatua and committee chairs and the guaranteed funding to establish a mayor/koromatuaal office,
- » the Māori statutory board, which ensures policy, planning and implementation has access to a Māori perspective,
- » council-controlled organisations (CCOs) set up by legislation to provide essential infrastructure, such as water, wastewater and transport, and
- » the requirement to prepare a spatial plan.

A key difference from other local authorities is that the governing body and local boards share decision-making responsibilities. The governing body is designed to focus on region-wide strategic decisions and services while the local boards are designed to represent their local communities and make decisions on local issues, activities, and facilities.



The Local Government (Auckland Council) Act 2009 gives local boards a range of direct responsibilities and requires the governing body to delegate to local boards activities that have a local impact, such as local parks.

Decision-making responsibilities of local boards include to:

- » monitor and report on implementing the local board agreement for their local board area,
- » communicate with community organisations, identifying and communicating the interests and preferences of the people in relation to the content of the strategies, policies, plans and bylaws of the Auckland Council,
- » identify and develop bylaws specifically for its local board area, and propose them to the governing body, and
- » fulfil the agreement reached with the governing body (as set out in the local board agreement) for local activities for its local board area and special interest groups within their local board areas.

In addition, boards must undertake any non-regulatory decision-making responsibilities and duties delegated by the governing body. Local boards may also consider and report on any matter of interest or concern, whether the matter is referred to them by the governing body or not.

Every three years, local boards must prepare a local board plan that will inform the Auckland Council's Long-term Plan (LTP). The local board plan describes the local communities' priorities and preferences for the next three years, sets out the default levels of service for local activities and an indicative budget for these.

Based on its local board plan, each local board negotiates an annual agreement with the governing body on delivering and funding services in the local area for the coming year. The local board agreements must be included in either the Auckland Council's long term or annual plan.

The Auckland-specific legislation also requires the chief executive of the Auckland Council to implement the decisions of each local board, implement each local board agreement, provide advice to each local board and its members, and provide administrative and other facilities for each local board necessary for the board to carry out its functions and perform its duties.

## What council funding is used for

Statistics New Zealand annually collects information on the cost of local government services. Table 2 describes the average cost of kaunihera responsibilities under 16 broad headings that are measured by Statistics New Zealand. For most rural and provincial kaunihera roading and transport are by far the biggest expenditure items.

Table 2: Costs of council activities (2018)

// CATEGORY	// ACTIVITIES	// OPERATING EXPENDITURE
<b>Roading</b>	1. Roads and Bridges	17%
<b>Transport</b>	2. Planning 3. Passenger (rail) 4. Passenger (other) 5. Parking 6. Airports	11%
<b>Water Supply</b>	7. Potable supply/network 8. Potable water treatment 9. Non-potable	5%
<b>Waste Water</b>	10. Sewerage network (incl. mains) 11. Sewage treatment 12. Storm water	9%
<b>Solid waste/refuse</b>	13. Collection and disposal 14. Recycling collection and recovery	4%
<b>Environmental Protection</b>	15. Air quality 16. Water quality 17. Land and soil management 18. Flood protection and river control	3%
<b>Emergency Management</b>	19. Emergency and disaster management	0%
<b>Planning and regulation</b>	1. Building control 2. Resource planning and consents 3. Animal control 4. Environmental health and alcohol licensing 5. Marine safety 6. Local alcohol policies 7. Regulation of gaming machines 8. Regulation of the location of brothels 9. Dog control 10. Local Approved Products Policies 11. Pest management strategies 12. Marine regulations 13. Environmental protection 14. Biodiversity	6%
<b>Culture</b>	15. Libraries 16. Museums and galleries 17. Festivals and events 18. Community arts	6%

// CATEGORY	// ACTIVITIES	// OPERATING EXPENDITURE
<b>Recreation and sport</b>	19. Aquatic facilities 20. Sports facilities eg stadiums 21. Zoological and botanical gardens 22. Local and regional parks and reserves	10%
<b>Community development</b>	23. Community development, support and other 24. Community safety	2%
<b>Economic development</b>	25. Business and tourism promotion	3%
<b>Property</b>	26. Social housing 27. Councils and community property 28. Commercial property and other (eg non sporting stadia, public conveniences)	4%
<b>Governance</b>	29. Council, committees, community and local boards 30. Citizenship ceremonies	2%
<b>Support services</b>	31. Overheads, councils' support services, accountability and information costs.	15%
<b>Other</b>	32. Activities not covered by the categories	3%

Source: Statistics NZ

## Want to learn more?

Council-Māori Participation Arrangements: Information for councils and Māori when considering their arrangements to engage and work with each other, June 2017 [www.lgnz.co.nz/assets/Uploads/2dac054577/44335-LGNZ-Council-Maori-Participation-June-2017.pdf](http://www.lgnz.co.nz/assets/Uploads/2dac054577/44335-LGNZ-Council-Maori-Participation-June-2017.pdf)

Maori perspective on public accountability, available from <https://oag.parliament.nz/2022/maori-perspectives>

For information on localism go to <https://localism.nz/>

Arthur Grimes (2019) Wellbeing at the local level, Policy Quarterly, May 2019, [ojs.victoria.ac.nz/pq/issue/view/608](https://ojs.victoria.ac.nz/pq/issue/view/608)

Policy Quarterly: Special Issue: Localism and Devolution, at https, Vol. 15 No. 2 (2019)://[ojs.victoria.ac.nz/pq/issue/view/608](https://ojs.victoria.ac.nz/pq/issue/view/608)

Oliver Hartwich, a Global Perspective on Localism available at <https://www.lgnz.co.nz/assets/Publications/3e6f178e2e/A-global-perspective-on-localism.pdf>

Policy Quarterly: Special Issue Local Government, Vol. 12 No. 4 (2016) at <https://ojs.victoria.ac.nz/pq/issue/view/542>







# 2

# Wāhanga **TWO**

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**You got elected - now what? >>**



**You have been given a mandate from your community to make decisions and allocate public resources that will shape future outcomes on their behalf.**

**It is a responsibility not to be taken lightly.**

By stepping forward, you have accepted the challenge to act in the best interests of the entire community and support the resilience and prosperity of all people, not just those who share your views or voted for you. You are responsible for enhancing community wellbeing and all that it entails - a healthy natural environment, thriving businesses, safe spaces for all and creating a place that supports every individual's sense of belonging.

It's hard work, but extremely rewarding.

Principles of stewardship and impartiality, trust and integrity, respect for others and cultural awareness are what underpin the behaviour of successful elected members; in turn members who display these traits gain the respect and trust of the communities they represent.

## **What does it mean to be an elected representative?**

As an elected member, you are responsible for both representing your community and for the governance of the community. These two concepts, representation and governance, are at the heart of local government. In practice, it means that you are often wearing two hats - the representative hat sees you raise local issues on behalf of your community, and the governance hat sees you assess the validity of those issues in relation to the implications for the whole area you represent.

A third, equally critical responsibility, is to uphold the principles of Te Tiriti o Waitangi. Relationships with local iwi and hapū are critical and many post-settlement iwi have invested in their localities, developed co-governance arrangements with kaunihera and participated with kaunihera in commercial investments.

There are provisions in the LGA 2002 that relate specifically to Māori, to give effect to Te Tiriti o Waitangi obligations centred on partnership and to acknowledge the indigenous authority of iwi and hapū as mana whenua.

## **Setting expectations and keeping on track**

LGNZ and your local authority will hold induction workshops as soon as practicable after your election. These workshops are crucial if you and your kaunihera are to achieve your objectives. They should include:

- » administrative details on how things are run
- » a briefing on the major issues facing the district,
- » the priorities as set out in the Long-term Plan,
- » an introduction to the kaunihera and its services,
- » an overview of the kaunihera as an organisation, its finances and the state of its assets, and
- » an opportunity for members to share their expectations.

Having established priorities and an agreed way of operating it is important that you keep on track. One way of doing this is having a 'councillors' charter', which includes the agreed way of operating and a scheduled review process to decide whether changes need to be made.

*The LGA 2002 discusses the notion of 'participatory democracy', requiring you to both understand and consider the views of your communities when making decisions, as well as enabling those communities to be directly involved in making decisions themselves*

## Representation Te whai kanohi

Representation is to speak on behalf of individuals and organisations in your community, including those who did not vote for you. Representation means to act in the best interests of the area, making decisions that consider the wider context and the needs of both current and future generations.

You have a responsibility to voice the views and concerns of your ward or constituency at the kaunihera table but when you come to make decisions you must balance these with the interests of the whole community.

Being effective means being in regular contact with all members of the community. It involves forming relationships with local iwi and hapū, community groups and organisations, and empowering them to play an active role in local democracy. It is about fostering a culture of inclusion and belonging and ensuring all voices are heard.

Your own knowledge, gleaned from your community engagement, will complement the results of formal consultation exercises undertaken by your kaunihera. This engagement is vital if you want to ensure that your kaunihera is providing the right services, at the right level and at the right cost.

## Governance Mana whakahaere

*"The Institute of Directors New Zealand defines governance as "thinking about strategic issues, rather than the operational day-to-day running of the business".*

Good governance balances short-term and long-term responsibilities, and the stewardship of the organisation. That means focusing on the overall performance of the kaunihera over the long term, how it meets community expectations and aspirations, how it fulfils statutory obligations, and how it looks after its assets.

For you, it includes the development of long-term plans and strategies, policy making, allocating resources and reviewing the kaunihera's performance. It requires you to take a step back from the day-to-day operation of the organisation and focus instead on the larger and longer-term picture.

The key aspects of a governance role are shown (in Figure 2) below and include:

- » strategic planning
- » decision-making
- » policy and strategy review
- » scrutiny of management's performance
- » community leadership and engagement
- » maintaining a financially sustainable organisation, and
- » setting appropriate levels of service.

Figure 2: Good Governance



Achieving good governance has important and on-going benefits for both your kaunihera and your communities. For example, good governance:

- » **Strengthens community confidence in your kaunihera** - people are more likely to have confidence if decisions are made in a transparent and accountable way. This helps people feel that local government will act in the community's overall interest, regardless of differing opinions.
- » **Strengthens confidence of staff and elected members** - the application of good governance means elected members are more likely to trust the advice they are given by kaimahi and kaimahi are more likely to provide free and frank advice.
- » **Leads to better decisions** - decisions informed by good information, data, stakeholder views and open honest debate will generally reflect the broader interests of the community rather than the interests of a specific group. Members of the community are more likely to accept the outcomes if the process has been good, even if they don't agree with the decision.
- » **Supports ethical decision making** - good governance creates an environment where elected members and kaunihera kaimahi are likely to ask themselves "what is the right thing to do?" when making decisions.

## The boundary between governance and management

A governance role involves focusing on the 'big picture' to guide the future development of communities to enhance the wellbeing of everyone in it. This includes developing a vision alongside communities and translating that vision into achievable goals, strategies and objectives. Management is about detailed planning; creating and delivering the plans and programmes that ensure the vision is achieved.

The boundary between governance and management can vary according to the size of a local authority. Elected members in small councils, for example, may find themselves more closely involved with the operation of their council than elected members in a large metropolitan local authority, which has the depth to draw on multiple levels of management, see Table 3.

Table 3 Complementary roles

GOVERNANCE	'GREY' AREA	MANAGEMENT
Long term strategic view		Planning to implement long term
Effective (doing the right things)		Efficient (doing things right)
Concepts		Here and now
Strategy and policy leadership		Strategy and policy advice
Performance monitoring		Performance and delivery
Employ CE		Employ staff
Identify opportunities		

## What qualities make for an effective member?



To be effective in representing your community, supporting good governance and in honouring Te Tiriti the following behaviours are critical:

### // **Be open and sincere**

It is critical that we maintain public trust in the integrity of the democratic process. Elected members must be proactive in their engagement with others and sharing publicly available information about kaunihera decisions and activities. They must take ownership and responsibility for their actions and not misrepresent themselves or others for personal gain.

### // **Be impartial**

Elected members must act in the best interests of their community and declare any interests that could be perceived as a conflict to being impartial.

### // **Be positive and respectful**

Elected members should model positive and collaborative values and behaviours and discourage unethical behaviour. They need to argue the issue and facts under discussion and never attack the competence or personality of others. You must be able to work respectfully with council kaimahi (staff) and other partners and value their roles, advice, and contribution.

### // **Be responsible**

Elected members should work to promote issues or actions they believe are in the public good across a range of considerations, both ethical and financial. Elected members should be prepared to defend their decisions in the long-term interests of the whole community.

### // **Be culturally aware**

Elected members need to be capable of understanding and empathising with all cultures and aspirations. This includes working to understand the impact of decisions on diverse communities and cultures. This means familiarising yourself with tikanga Māori, partnering with Māori and honouring the kaunihera's responsibilities under Te Tiriti o Waitangi.

### // **Act in the public interest**

Elected members must consider the interests of the whole community to reflect the wishes of most, rather than a sole group or special interest faction. This means you will need to listen carefully to all advice and views and weigh up all the pros and cons before making recommendations or decisions.

## Nolan Principles

The Nolan principles were proposed by the Committee for Standards in Public Life, set up by the British Government in 1994. They are recognised as a cornerstone of ethical behaviour in public institutions.

**Selflessness:** Holders of public office should act solely in terms of the public interest.

**Integrity:** Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

**Objectivity:** Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

**Accountability:** Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

**Openness:** Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

**Honesty:** Holders of public office should be truthful.

**Leadership:** Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## What other skills will be needed?

You will need to draw on the following skills:

### Leadership, communication and relationship management

- » Providing direction and making things happen to achieve the kaunihera's vision and outcomes with an emphasis on strategic priorities.
- » Building productive, collaborative, and supportive relationships to create and deliver the kaunihera's vision and outcomes.
- » Being a clear and confident communicator, representing and promoting the kaunihera in a genuine and unified light and avoiding risks to kaunihera's reputation including with media.

### Strategic thinking and quality decision making

- » Understanding local priorities and how they relate to national and international developments and strategies.
- » Understanding the national and local political environment and the respective roles of governance and management.
- » Being able to get to the bottom of issues and assessing the pros and cons of different options.
- » Making decisions based on advice, community views, wisdom, experience and informed judgement.
- » Being financially prudent and having an eye for risk.

### Understanding of complex, technical information

- » Being able to unpack large volumes of information and use that information to guide decision making.
- » Understanding the role of the kaunihera and its financial language, budgets and processes.
- » Understanding and complying with relevant legislation.

## The role of mayor/koromatua or chair

The role of mayor/koromatua comes with many responsibilities, not all of which are found in a job description. Mayors/koromatua are a community figurehead, people manager, role-model, local ambassador and spokesperson for all matters affecting their communities. They play a critical role in building a cohesive team, encouraging consensus decision making around the council table and working effectively with both the kaunihera chief executive and kaimahi, as well as the community.

They must lead the community at times of crisis and of calm, navigating the demands of constituents, the kaunihera and central Government while never losing sight of their core responsibilities.

*"Mayors/koromatua must be able to unify people and lead them as a collective. Local body elections are a contest and candidates are rivals, until elected. It is a mayor's responsibility to get all councillors to work together as a team and to lead that team on behalf of the community."*

To be successful, a mayor/koromatua must assist members to identify matters in common while recognising differences, so that they are united as far as possible on how to address the major issues facing their community. They will need to assess the relative strengths and weaknesses of each of their councillors, and work to ensure everyone's skills are applied in the most effective way possible to execute on the purpose of local government.

Except for Auckland Council, the mayor/koromatua has no 'executive' powers. Making decisions depends upon gaining the support of a majority of your councillors; a mayor that is dictatorial, distant or divisive in nature will not be able to do this. Being successful means facilitating an inclusive approach to decision-making.

Mayors/koromatua take responsibility for elected members' training and ensure their kaunihera provides both the resources and assistance members need to develop their skills and understanding. As leaders they will also seek to facilitate the resolution of any disputes between elected members before they get to the point where a Code of Conduct complaint might be made.

Successful mayors/koromatua are those that embrace and respect their role as a community leader which does mean being available outside of usual 'office hours'. In times of calm, this means attending hui, working through policy and planning documents, attending community events and meeting with constituents.

However, when crisis or an emergency hits the community, be it a significant weather event, natural disaster, social disruption or outbreak of illness, the mayor/koromatua will find themselves at the heart of the response and the key person their community looks to for guidance, reassurance and information. They will be in the media spotlight while having to make significant decisions that will lead the community back to 'normality'.

Many people ask us what sort of person you need to be to be a successful elected member. The quick answer is that there is no single role, there are multiple roles some people will be more suited to one role than another. For example, the role of a councillor involves a strong element of corporate governance and financial scrutiny, whereas the role of a community board member is primarily about networking and relationships. Different experiences, skills and attributes are required to perform each of the roles well.

Section 41A of the LGA 2002 defines the role of a mayor/koromatua as providing leadership to:

- » the other members of the territorial authority
- » the people in the district of the territorial authority.



In addition, the mayor/koromatua is required to lead the development of the territorial authority's plans, policies and budget, including the long-term plan and annual plan. The mayor/koromatua may also have discretionary powers as to whether or not to appoint a deputy mayor/koromatua, establish committees and appoint committee chairs and members. (However, a majority of authority members can overturn appointments made by a mayor/koromatua and a proposed committee structure.) In detail, the role of a mayor/koromatua consists of:

### **Political leadership**

- » presiding over council meetings to ensure business is carried out in a democratic, responsible and orderly manner
- » determining/influencing the committee structure and positions of responsibility
- » selling the vision to other elected members and leading the development of policies and plans
- » leading the council in managing the performance of the chief executive and ensuring implementation of plans and policies
- » overseeing and supporting positive working relationships between councillors
- » developing effective relationships with peers and colleagues in neighbouring authorities, central government, Iwi and other significant stakeholders

### **Policy leadership**

- » bringing issues to the councils and influencing their consideration to ensure relevant options are considered
- » ensuring statutory requirements are met when councils are engaged in decision-making processes
- » leading and being the public face of a council when responding to major issues
- » ensuring, through the CEO performance framework, that effective processes are in place when initiating and considering policy issues

### **Community leadership**

- » being is the public face of the local authority
- » articulating the aspiration of the city / district and its people
- » outlining the way forward / vision for the city / district
- » promoting the city / district, its communities and its potential
- » promoting the values of the city / district and its peoples
- » representing the interests of the community to central government in order to attract public and private funding for investment and major events
- » undertaking ceremonial and civic duties
- » acting as a Justice of the Peace.

## The role of councillor

The role of councillor is equally as varied and broadly encompasses three main areas of responsibility across representation and governance:

### Leadership and decision making

- » leadership, setting direction and making decisions
- » balancing a wide range of considerations and perspectives to provide the best possible outcomes for the district, city or region
- » bringing the views on the future of your district or region into the collective vision-making process
- » making decisions, without bias, that take into account the needs of your district or region for good quality local infrastructure, local public services and local regulations, both now and in the future
- » making financially responsible decisions that ensure your council has a sound financial future
- » appointing a chief executive
- » debating issues and considering all views, but once a decision is made, respects the democratic process and accepts this as part of collective responsibility
- » ensures decisions are transparent and is aware of conflicts of interest

### Engaging with communities

- » engaging with the community, interest groups and organisations, at both a local and regional or metropolitan level
- » being aware of and interested in ward or constituency issues, including attend local events, meetings and local board meetings
- » responding to requests from constituents
- » developing relationships with mana whenua and maata waka organisations

### Monitoring performance

- » overseeing the council's regulatory activities, consenting and by-laws
- » monitoring and reviewing performance of the organisation to ensure regional outcomes and priorities are achieved
- » overseeing emergency management processes and protocols
- » identifying risks early and gaining assurance that the organisation is managing risks appropriately.

## The role of a community board member

By electing you to a community board, your fellow citizens have appointed you to a position of leadership in your community. They will treat you with respect and will expect you in return to represent their opinions faithfully and with integrity. They will also expect you to actively work for the benefit and enhancement of the community as a whole.

The role of a community board member is varied. To be an effective community board member you need to know that it consists of more than just attending community board meetings. It also involves a high level of commitment. To effectively represent your community you will need to attend many other meetings and events in your local community. Your community board will only be as good as you and your colleagues make it.

### Representative role

- » to promote residents' issues and initiatives to the community board and the council
- » to be an advocate for local issues and initiatives on behalf of residents, to the city or district council, or to central government
- » to monitor the range and level of council services provided within the community board's jurisdiction, and to advocate changes as necessary
- » to respond to resident and community issues and submissions, and to act as leaders in the community where problems may arise and where issues or initiatives need to be promoted

- » to engage in community development activities in conjunction with council officers. (Board members frequently assist with initiating and facilitating community development initiatives and may liaise with council officers who are responsible for taking action and reporting back.)
- » to represent the community to central government agencies and wider community forums
- » to liaise with, and to communicate with, community groups regarding local issues and initiatives, and the processes, services and decisions of the community board and the council
- » to clarify and promote the role of the community board in the ward and wider communities.

### **Governance role**

- » to work in cooperation with the council. Community boards are part of the local authority and must work within the framework of the powers and functions set out in statute and delegated by the council
- » to act as an interface between the council and the community. Board members should listen to the diversity of viewpoints and concerns in their community, represent and communicate these to the council, and work towards a common understanding
- » to attend meetings of the community board and any other bodies the member has been asked to serve on.

### **Decision-making**

- » to contribute to the development of community board policies, to set and monitor key performance indicators
- » to ensure the integrity of the community board and its decisions, and represent these to the community and particular groups in a way that promotes the board rather than the individual
- » to scrutinise council policies and services within the community board area, and to advise the council on ways of enhancing effectiveness

- » to ensure that decisions are made on the basis of sound information and rationale, and that they reflect the interests of the communities represented by the board
- » to ensure that the structures and systems used by the board, such as the agenda, support and encourage effective democratic decision-making.

### **Information gathering**

- » to actively seek good quality information and keep well informed of community priorities, broader issues and local initiatives
- » to attend specifically to information directed to board members, such as emails, submissions, deputations, and financial reports



## Working with the chief executive and staff

*"Effective governance and the performance of the kaunihera is heavily influenced by the quality of relationships formed, particularly within the governing body and with the kaunihera chief executive. To work, relationships must be based upon effective communication, mutual respect, and an understanding of the different roles that each party members plays."*

The chief executive employs all the kaimahi on behalf of the local authority and is responsible for providing elected members with advice. They oversee the day-to-day matters of your local authority, carry out the policies set by the kaunihera and enforce regulations.

The kaunihera is responsible for hiring and evaluating the chief executive. The chief executive is responsible for:

- » implementing the decisions of the kaunihera,
- » ensuring that all functions, duties and powers delegated to them are properly performed,
- » determining the means of achieving the outcomes sought,
- » ensuring the effective and efficient management of the activities of the local authority,
- » maintaining systems to enable effective planning and accurate reporting,
- » providing advice to councillors and members of community boards, and
- » appointing and terminating staff, including negotiating their terms of employment.

Kaimahi are accountable to the chief executive, elected members cannot direct them. Successful kaunihera have explicit protocols for guiding day-to-day interaction and demonstrate an appreciation that there are limits to the level of work that the administration can undertake.

Although senior kaimahi report directly to the chief executive, ultimately the kaunihera must ensure that kaimahi implement kaunihera policy and directives. Kaimahi are also responsible for providing 'free and frank' advice including advice that does not support a policy proposal advanced by some.

Every kaunihera, and specifically the chief executive, must operate as a good employer; one that provides for the fair and proper treatment of its employees. Through its performance agreement with the chief executive, and regular performance reviews, a kaunihera is effectively evaluating the performance of the whole organisation.

*See Chapter 11: Performance – how do we know if we are getting it right?*

## Code of Conduct

The Code of conduct sets out expectations around how members behave and the disclosure of information. A local authority must adopt a code and all members must comply with the it.

LGNZ provides a template Code of Conduct and a guide to its use at <https://www.lgnz.co.nz/our-work/our-policy-priorities/governance/>. Although having a code is compulsory, including for local boards, kaunihera should adapt this template to meet their own circumstances.

While a code of conduct guides the behaviour of elected members, there is no such 'code' that the public have signed in guiding their behaviour toward you. Attachment A contains guidance for members who find themselves experiencing abuse or harassment from members of the public.



## Frequently asked questions



### **Can I speak directly to council kaimahi?**

This varies from kaunihera to kaunihera depending on the policy adopted by the chief executive. Some kaunihera operate a policy whereby elected members are required to refer all inquiries to the chief executive or designated senior managers.

Such policies are usually justified by the need to make it clear who the kaimahi are accountable to. The nature of relationships will also vary according to the size of the kaunihera. Smaller kaunihera tend to have much greater interaction between elected members and officials than larger ones.

### **What do I do if I am unhappy with the behaviour of a council official?**

As an elected member you are responsible for how the kaunihera is perceived and complaints about officials may very well be made to you directly. Any complaints or concerns must be made directly to the chief executive. The chief executive employs the kaimahi and it is the chief executive who must investigate any issues to do with staff behaviour.

### **What do I do if I am concerned about the behaviour of a fellow elected member?**

Concerns about the behaviour of a fellow elected member should be referred directly to your mayor/koromatua, regional council chair, or chair of your local or community board. Depending on the nature of your concern you should check the council's Code of Conduct, which sets out desired behaviours and includes some sanctions that can be applied when an elected member contravenes the Code.

## Want to know more?

LGNZ's Guide for Mayors/Koromatua for more information on managing chief executives available at <https://www.lgnz.co.nz/our-work/our-policy-priorities/governance/>

OAG (2002). Report of the Controller and Auditor-General: Managing relationships between a local authority's elected members and its chief executive, available at <https://oag.parliament.nz/2002/chief-execs/docs/chief-execs.pdf/view>

Colin Copus (2021) A manifesto for council, published by the Local Government Information Unit, available at <https://lgiu.org/publication/a-manifesto-for-councillors/>





3

# Wāhanga **THREE**

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**Your rights and obligations - keeping it legal and legit >>**

**A feature of our system is its focus on accountability and transparency, building Aotearoa's reputation as having one of the least corrupt systems of government in the world. You have a responsibility in upholding this.**

## **Individual obligations as an elected member**

### **Conflicts of interest**

Elected members must disclose conflicts of interest and a local authority must keep a register of the pecuniary interests of their members, including community and local board members.

A conflict of interest is something of a personal or private nature that others could believe will influence your decision making. A pecuniary interest is of a financial nature.

The Local Authorities (Members' Interests) Act 1968 (LAMIA) provides rules about members discussing or voting on matters in which they have a pecuniary interest and about contracts between members and the kaunihera. It has two main rules, outlined below. Both have a complex series of subsidiary rules about their scope and exceptions.

LAMIA does not define when a person is 'concerned or interested' or when they are interested 'directly or indirectly' in a decision. However, it does set out two situations where a person is deemed to be meeting these criteria. These are broadly where:

- » a person's spouse or partner is 'concerned or interested' in the contract or where they have a pecuniary interest in the decision; or
- » a person or their spouse or partner is involved in a company that is 'concerned or interested' in the contract or where the company has a pecuniary interest in the decision.

### **The contracting rule**

A councillor is disqualified from office if he or she is 'concerned or interested' in contracts with their council if the total payments made, or to be made, by or on behalf of the council exceed \$25,000 (incl. GST) in any financial year. The limit relates to the value of all payments made for all contracts in which you are interested during the financial year. It does not apply separately to each contract, nor is it just the amount of profit expected or the portion of payments to be personally received.

The Auditor-General can give prior approval, and in limited cases, retrospective approval for contracts that would otherwise disqualify you. It is an offence under the LAMIA for a person to act as a member of a kaunihera (or committee of that kaunihera) while disqualified.

### **The participation rule**

This rule relates to the situation where an elected member must consider whether they have a pecuniary interest in a decision and if so whether they should participate in discussion on that decision and vote. The Act does not define pecuniary interest, however, the OAG uses the following test:

*"whether, if the matter were dealt with in a particular way, discussing or voting on that matter could reasonably give rise to an expectation of a gain or loss of money for the member concerned. (OAG, 2001)"*

In deciding whether you have a pecuniary interest you should consider the following factors:

- » What is the nature of the decision being made?
- » Do I have a financial interest in that decision – do I have a reasonable expectation of gain or loss of money by making that decision?
- » Is my financial interest one that is in common with the public?
- » Do any of the exceptions in the LAMIA apply to me?
- » Could I apply to the Auditor-General for approval to participate?

You may seek assistance from others to determine if you can discuss or vote, but it is not the responsibility of the chair, chief executive, or the OAG to decide. Ultimately you must exercise your own judgment. If you are uncertain, you may wish to seek legal advice or adopt the least-risk approach which is for you not to participate in discussions or vote on the decision.

If you do have a pecuniary interest, you must declare this to the meeting and not participate in the A feature of our system is its focus on accountability and transparency, building Aotearoa's reputation as having one of the least corrupt systems of government in the world. You have a responsibility in upholding this.

### **Non-pecuniary conflicts of interest**

There are also legal rules about conflicts of interest more generally which apply to non-pecuniary conflicts of interest and include the common law rule about bias. To determine if bias exists, consider this question: is there a real danger of bias on the part of the member, in the sense that they might unfairly favour or disfavour the case under consideration?

*"The question relates to both actual, and perceived bias. Whether or not you believe you are free from biased is irrelevant. Your focus should be on the nature of the conflicting interest or relationship, and the risk it could pose for the decision-making process."*

The most common risks of non-pecuniary bias are where:

- » your statements or conduct indicate that you have predetermined the decision before hearing all relevant information, or
- » you have a close relationship or involvement with an individual or organisation affected by the decision.

### **Seeking exemption from the Auditor-General**

If you have a financial conflict of interest that is covered by section 6 of the LAMIA, it is possible to apply to the Auditor-General for approval to participate. They can approve participation in two ways.

#### **// 1**

Section 6(3)(f) allows the Auditor-General to grant an exemption if, in her opinion, a councillor's interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence the councillor when voting or taking part in the discussion.

#### **// 2**

Section 6(4) allows the Auditor-General to grant a declaration enabling a councillor to participate if she is satisfied that:

- // a** the application of the rule would impede the transaction of business by the council; or
- // b** it would be in the interests of the electors or inhabitants of the district/region that the rule should not apply.

### **Pecuniary Interests Register**

A local authority must keep a register of the pecuniary interests of their members, including community and local board members. The purpose is to provide transparency and strengthen public trust and confidence in local government processes and decision-making.

The register 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 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 its main activities, if the member is a member of the organisation, the organisation's governing body, 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 2o) or a retirement scheme whose membership is open to the public.

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

### **Disqualification and resignation**

An individual cannot remain an elected member if they:

- » cease to be, or are disqualified from registration as an elector,
- » are convicted of an offence punishable by a term of imprisonment of two years or more (disqualification does not take effect until appeal remedies are exhausted, during which time the member concerned is deemed to have leave of absence),
- » have a financial interest in a contract with their local authority (disqualifying contract) where the total payments made or to be made, by or on behalf of the local authority exceed \$25,000 in any financial year, unless the Office of the Auditor General (OAG) has approved that contract, or

- » resign. A resignation must be made in writing to the chief executive of the kaunihera and takes effect on the day it is delivered. Post-dated resignations are not valid or acceptable.

### **Disqualifying Contracts**

Under the Local Authorities (Members' Interests) Act 1968 (LAMIA), a person cannot be elected or appointed to a local authority if they have a disqualifying contract in the financial year the election or appointment takes place.

However, certain types of contracts or conditions will not disqualify a candidate. They are if:

- » before the election or appointment, the amount to be paid by the kaunihera has been fixed (subject to amendments and additions as allowed for in the contract), whether or not it has been paid; and regardless of whether the contract obligations have been performed.
- » although the candidate's obligations under the contract have not been performed before the election or appointment, either the contract's duration does not exceed 12 months or the contract is relinquished (with the council's consent) within a month of the candidate becoming a member and before he or she starts to act as a member.

The Auditor-General cannot give prior or retrospective approval for contracts between a candidate and a council.

## **Shared obligations as a member of council**

### **Council membership and terms**

Every city and district kaunihera must have at least six and not more than 30 elected members (including the mayor/koromatua). For regional kaunihera the minimum is six and the maximum 14, including the chair. Community boards must have at least four and not more than 12 members, including both elected and appointed members. At least four members of a community board must be elected and appointed members must be fewer than half the total number. Local boards must have between five and 12 elected members.

Elected members are elected for a term of three years unless they are elected at a by-election. There are no limitations on the number of terms an elected member may serve and nor are there any recall provisions.

### **Filling vacancies**

Vacancies can arise between elections in various ways which impacts the way the vacancy is then filled.

### **Extraordinary vacancies**

An extraordinary vacancy exists when an elected member:

- » Dies.
- » Becomes 'mentally disordered' in the terms of the Mental Health (Compulsory Assessment and Treatment) Act 1992.
- » Is disqualified or ousted from office by failing to declare a pecuniary interest.
- » Is absent without leave from four consecutive ordinary meetings of the authority.
- » Suffers loss of legal capacity.
- » Resigns.

### **Mayoral vacancies**

The procedure for filling a mayoral vacancy depends on when the vacancy occurs. If it is more than one year before the next triennial election, the successor must be publicly elected. If less than one year before the next election, the successor is elected by a special meeting of the territorial authority.

If an existing councillor is elected mayor/koromatua, they cannot continue to hold office as an elected member. At any election to fill a vacant mayoral office, an election must also be held to fill every other extraordinary vacancy.

### **Councillor vacancies**

Where an extraordinary vacancy occurs in the office of regional, district or city councillor, the kaunihera must determine what action to take at its next ordinary meeting or, if that is not possible, the following one. The three possible options are:

#### **// 1**

Fill the vacancy by holding a by-election (any other vacancy must be filled at the same time).

#### **// 2**

Leave the office vacant if it is less than six months to the next triennial election, provided this does not leave a ward or constituency without any representation.

#### **// 3**

Fill the vacancy by appointment.

### **Community board vacancies**

Extraordinary vacancies on community boards are filled by an election unless they occur within 12 months of a triennial election, in which case the community board may resolve to fill the vacancy by appointment or leave it vacant.

## Changing council membership, boundaries and voting systems

The Local Electoral Act 2001 sets out requirements and procedures for kaunihera to review their representation arrangements and electoral systems.

### Reviewing representation

All territorial authorities must review their representation at least once every six years. This includes:

#### // 1

whether to have Māori wards or constituencies,

#### // 2

whether or not to have wards,

#### // 3

whether or not to have a mix of councillors elected by wards and elected at large,

#### // 4

the number of councillors to be elected to each ward,

#### // 5

the boundaries of wards, and

#### // 6

whether or not there should be communities and community boards.

With the exception of item 1 (which must be made two years before an election), decisions on the representation review are made by resolution of the full kaunihera and notified to the public within 14 days after the resolution, but no later than 8 September in the year before the election year. The public notice must explain the reasons for any change and allow a period of at least one month for submissions.

Any person or organisation can make a submission. The kaunihera must consider them and may amend its proposals before giving public notice of the proposals, including any amendments, and state the reasons for any amendments and any rejection of submissions.

Any dissatisfied submitter can appeal against the decision and any person can counter-object where proposals have been modified. Appeals and counter-objections are heard by the Local Government Commission, whose decision is final, although subject to judicial review. If no objections or appeals are lodged the kaunihera's proposal will apply to the next election.

### Change of electoral system: First Past the Post or Single Transferable Vote

The legislation gives councils a choice of two electoral systems: First Past the Post (FPP) or Single Transferable Vote (STV).

Kaunihera may resolve to change the system used for the next two triennial elections. This decision must be taken no later than 12 September in the year, two years before an election. Communities can also require kaunihera to hold a binding poll on the question of electoral system, including overturning a kaunihera decision.

*LGNZ believes the STV system can contribute to a stronger and more inclusive local democracy by:*

- » *providing fairer and more effective representation for voters,*
- » *enhancing the representativeness of local authorities by way of proportional representation for communities of interest and, as a result, encouraging greater community engagement and participation,*
- » *reducing the problem of 'vote-splitting', which occurs under FPP when two popular high-profile candidates may split the vote to allow a third less popular candidate to come through the middle, and*
- » *revealing voters' actual true preferences and voiding any need for 'tactical voting'.*

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

Under the LGOIMA, official information must be made available unless there is a valid reason for withholding it. Best practice methods lean toward providing the requested information to assure transparency, unless there is a valid reason of privacy. However, requested information may be withheld under some conditions. These are specified in sections 6, 7, 8 and 17 of LGOIMA, and include:

- » avoiding prejudicing the maintenance of the law,
- » protecting the health and safety of any person,
- » protecting the privacy of natural persons (see the Privacy Act),
- » protecting information involving a trade secret, or commercially sensitive information (including relevant negotiations) or where disclosure would offend tikanga Māori or reveal the location of waahi tapu (in the case of specified statutory actions under the Resource Management Act),
- » protecting information which could be prejudicial or damaging to the public interest,
- » avoiding prejudice to measures that protect public health or safety, and that prevent or mitigate material loss to the public,
- » maintaining the effective conduct of public affairs by way of free and frank discussion among members and / or officers of the council, and by protecting them from improper pressure or harassment,
- » maintaining legal professional privilege,
- » preventing disclosure or use of official information for improper gain or advantage, and
- » the request is frivolous or vexatious.

For some of the withholding grounds, there is also an additional public interest balancing test. The kaunihera must also consider whether withholding information outweighs other considerations that make it in the public interest for the information to be released.

Requests to a council for information may be made in any form and communicated by any means. A local authority can ask for written clarification of oral requests.

Elected members must work within the rules adopted by each kaunihera.

## Protected Disclosures Act 2000

The Protected Disclosures (Protection of Whistleblowers) Act 2022 is designed to facilitate the disclosure and investigation of serious wrongdoing in the workplace and provide protection for people who report concerns.

A protected disclosure occurs when a 'discloser' believes on reasonable grounds that there is, or has been, 'serious wrongdoing' in or by their organisation, and they disclose in accordance with the Act (and disclosure occurs in 'good faith').

A discloser is a person who has an employment-type relationship with the organisation they are disclosing about. This includes current and former employees, homeworkers, secondees, contractors, volunteers and board members.

A serious wrongdoing includes:

- » an offence,
- » a serious risk to public health or safety, 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 resources, and
- » oppressive, unlawfully discriminatory, or grossly negligent behaviour, or 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.

Local government must have an appropriate internal procedure that sets out a process to follow in these situations, including identifying who in the organisation a disclosure may be made to, describing the protections available under the Act and how the organisation will provide practical assistance and advice to disclosers.

A discloser may report serious misconduct to an appropriate authority at any time, which includes the head of any public sector organisation and any officer of Parliament, such as the Ombudsman and Controller and Auditor-General.

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

The Health and Safety at Work Act 2015 aims to create a culture of health and safety in workplaces. Under the legislation the local authority as a whole is termed a 'Person Conducting a Business or Undertaking (PCBU)'. All involved in work, including elected members, have a duty of care.

Elected members are 'officers' under the Act and 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.

As officers, the key matters to be mindful of are being accountable, identifying and managing risks, getting workers involved and making health and safety part of the organisation's culture.

Kaunihera have wide discretion about how these matters might be applied. Some ideas are:

- » 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.
- » Having effective implementation of a fit-for-purpose health and safety management system.

Kaunihera need to have sufficient personnel with the right skill mix and support, and sufficient funding for effectively implementing and maintaining the system and its improvement programmes.

Maintaining the health and wellbeing of elected members is captured by the Act. See Attachment A for further information on what to do if you are an elected member experiencing abuse from the public.

## **Concerns and complaints to the Ombudsman**

An Ombudsman is an Officer of Parliament appointed by the Governor-General on the recommendation of Parliament. Their primary role is to independently investigate administrative acts and decisions of central and local government departments and organisations that affect someone in a personal capacity.

Anyone who has a complaint of that nature about a local authority may ask an Ombudsman to investigate. The Ombudsman's decision is provided in writing to both parties. If a complaint is sustained, the Ombudsman may recommend the local authority makes an appropriate remedy although recommendations are not binding.

Ombudsmen also investigate complaints made under LGOIMA. Recommendations made to the local authority under this Act will, in general, become binding unless the local authority resolves otherwise. However, any such resolution must be recorded in writing and be made within 20 working days of the date of the recommendation.

## Setting your salary

Responsibility for setting the remuneration of elected members sits with the Remuneration Authority (the Authority). It determines a remuneration pool for each kaunihera reflecting the size of their total governance role, rather than the number of councillors, aligned with the ranking of that kaunihera on the relevant size index. The index takes into account:

- » the size of the governance role of each kaunihera,
- » the average time required by an elected member on a kaunihera of a particular size, and
- » a general comparison with parliamentary salaries.

The size index for territorial authorities is based on:

- » population (source: Stats NZ estimated resident population),
- » total operating expenditure (source: Stats NZ local authority financial statistics),
- » total asset value (source: Stats NZ local authority financial statistics), and
- » socioeconomic deprivation index (source: University of Otago Socioeconomic Deprivation Indices).

The indexes for regional kaunihera and unitary authorities include additional factors to reflect the differences in their roles and responsibilities. Community board salaries are determined by population only. A separate determination exists for Auckland local board members because of the distinctive structure and responsibilities of these boards.

Each kaunihera and community board may draw on an additional small pool of funds to provide additional remuneration for those who take on extra responsibilities.

The total amount that can be allocated is capped at 1.5 times of a base councillor or community board salary.

In the two mid-term years the Authority will review remuneration levels however no base councillor remuneration will decrease as a result. The Authority will apply any changes automatically and elected members must accept their allocated remuneration. Meeting fees are not available.

Each kaunihera may allocate its own remuneration pool according to its own priorities and circumstances. Roles may include not just standard kaunihera roles but also other jobs either internally or representing the kaunihera on outside groups.

There are four requirements for kaunihera when considering its remuneration pool:

- » The whole pool must be utilised and remuneration protected from the pressure to ‘keep costs and rates down’.
- » A base remuneration for councillors who have no additional responsibilities must be set. This could be equal to or higher than the base amount set out by the Authority.
- » For any roles with additional remuneration, the kaunihera must have a formal vote to set out the positions of responsibility and the committee structure, decide who will be undertaking each role and decide the annual dollar value of remuneration attached to each role, in addition to the basic councillor remuneration.
- » Following its formal decision-making, the kaunihera will need to forward its adopted resolutions to the Authority for consideration for inclusion in the determination.

The Authority also determines rules for elected members’ expenses, such as travel.



## A guide to tax

Due to the unique nature of the relationship between you and kaunihera, your personal tax obligations can be complicated. Local Government New Zealand (LGNZ) has worked with PwC to create this guide to help you understand these obligations.

This guide is based on the law and Inland Revenue's policy as at August 2022. It should only be used for general assistance and is not regarded as providing definitive advice on your tax obligations as an elected member. If you have any queries about your tax position, please obtain professional advice or contact Inland Revenue.

Inland Revenue views the relationship between an elected member and a kaunihera as a 'statutory relationship of service' and not an employer/employee relationship. As such, you are not an employee of kaunihera for income tax purposes, rather your relationship with Council is more akin to that of a self-employed person.

### Schedular payment

Remuneration received from your kaunihera for work or services is a form of schedular payment and is subject to withholding tax. The standard rate is 33% although there are a number of exemptions and exceptions that may lead to a different rate applying. Payments for travel time are also subject to withholding tax.

Figure 3: Accurately completed extract from IR330C

**2. Your tax rate**

You must complete a separate *Tax rate notification for contractors (IR330C)* for each source of contracting income.

Refer to the flowchart on page 2 and enter your tax rate to one decimal point here.    %

Refer to the table on page 3 and enter your schedular payment activity number here.

Your tax code will always be:

### Inapplicability of company exemption

A common exemption from withholding tax is where services are provided by a company. This does not apply to elected members, even if you request that your remuneration be invoiced by, and directed to, a company that you may own or work for. This is because you have been elected, and provide services, in your personal capacity.

### Tax code declaration form (IR330C)

You must complete and provide kaunihera with an IR330C form for your remuneration and for any payments for travel time. When completing the form, you must use 'WT' as your tax code and enter activity number 22 for 'Public office holder (fees)', see figure 3.

Once kaunihera receives your IR330C, it will deduct withholding tax at a rate that you choose for your remuneration for work or services. The standard rate for this type of schedular payment is 33% however you can nominate your own tax rate for your situation as long as the nominated rate is not lower than 10%.

If kaunihera does not hold a valid IR330C for you at the time of payment, withholding tax will be deducted at 45%.

## Certificates of exemption and tailored tax rate certificate

If you have little or no other income, significant expenses or available tax losses, you may be able to obtain either a certificate of exemption or a tailored tax rate from Inland Revenue.

If kaunihera holds a copy of either of these on file at the time of payment, this will determine the level of tax to be paid. As such, if you obtain such a certificate, you should provide a copy to kaunihera as soon as possible. It is your responsibility to establish your entitlement to this and to obtain such a certificate from Inland Revenue. It is not a job for the kaunihera.

## Individual tax returns

Your remuneration and any reimbursements paid by kaunihera to you as an elected member must be declared as taxable income on your personal income tax return for each year ended 31 March. Any tax that kaunihera has withheld from your remuneration during the year should also be shown in the tax return and this will be credited against your liability when you file your return. You can also claim deductions for any costs incurred, see more below.

Depending on the level of your total taxable income, you may have further tax to pay, or be entitled to a tax refund from Inland Revenue. Table 4 sets out the income tax rates for individuals for the 2022/23 income year.

Table 4: Tax rates

For each dollar of income	Tax rate
Up to \$14,000	10.5%
Over \$14,000 and up to \$48,000	17.5%
Over \$48,000 and up to \$70,000	30%
Over \$70,000 and up to \$180,000	33%
Remaining income over \$180,000	39%

## Provisional tax

If you are a provisional taxpayer you should consider how your remuneration affects your provisional tax calculations.

## Reimbursements and allowances

Reimbursements that kaunihera pays to you for expenditure that you incur while on kaunihera-related business, or any allowances received (other than travel time allowances) are not subject to withholding tax.

A travel time allowance is only paid when you undertake kaunihera-related travel. These are considered a payment for the work or services that you perform and, as such, are subject to withholding tax.

## Vehicle expenses and reimbursements

Vehicle expenses can be deducted to the extent that you use your vehicle for kaunihera-related business. Travel from home-to-work (i.e. the place where the meeting is held) is not deductible unless your home is the base of your work as an elected member.

The deduction you are allowed for the kaunihera-related use of your vehicle is calculated using this formula:

$$\text{Deduction} = \text{actual expenditure incurred} \times \text{business proportion}$$

The business proportion is the kaunihera-related expenditure and this can be determined by using a number of methods, for example using the number of kilometres travelled for kaunihera business divided by total kilometres travelled.

Inland Revenue issued the Operational Statement 19/04a which is relevant to claiming kilometre rates as an elected official.<sup>3</sup>

<sup>3</sup>Operational Statement 19/04b Commissioner's statement on using a kilometre rate for employee reimbursement of a motor vehicle relates to employee reimbursement only and elected members are explicitly excluded from using this statement. Elected members should use OS 19/04a.



If you don't know the actual expenditure incurred (i.e. do not have all receipts etc) you can elect to use Inland Revenue's standard kilometre rates. These are typically reviewed annually (in May). For the 2021/22 year, the kilometre rates are:

Business portion of first 14,000 kms of travel \$0.83 per km

Business portion of any travel over 14,000 kms: \$0.31 for petrol or diesel vehicles, \$0.18 for hybrid vehicles and \$0.10 for electric vehicles per km.

For subsequent years, we recommend checking the rates on Inland Revenue's website – using the search term "claiming vehicle expenses".

Alternate methods are available if you keep a logbook to record all private and non-private use.

### Home-use expenses and reimbursements

Home-use expenses can be deducted to the extent that you use your home for kaunihera business. Examples of such expenses include heating, lighting, rates, interest on mortgage payments, rent, and house and contents insurance.

If you have a room set aside in your home as an office, then your deductions could be calculated using this formula:

$$\text{Deduction} = (\text{area of room} / \text{area of house}) \times \text{deductible expense}$$

### Square metre rate option:

You can also use Inland Revenue's square metre rate option to calculate your home office expense. This method uses a square metre rate that is determined by Inland Revenue based on the average cost of utilities per square metre of housing, but excludes mortgage interest, rates and rent. You will be able to claim a portion of the mortgage interest, rates and rental costs that you paid during the year based on the percentage of the floor area being used for kaunihera related business purposes.

This is calculated by using the formula below:

$$\text{Deduction} = (a \times b) + (c \times d)$$

where:

- // a total amount of actual mortgage interest, rates and rent you have paid during the year
- // b the business proportion, determined by dividing the business floor area in square metres by the total floor area of the building (e.g. 10m<sup>2</sup> office / 100m<sup>2</sup> buildings = 0.10)
- // c total square metres of any separately identifiable parts of your home being used primarily for business
- // d the rate per square metre that is published by Inland Revenue, based on the average cost of utilities per square metre of housing, but excluding mortgage interest, rates or rent. For the 2021/2022 year this is \$47.85 per square metre but this should be checked annually.

**Note:** it is not mandatory to apply this method.

If you do not have a separate office, and you use any room in your house for kaunihera business for part of a day, then your deductions could be calculated using this formula:

$$\text{Deduction} = (\text{area of room} / \text{area of house}) \times (\% \text{ of time used for kaunihera-related business} \times \text{deductible expense})$$

### Telephone and internet expenses

If you have a separate telephone account for your kaunihera-related calls this will be 100% deductible. If you use a personal phone for business calls, Inland Revenue has historically accepted a deduction of at least 50% of the cost of your telephone line-rental, plus the cost of any business calls.

You may even be allowed a deduction of more than 50% if a higher percentage of actual kaunihera-related use of the telephone can be evidenced.

### Computer expenses

You can claim a portion of depreciation on your computer and consumables expenses based on the proportion of kaunihera-related use to total use.

## Election expenses

You are not permitted to deduct election expenses. This applies whether you are an incumbent member seeking re-election or seeking election to the council for the first time. These expenses are considered to be of a private or domestic nature.

## Miscellaneous expenses

Other miscellaneous expenses may be deducted if incurred on kaunihera-related business, so long as you keep records of your expenses along with receipts.

## Childcare allowance

You can claim a childcare allowance from kaunihera provided it meets certain criteria. This payment is a reimbursement of expenditure, rather than a payment for work or services provided by you; there is no obligation for kaunihera to withhold tax on the reimbursement.

However, you should include the reimbursement as income in your tax return. A corresponding deduction for childcare costs incurred will **not** be allowed as childcare costs are private in nature.

## ICT allowance

Kaunihera may provide you an annual allowance for using your own equipment to communicate with local authorities or ratepayers. The allowance may cover equipment costs such as:

- » the use of a personal computer, tablet or a laptop
- » docking station
- » multi-functional or other printer
- » other ICT consumables (e.g. paper, ink cartridges)

This payment is a reimbursement of expenditure, rather than a payment for work or services; there is no obligation for kaunihera to withhold tax on the reimbursement. However, you should include the reimbursement as income in your tax return. A corresponding deduction (or depreciation expense) for any equipment costs incurred by you will be allowed based on the proportion of kaunihera-related use to total use.

## Other taxes

### Fringe Benefit Tax

Any non-cash benefits that you receive from kaunihera, or as a result of your position as an elected member, will be subject to Fringe Benefit Tax (FBT). If you receive any non-cash benefits, such as gifts (for example, tickets to a local concert at a non-kaunihera venue), you are required to inform kaunihera. The onus is on kaunihera to return FBT on such non-cash benefits.

### ACC obligations

ACC levies are not paid by kaunihera and are not included in the PAYE withholding tax deducted from your remuneration. You are responsible for paying your own ACC levies. The amount of your levy is based on your liable earnings and the relevant industrial classification code.

Advice from ACC's National Office suggests that self-employed people, such as elected members, should be classified by the nature of their work rather than the nature of their industry. The appropriate code for elected members is Business Management Services - CU 78550. However, this code only applies if being an elected member is a person's only or primary form of income.

People on multiple sources of income are charged at the highest ACC rate applying to the different activities they undertake, unless the sources of income are less than five per cent of a person's total income. This factor tends to be the main explanation for differences in what elected members are paying in ACC levies.

For more information, visit the Accident Compensation Corporation (ACC) website ([www.acc.co.nz](http://www.acc.co.nz)).

### Goods and Services Tax

For GST purposes, an elected member is not considered to be undertaking a taxable activity. You cannot register for GST as an elected member nor will your remuneration include GST. You should not issue a tax invoice to kaunihera for the services that you provide as an elected member and you cannot claim GST in respect of any council-related expenditure that you incur. This applies regardless of whether you are registered for GST for other activities.

## Frequently asked questions

### **If I ask kaunihera to redirect my remuneration to my company, do they still need to deduct withholding tax?**

Yes.

### **If I am registered for GST for other purposes, can I invoice kaunihera through that entity and charge GST?**

No. This is because your engagement as an elected member is specifically excluded from the taxable activity that you are GST-registered for. Rules that became effective from 30 June 2014 covering situations where there is a fiduciary obligation to on pay such fees, do not apply to an elected member's remuneration.

### **Can my business claim GST input tax on the expenses that I incur as an elected member?**

No - for the same reasons as outlined above.

### **If I am enrolled for KiwiSaver, does kaunihera have any KiwiSaver obligations (i.e. to make employer contributions etc)?**

No, as you are not an 'employee' for KiwiSaver purposes.

### **If I am part of a delegation that is sent overseas for kaunihera-business, will I be reimbursed for my costs (i.e. flights, accommodation, food etc)?**

In most instances yes, provided that you are authorised to incur such expenditure and retain sufficient records (receipts etc.) to substantiate the expenses.

### **If my spouse joins me, can I also be reimbursed for the costs that my spouse incurs?**

As a general position, no, however this is largely dependent on each individual kaunihera's policy.

### **What income should I declare in my income tax return?**

Payment for all work or services, including any reimbursement of expenses, irrespective of whether withholding tax has been withheld or not. You are able to claim expenses incurred in earning this income and a credit for withholding tax deducted at source.

## **Want to know more?**

Further guidance on conflicts of interest is available in Guidance for members of local authorities about the law on conflicts of interest, issued by the OAG and available from <https://oag.parliament.nz/reports/docs/conflicts-local-authorities.pdf/view>

Putting integrity at the core of how public organisations operate, (2022) available from <https://oag.parliament.nz/good-practice/integrity/integrity-framework>

Local Government Commission, Representation review guidelines, see [www.lgc.govt.nz](http://www.lgc.govt.nz)

Controller and Auditor-General (2009). Investigation into conflicts of interest of four councillors at Environment Canterbury. Wellington: Office of the Auditor-General [www.oag.govt.nz](http://www.oag.govt.nz)

Information on remuneration can be sourced from the Remuneration Authority's website at [www.remauthority.govt.nz](http://www.remauthority.govt.nz)



# 4

# Wāhanga FOUR

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**Engagement and participation – when to listen,  
when to share and how to empower others >>**

**Meaningful engagement with people and communities is the key to effective local government; it builds community trust in public institutions, improves the quality of decision-making, and is required by legislation.**

Engagement and participation are critical elements of the LGA 2002, found not only in the purpose of local government but also in the principles set out to guide the way kaunihera work.

## **Consultation**

Consultation involves seeking input; it is a two-way exchange of information. The primary purpose is to enable a kaunihera to make better decisions by exchanging information with its community.

When consultation is run effectively, it will increase the community's sense of ownership around decisions and good-will toward the kaunihera. It will also ensure the kaunihera is better informed and better able to implement its decisions without challenge.

The results of a consultation do not bind a local authority. They are a source of information that is to be taken into account during decision-making. Kaunihera do not need to consider themselves bound by the numbers of submissions for or against a particular issue. However, they must consider each submission with an open mind.

## **Legislative requirements**

Local government legislation places considerable importance on the quality of the relationship between kaunihera and their communities. This is stated clearly in section 78 LGA 2002:

*“A local authority must, in the course of its decision-making process in relation to a matter, give consideration to the views and preferences of persons likely to be affected by, or to have an interest in, the matter.”*

When seeking information, a local authority needs to take into account the principles of consultation outlined in section 82, LGA 2002 although they can exercise their judgement as to the nature and significance of the decision, whether they are already aware of community views and the costs and benefits of undertaking consultation on a particular decision.

In fulfilling these requirements local authorities must be clear on what level of consultation should be undertaken and on what issues. Guidance is provided by your kaunihera's Significance and Engagement policy.

## **Do people really care?**

Research undertaken by Demos, a UK based thinktank, found that people actually do want to be engaged with, but often don't feel they can. According to their poll, a clear majority of the public (72 per cent) want to be involved in council decision-making, with 65 per cent believing it is important to be involved in the design of these policies and operations.

## Principles of consultation (s.82)

- // a** that persons who will or may be affected by, or have an interest in, the decision or matter should be provided by the local authority with reasonable access to relevant information in a manner and format that is appropriate to the preferences and needs of those persons:
- // b** that persons who will or may be affected by, or have an interest in, the decision or matter should be encouraged by the local authority to present their views to the local authority:
- // c** that persons who are invited or encouraged to present their views to the local authority should be given clear information by the local authority concerning the purpose of the consultation and the scope of the decisions to be taken following the consideration of views presented:
- // d** that persons who wish to have their views on the decision or matter considered by the local authority should be provided by the local authority with a reasonable opportunity to present those views to the local authority in a manner and format that is appropriate to the preferences and needs of those persons:
- // e** that the views presented to the local authority should be received by the local authority with an open mind and should be given by the local authority, in making a decision, due consideration:
- // f** that persons who present views to the local authority should have access to a clear record or description of relevant decisions made by the local authority and explanatory material relating to the decisions, which may include, for example, reports relating to the matter that were considered before the decisions were made.

## Significance and engagement policy

Local authorities must have a Significance and Engagement policy (s.76AA, LGA 2002). It creates a framework for important or significant matters that are subject to more substantive levels of engagement and consultation when compared to matters of minor concern or interest to communities.

The policy must include:

- » criteria or procedures used to assess what matters are significant or not,
- » the form of consultation to be undertaken in light of community preferences about engagement on specific matters,
- » how the local authority will engage with communities on other matters, and
- » a description of any assets considered by the local authority to be strategic assets.

One caveat is that when determining the level of engagement required, kaunihera take into account their existing knowledge of community preferences and views if, for example, consultation on the same issue had recently been held.



## Making engagement accessible

Kaunihera must give consideration to 'reasonable access' in terms of their information, facilities and hui to support all people to fully contribute. This includes disabled communities, people for whom English is a second language, non-English speakers and people who are less confident using digital tools or don't have the same access to the technology often used to distribute information.

*"The responsibility for overcoming participation barriers lie with kaunihera and not with the individual who experiences the barrier to access."*

Improving accessibility is vital if Aotearoa is to support disabled people to achieve fundamental human rights. Government is introducing a new framework that takes a progressive approach to identifying, preventing, and removing barriers to participation for disabled people, tāngata whaikaha Māori, and others with accessibility needs.

The Ministry of Social Development has comprehensive information about making Aotearoa accessible on its website <https://msd.govt.nz/about-msd-and-our-work/work-programmes/accessibility/index.html>

### Special consultative procedure (s.83)

For matters of most significance the LGA 2002 sets out a consultative process called the special consultative procedure (SCP). This also applies to certain things, such as the adoption of long-term plans and bylaws. The key parts of the SCP are a requirement to prepare and publish a statement of proposal and potentially, a summary of the information in the proposal. The following must be publicly available:

- » The statement of proposal, setting out the issue or decision to be made and the local authority's proposed decision or policy.
- » A description of how the local authority will provide persons interested in the proposal with an opportunity to present their views.
- » Details of the period for presenting views on the proposal (not less than one month from the date it is published).

Kaunihera must provide an opportunity for people to present their views to the local authority in a way that enables spoken (or New Zealand sign language) interaction between the person and the local authority representative, including audio or audiovisual link.

Kaunihera can request advice from officials or any other persons before making any decisions on submissions received. As part of the SCP, kaunihera kaimahi will normally prepare a summary of submissions and often an analysis of the financial and non-financial implications of submissions.

## Engaging with Māori

Strong relationships with iwi, hapū and Māori organisations are critical for ensuring community wellbeing and that local authorities can make informed decisions in relation to Māori values and interests.

Section 77 of the LGA 2002 states that when making significant decisions in relation to land or a body of water, local authorities must take into account the relationship of Māori and their culture and traditions with their ancestral land, water, sites, waahi tapu, valued flora and fauna, and other taonga.

The way in which kaunihera engage and consult with Māori needs to be appropriate for each particular circumstance and needs to:

- » recognise the mana and authority of iwi and hapū as the traditional or indigenous governors and owners of the rohe in which kaunihera are based,
- » recognise the status of Māori as guaranteed under Article 2 of Te Tiriti o Waitangi, and
- » acknowledge the status and rights of Māori, as guaranteed under Article 3 of Te Tiriti of Waitangi, to participate as citizens, alongside all other citizens, in the public life of their communities.

## Principles for engaging with Māori

LGNZ's Nga Matakokiri committee, which consisted of Maori elected members and operated between 1996 and 2003, developed the following principles to facilitate better engagement between councils and Iwi/Maori.

- » Consultation is most effective when the parties consulting understand, respect and trust each other.
- » Kaunihera should work with Māori in good faith and in the spirit of cooperation. Kaunihera should communicate openly, transparently and honestly.
- » Understanding is more than just listening and hearing what is being said; it is acknowledging where the other person is coming from, recognising their culture and history that has brought them to this point, and being prepared to accept them for who and where they are.
- » Kaunihera should recognise and acknowledge the benefit of working with Māori and be receptive to the vision and expertise that Māori offer.
- » For kaunihera to understand tangata whenua, regular contact and exchanges are needed, not solely in the council chamber, but at hui and other marae-based activity.
- » Adequate time needs to be set aside to allow concepts and philosophies to be tested out with all tangata whenua, not just those who are representing iwi at the meeting, and representatives will need to feel comfortable that they are bringing to the consultative process what all of their members are feeling.
- » Māori decision-making is usually by consensus rather than by majority; sometimes this will involve compromise.
- » Kaunihera should endeavour to prepare and issue discussion documents before notifying their draft plans.
- » Kaunihera should talk with tangata whenua about appropriate kawa and tikanga for their areas.

The LGA 2002 reinforces these principles and includes a requirement that councils invest in building the capacity of Māori to participate.

## Māori participation arrangements and relationship agreements

Over time kaunihera and Māori organisations have developed a range of mechanisms to both recognise the special interests of Māori and mana whenua, and to ensure participation in local government decision-making.

### Relationship agreements

Memoranda of understanding (MoU), memoranda of partnership, charters and protocols are types of relationship agreements that can be used to guide a relationship between a local authority and a Māori group where commitments are agreed and documented.

The nature and purpose of such arrangements can vary from simply establishing a joint intent to work together to addressing resource management issues. In most cases, such agreements include a commitment to regular meetings for both parties to provide the necessary resources to work together, along with various kaunihera structures and tools to help implement the relationship.

### Representative and advisory structures

Some local authorities provide for Māori representation on committees, some have formal Māori constituencies. In other cases, local authorities have in place Māori advisory committees or structures. Committees can consist of both elected and appointed members.

### Membership on standing committees

Many kaunihera have standing committees with Māori representation. Māori members can be full members with voting rights or be observers who generally have the right to speak but not vote.

### Māori advisory entities

A Māori standing committee is a formal committee, set up to represent Māori interests within a district or region. Committees reports to kaunihera and can have delegated power. Many provide input into kaunihera decision-making processes.

## Formal agreements

Formal agreements tend to move beyond relationship agreements by setting out firmer commitments relating to specific statutory processes and decision-making. One example is the joint management agreements provided for under section 36B of the RMA.

## Joint entities

Treaty settlements have driven the establishment of new entities that provide for local authorities and Māori to work together in statutory and decision-making processes, often in relation to a particular area or natural resource. Many of these entities provide for a 'co-governance' type approach where local authorities and Māori representatives work together on the entity, although that is not always the case.

## Fora and hui

Many kaunihera use fora and hui for the purpose of open discussion and to provide regular updates to Māori about kaunihera projects and activities, with an opportunity to provide feedback. Unlike an official committee, fora and hui are open to anyone who wishes to attend and discuss matters.

## Mana Whakahono ā Rohe

Mana Whakahono ā Rohe provide an opportunity for tangata whenua and local authorities to work together on environmental issues under the Resource Management Act 1991. A Mana Whakahono ā Rohe is a binding statutory arrangement that provides for a structured relationship under the RMA between one or more iwi authorities or hapū and one or more local authorities. The intent is to improve working relationships and to enhance Māori participation in RMA resource management and decision-making processes.





## Engaging with diverse communities

Our towns and districts are becoming increasingly diverse, a situation that is forcing kaunihera to reconsider and review the ways in which they consult and engage, including adopting approaches that are designed to enable engagement with specific ethnic and cultural sectors. Similar challenges exist with regard to young people. Many local authorities have youth councils that can help engage with young people in your district or region.

In its report *Our Multicultural Future: New Zealanders talk about multiculturalism*, Multicultural New Zealand noted a view that community leaders talked the talk of a multicultural society but didn't walk it; noting that local government needed to do more to support, engage with and involve minority ethnic communities and to actively promote and foster cultural diversity and equal opportunities.

*"Newly elected kaunihera should ensure that their organisation's approach to engagement and consultation is consistent with their values and preferences. If you believe that a more innovative approach should be taken, raise the matter with your chief executive and possibly seek an amendment to your Significance and Engagement Policy."*

## The Paris Citizens' Assembly – democratising local government

Faced with what the Mayor/koromatua of Paris' Commissioner for Civic Participation described as "a very tense situation with a record number of non-voters and a great distrust in society towards the institutions" the city, at the end of 2021, established a standing citizens' assembly to give citizens the opportunity to participate in shaping policy.

The citizens' assembly will consist of 100 randomly selected residents designed to reflect the Parisian population according to gender, age, place of residence and education. The aim of the assembly is to get Parisians to really participate in political decision-making in the capital. The new body is meeting monthly.

In 2017 the Scottish Government introduced the '1% framework': an ambition that at least 1% of local government budgets be determined through a Participatory Budget process by the end of 2021.



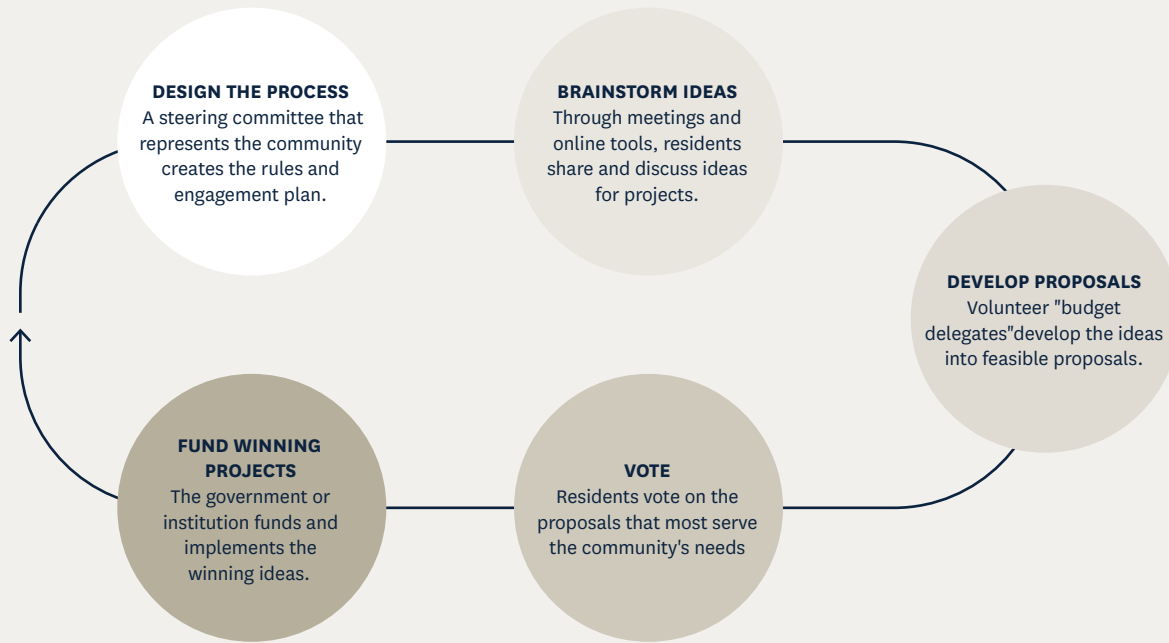
## Tools and techniques

At a minimum, the LGA 2002 requires kaunihera to seek community views and consult with them when making decisions. It also requires kaunihera to enable democratic participation by communities, where people are actually making the decision. Examples of this are set out below in table 5.

Table 5: Examples of enabling participation

// TITLE	// DESCRIPTION	// USE
Citizen Committees	<p>Also known as public advisory or liaison committees, they consist of a group of representatives from a particular community appointed to provide comments and advice on an issue.</p> <p>Generally, relevant community groups and agencies are invited to nominate as members of the committee, although people with specific skills may also be asked. Members meet regularly to provide ongoing input and advice over the duration of the project.</p>	<p>These generally have an agreed life span and are normally organised at the local level to address a specific issue.</p>
Citizens Juries	<p>Participants are engaged as citizens with no formal alignments or allegiances, rather than experts.</p> <p>Citizen juries use a representative sample of citizens (usually selected in a random or stratified manner) who are briefed in detail on the background and current thinking relating to a particular issue and asked to discuss possible approaches. Citizen juries are intended to complement other forms of consultation rather than replace them.</p> <p>Citizens are asked to become jurors and make a judgement in the form of a report, as they would in legal juries.</p>	<p>To consider issues that have an effect across the community and where a representative and democratic decision-making process is required</p> <p>To involve the wider community in the decision-making process.</p> <p>To broker a conflict, or to provide a transparent and non-aligned viewpoint.</p>
Participatory Budgeting (PB)	<p>PB is a democratic process in which community members decide how to spend part of a public budget. It gives people real power over real money.</p> <p>PB is an annual cycle of engagement that is integrated into a regular budgeting process, see figure 4 below.</p>	<p>PB is revolutionary civics in action by deepening democracy, building stronger communities, and creating a more equitable distribution of public resources (New York Times).</p>

Figure 4: The participatory budgeting process:





## Frequently asked questions

### Does the council have to consult on every issue?

No. While you are required to take into account the views of affected parties you can use your judgement to decide the degree to which you need to comply given the significance or importance of the matter under consideration.

### When consulting with Māori should we consult with iwi, hapū, or an urban Māori organisations?

It depends on the legislation under which the kaunihera is working at the time. The Resource Management Act requires that kaunihera consult with iwi and hapū as mana whenua. In contrast the LGA 2002 requires to you consult with Māori, which includes both iwi and pan tribal Māori organisations.

### I've been elected to make decisions, why do I need to consult?

There are two reasons. The first is that kaunihera are governed by legislation and are required by law to consult with citizens in the process of adopting plans and budgets and in making decisions. In addition, consultation helps make better decisions by ensuring decision-makers are informed of all the issues before making decisions and committing the kaunihera. It may help get buy-in for decisions and create community advocates.

### Can I ask council staff to help with my social media communication?

While kaunihera staff are unable to support, maintain, or create content for personal social media profiles, they may be able to assist members with:

- » setting up a public social media profile page for use as an elected member
- » providing content where this relates to the role as an elected member
- » providing advice on dealing with a request or complaint from a member of the public about a council service
- » providing advice on responding to official information requests
- » provide training on effective social media best practices
- » managing abusive content on any social media pages managed by your kaunihera by removing the post/comment.

Please note that staff are unable to assist elected members with social media content related to election campaigning.

### Want to know more?

Community Engagement Resources for councils (Victorian government) at <https://www.esc.vic.gov.au/local-government/higher-rate-cap-applications/guidance-councils-applying-higher-cap/community-engagement-resources-councils>

Multicultural New Zealand (2015). Our multicultural future: New Zealanders talk about multiculturalism. Available from [http://cdn-flightdec.userfirst.co.nz/uploads/sites/multiculturalnz/files/pdfs/NZEMC\\_Talking\\_about\\_Multiculturalism\\_Hi-Res.pdf](http://cdn-flightdec.userfirst.co.nz/uploads/sites/multiculturalnz/files/pdfs/NZEMC_Talking_about_Multiculturalism_Hi-Res.pdf)

Local Government Hub – engagement resources – at <https://iap2.org.au/local-government-hub/>

Making Aotearoa Accessible – Ministry of Social Development <https://msd.govt.nz/about-msd-and-our-work/work-programmes/accessibility/making-aotearoa-accessible/index.html>



# 5

# Wāhanga FIVE

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**Democracy in action – how decisions  
are made and stuff gets done >>**

## **Almost everything a local authority does involves a decision; how to manage finances, deciding what to invest in or what colour to paint the playground equipment. Making informed decisions is critical!**

Kaunihera are creatures of statute: their role and powers are determined through legislation. Decision-making is either under the general powers of the Local Government Act (LGA) 2002, or specific powers prescribed by specific statutes, such as the Resource Management Act (RMA) 1991 and the Sale and Supply of Alcohol Act 2012. Kaunihera must also act in accordance with the financial management principles and policies of s. 101 of the LGA 2002

The Long-term Plan (LTP) should provide the overall direction and context when new proposals or policy is under consideration. The LTP sets out the desired community outcomes, and the goods and services kaunihera will provide to meet those objectives.

Council officers are responsible for providing advice and background information that will guide councillors towards policy decisions. Officials will also inform members if a proposed policy or decision conflicts with existing plans.

### **Principles of decision making**

The LGA 2002 section 14 Principles relating to local authorities, has nine principles, that guide decision-making. They are summarised below:

- » that business is undertaken in a transparent, accountable, and efficient manner,
- » that local authorities understand the views and diversity of communities (relative to the significance of the decision) before making decisions,
- » that resources are used efficiently, including collaborating on shared services where savings can be identified, and
- » that local authorities take a sustainable development approach, defined as taking into account the “social, economic and cultural wellbeing of communities and maintaining and enhancing the quality of the environment” (see s.14 LGA 2002 for the full list)

The LGA 2002 requires that any conflict between these principles is resolved openly and transparently. The local authority should explain to the community how it has resolved the conflict and why it chose the option it has.

### **Part 6 of the LGA 2002: Planning, decision-making and accountability**

Part 6 sets out requirements that elected members must consider when making decisions, to ensure they are based on good information and provide a range of options. The principal requirement is section 77, which reads that a local authority must:

- » seek to identify all reasonably practicable options for the achievement of the objective of a decision; and
- » assess the options in terms of their advantages and disadvantages; and
- » if any of the options identified under paragraph (a) involves a significant decision in relation to land or a body of water, take into account the relationship of Māori and their culture and traditions with their ancestral land, water, sites, waahi tapu, valued flora and fauna, and other taonga.

A decision not made in accordance with these requirements may be challenged on procedural grounds.

## Summary of decision-making requirements

**Consideration of options:** A local authority must consider the effect of a decision on those affected or with an interest in the matter and consider reasonably practicable options.

**Informed decisions:** Decisions should be informed by the views of the community at each stage of the process.

**Proportional process:** The process for making decisions and the level of consultation involved should be proportional to the significance of the decision and the matters affected by it. The significance of the matter to the community is part of assessing the appropriate level of compliance.

**Inclusive process:** Decision-making processes should acknowledge and take account of the diverse needs of the local community, Māori, interested parties and the reasonable needs of future generations.

**Transparency:** Material used in consultation processes should clearly state the issue, the decision being considered and the stage the decision is at. Decisions should be appropriately documented and information about the reasons for decisions made available.

**Effectiveness and efficiency:** These are key elements of good performance and are likely to be enhanced when a council has followed the consultation and decision-making principles outlined above.

**Legal framework:** Councils have full capacity and powers for performing their role and are subject to public law. Council decisions can be subject to judicial review by the High Court or inquiry by bodies such as the Ombudsman and the Auditor-General. Councils are required to act in accordance with the law, reasonably and fairly.

## Finding the right decision-making model

One of the first questions elected representatives must address, concerns the way in which their kaunihera will structure itself for the purpose of making decisions. They must decide whether to establish committees and if so, the terms of reference, membership, chairperson, and delegations. Committees can work in a less formal manner which allows in-depth discussion and debate about issues.

Mayors/koromatua are able to establish a committee structure and appoint the chairs and members, although a council can over-turn a mayor/koromatua's proposals if a majority of councillors agree. It is the council, however, that must agree to the range of delegations given to any subordinate bodies, local boards, community boards or individuals.

Amongst the different options available to councils are:

### // 1.

a **centralised** model with only those committees or subcommittees required by statute or good practice, such as an Audit and Risk Committee or a chief executive employment committee, and the potential for ad hoc committees to handle one-off demands, such as a review of the district plan.

### // 2.

a **decentralised** model in which committees, subcommittees and community boards are given responsibilities to either advise or make decisions on all matters, except those that are the statutory responsibility of the governing body or are of a district or city-wide nature

Kaunihera structures are often a mix of these two. Some now appoint 'portfolio holders'; individual councillors who are expected to take leadership of an issue. In some kaunihera this involves linking with staff and stakeholders, building up knowledge of an issue and leading the kaunihera or a committee during debates on that issue.

## The Audit and Risk Committee

Audit and risk management is an essential function of any governance body. Rather than being a decision maker it acts to provide assurance to kaunihera that key risks are being identified, assessed and mitigated appropriately and that action is being taken. As such it should have a direct reporting line to kaunihera.

To enable the committee to undertake robust consideration of a kaunihera's financial and non-financial risks, it requires some independence. Kaunihera should consider appointing independent members and/or an independent chair to the Audit and Risk committee.

*"Local Government New Zealand (LGNZ) recommends that all kaunihera establish a separate Audit and Risk Committee (ARC) with delegated authority and at least one qualified external member, who is preferably the chair."*

This committee has a different role and purpose to other kaunihera committees. Amongst the responsibilities of an ARC are:

- » recommending to the governing body the adoption, or non-adoption, of completed financial and non-financial performance statements,
- » governance policies related to the kaunihera's financial, accounting, risk management, compliance and ethics programmes, and internal control functions,
- » accounting treatments, changes in generally accepted accounting practice, and
- » new accounting and reporting requirements.

The breadth of the ARC work programme includes enterprise risk management; internal and external audit and assurance; health, safety and wellbeing; business continuity and resilience; integrity and ethics; monitoring of compliance with laws and regulations; significant projects; programmes of work and procurement focussing on the appropriate management of risk; oversight of preparation of the LTP, the Annual Report, and other external financial reports required by statute.

Overall, an ARC has a critical role in providing the community with assurance that the local authority has appropriate processes in place for identifying, assessing, and responding to risks, and that it is both acting in accordance with its risk approach and that the processes themselves are operating effectively.

## Delegations

Councils make lots of decisions and the governing body by itself cannot hope to hold all the information required for every decision. They need to delegate some decision-making to others.

Delegation is a tool for putting decision-making closer to communities and people affected by the matters under consideration while also allowing for the direct participation of those affected parties, such as iwi and hapū.

Local authorities' powers of delegation are described in cl.32 of Schedule 7 of the LGA 2002. Other Acts also contain powers of delegation, although these are specific to the powers in those Acts, such as the Building Act 2004. Certain decisions, however, must be exercised by the full council and cannot be delegated. These include:

- » the power to make a rate,
- » the power to make a bylaw,
- » the power to borrow money or purchase or dispose of assets, other than in accordance with the long-term plan,
- » the power to adopt a long-term plan, annual plan, or annual report, and
- » the power to appoint a chief executive.

Most other decisions can be delegated and the kaunihera cannot usually rescind or amend a decision made by a committee in this context. Kaunihera can, however, change or revoke delegations at any time.

## Reasons for delegating

Although delegations allow a local authority to devolve certain decision-making, it will ultimately retain legal responsibility for exercising any powers it has delegated. The potential reasons for delegating include:

- » freeing up councillors so they can focus on strategic issues,
- » allowing complex and time-consuming issues to be effectively addressed, such as a reviewing district plans, matters that are impractical for the entire governing body to handle,
- » enabling decision-makers to build up additional knowledge and skill on important issues, such as an Audit and Risk Committee,
- » providing opportunities for debate and discussion to occur in an informal setting,
- » finding a mechanism that will allow the direct involvement of kaimahi, and
- » being able to appoint external experts to a kaunihera decision-making body.

## Delegating to staff

Delegating specific powers, duties or functions to kaimahi can speed up council decisions and ensure that kaunihera meetings are not tied down by procedural and everyday administrative decisions. It also enables kaunihera to use the technical knowledge, training and experience of kaimahi to support its decisions.

Decisions to delegate specific powers to kaimahi (and special committees) are made at a formal kaunihera meeting. Decisions must specify what the delegate is empowered to do. Through the chief executive and senior managers, the kaunihera can monitor the actions of kaimahi to ensure that they exercise their delegated authority correctly. In this way the council retains control over decision-making.

## Delegating to community and local boards

A territorial authority must consider whether to delegate to a community board if the delegation would enable it to best fulfil its role. The advantage of delegation is to use a community board's local knowledge, networks and ability to form partnerships with local agencies and communities.

Both the LGA 2002 and the Local Government (Auckland) Act 2009 have statutory requirements that require kaunihera with local boards to consider how responsibilities should be distributed between boards and the governing body.

In the case of Auckland Council, the governing body must exercise decision-making authority when the nature of an activity is such that taking an 'Auckland-wide' approach will better promote the wellbeing of the communities across the city, taking into account the following:

- » whether the impact of the decision will extend beyond a single board area,
- » whether effective decision-making will need to be aligned or integrated with other decisions that are the responsibility of the decision-making body, and
- » whether the benefits of a consistent or coordinated approach outweigh the benefits of reflecting the diverse needs and preferences of the communities within local board areas.

The Auckland approach assumes that services will generally be the responsibility of local boards unless there are good reasons for decisions to be made on an Auckland-wide basis.

Local boards in Auckland have responsibility for a broad range of local responsibilities such as parks, libraries, community centres and other activities where the impact is local. A similar approach applies to any unitary kaunihera that may have local boards.



## Frequently asked questions



### **Can the council change a decision made by a committee using its delegated authority?**

No. Although the kaunihera remains ultimately responsible for the decisions made by the committee it cannot reverse the decision. It can, however, withdraw the delegation if it chooses.

### **Is an officer's report always required when the council is making a decision?**

Yes, although the level of detail in that report will be proportionate to the nature of the decision.

### **Can the council change its decision-making structure?**

Yes. It is not uncommon for a council to adopt the decision-making structure of its predecessor in order to give councillors time to evaluate other options.

## Want to know more?

The Guide to the LGNZ Standing Orders provides more information on committees and delegations and at <https://www.lgnz.co.nz/our-work/our-policy-priorities/governance/>

How Councils should make decisions, Local councils, DIA at [https://www.localcouncils.govt.nz/lqip.nsf/wpg\\_url/About-Local-Government-Local-Government-In-New-Zealand-How-councils-should-make-decisions](https://www.localcouncils.govt.nz/lqip.nsf/wpg_url/About-Local-Government-Local-Government-In-New-Zealand-How-councils-should-make-decisions)

How council decisions are made, Auckland Governance Manual at <https://governance.aucklandcouncil.govt.nz/10-how-council-decisions-are-made/how-the-council-makes-decisions/>

Local government decision-making Local government decision-making in New Zealand: An interpretivist inquiry into influences and citizen preferences related to large capital investments, PhD thesis, Haydn Read, at [https://researcharchive.vuw.ac.nz/xmlui/bitstream/handle/10063/7632/thesis\\_access.pdf?sequence=1](https://researcharchive.vuw.ac.nz/xmlui/bitstream/handle/10063/7632/thesis_access.pdf?sequence=1)





6

# Wāhanga **SIX**

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**Standing orders and meetings demystified >>**

## **As elected members you will spend a lot of time in meetings, as this is where most decisions are made. It is important to know how meetings work.**

In the world of local government, the word ‘meeting’ has a specific meaning that refers to gatherings that conform to rules and regulations laid down in the Local Government Act (LGA) 2002. These rules and regulations form the basis of each kaunihera’s ‘standing orders’.

Kaunihera decisions, except for those delegated to officials, can only be made at meetings. Because of these formalities and structures, it is important to know how meetings work, how to get issues that matter to your community on a kaunihera agenda and how to enable all elected members to contribute.

### **Each kaunihera must adopt standing orders**

The LGA 2002 requires each kaunihera to adopt a set of standing orders. These apply to meetings of the governing body and any subordinate bodies, such as committees and subcommittees. Local and community boards must also adopt standing orders; they can either use those of the local authority or design their own.

Kaunihera must make copies of their standing orders available to elected members and the public; most do so by publishing them on their website.

Standing orders provide the basis for the orderly conduct of meetings. They contain rules defining the rights of members to address meetings and contribute to debate. Standing orders combine legislative requirements and procedures for the implementing those requirements. They must not contravene the provisions of any statute.

Kaunihera can decide to amend or suspend any part of their standing orders on the vote of three-quarters of the members present.

*"It is important that standing orders suit local needs and are reflective of the community in which a kaunihera serves. For example, many have changed the format of their meetings to start with a karakia, prayer or time for reflection; others start with a community forum."*

Kaunihera should regularly review their governance arrangement and standing orders, and change them if necessary to improve efficiency, increase accessibility and ensure they meet community values and expectations.

Although not required, it is typical for governing bodies to adopt a set of standing orders at their first (inaugural) meeting. LGNZ provides a template that any council/kaunihera can adopt or amend to save on time and cost. It also provides more detailed guidance for kaimahi developing standing orders. Documents can be found at <https://www.lgnz.co.nz/our-work/our-policy-priorities/governance/>.

### **Using standing orders to promote debate and discussion**

Standing orders provide a formal and disciplined framework within which to debate motions, in a manner that ensures no single member can dominate proceedings. For some matters, however, a less formal environment is best, particularly where no specific motion is on the table and members need an open-ended discussion.

Several options are available:

- » Use committees rather than meetings of the governing body to provide for open-ended discussions and debate.
- » Agree, by resolution, to suspend specific standing orders for part of a meeting.
- » Make use of the meeting procedure options within the LGNZ standing orders template, some of which are less formal than others.

Many chairs use formal standing orders only as a last resort. A common approach is to run meetings on a consensus basis, resorting to formal meeting procedures only when faced with difficult issues, especially where members have strong opinions and it is necessary to ensure all are able to take part in the discussion.

## Types of meetings

The law defines four types of kaunihera meeting: inaugural, ordinary, extraordinary and emergency meetings.

### Inaugural meetings

The inaugural meeting is the first meeting of the governing body. The Local Government Act 2002 requires that the business to be conducted at this meeting must include the following:

- // a** The making and attesting of the declarations required of the mayor (if any) and members under LGA 2002, sch 7, cl 14,;
- // b** The election of the chairperson (if any) and the making and attesting of the declaration required of the chairperson under LGA 2002, sch 7, cl 14;
- // c** A general explanation, given or arranged by the chief executive, of:
  - i. LGOIMA; and
  - ii. Other laws affecting members, including the appropriate provisions of the Local Authorities (Members Interests) Act 1968; and ss 99, 105, and 105A of the Crimes Act 1961; and the Secret Commissions Act 1910; and the Financial Markets Conduct Act 2013.
- // 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 the LGA 2002, sch 7, cl 17.

### Ordinary meetings

These are the regular meetings of the kaunihera. Councillors must be given notice of the time and place of the meeting not less than 10 working days before it. Councils may adopt advance schedules of ordinary meetings and in this case, notice must be given not less than 10 working days before the first meeting in the schedule.

Ordinary meetings of the governing body or of a committee of the whole are normally held at four-weekly or six-weekly intervals. Between these meetings many kaunihera hold committee meetings at which much of the mahi or work of a local authority is done.

### Extraordinary meetings

This is generally a meeting that is not in the schedule and is called at short notice; particularly if an unexpected issue or problem has arisen and an urgent decision needs to be made. An extraordinary meeting can be called by:

- » resolution of the kaunihera committee or board,
- » the mayor/koromatua or chair making a request in writing to the chief executive, who may call an extraordinary meeting if the mayor/koromatua or chair are absent, or
- » not less than one third of the kaunihera making a request in writing to the chief executive.

The law requires that each member be given notice of an extraordinary meeting at least three working days before the meeting date or not less than 24 hours before it, if there is a kaunihera resolution to this effect.

### Emergency meetings

If the business to be dealt with requires a meeting to be held sooner than is allowed by the notice requirements for holding an extraordinary meeting, and it is not practicable to call the meeting by resolution, an emergency meeting may be called. The notice of the time and place of an emergency meeting and of the matters to be discussed must be given by the person calling the meeting (the chair or chief executive) or someone acting on their behalf, at least 24 hours before the meeting.

## Getting items on a meeting agenda

An agenda is ultimately the responsibility of the chair of the meeting and the chief executive, with the collation of the agenda and its contents sitting with the chief executive's control. Consequently, if a member wants a new matter discussed at a meeting, they should give the chair early notice, as the matter may require the chief executive to prepare an accompanying report.

Matters may be placed on the agenda by the following means:

### // 1

By a direct request to the chair of the meeting, chief executive, or an officer with the relevant delegated responsibility.

### // 2

By asking the chair to include the item in their report, noting that the matter might require a kaimahi report if it involves a decision.

### // 3

Through the report of a committee. Committees are a mechanism for citizens, or elected members, to raise issues for kaunihera consideration. A committee can make recommendations to the governing body.

### // 4

Through a local or community board report. Community boards can raise matters relevant to their specific community for consideration by the governing body. A councillor could approach a community board to get their support on a local issue.

### // 5

Through a Notice of Motion (NOM). See Standing Order 27.1 in the LGNZ standing orders template for more detail. A NOM must still comply with the decision-making provisions of Part 6 LGA 2002 before it can be considered. Generally, a NOM should seek a meeting's agreement that the chief executive prepare a report on the issue of concern to the mover.

Where a matter is urgent but has not been placed on an agenda, it may be brought before a meeting as 'extraordinary business' via a report by the chief executive or the chair.

The topic of any request must fall within the terms of reference, or the scope of delegations, given to the meeting or relevant committee, board or subsidiary body.

## Raising items not on the agenda

If members wish to consider an item that is not on the agenda of a meeting, the following processes must be followed:

- » the kaunihera decides by resolution to consider the item, then
- » the chair explains to the meeting why the item is not on the agenda and why discussion of the item cannot be delayed until a later meeting.

Where a matter is urgent but has not been placed on an agenda, it may be brought before a meeting as 'extraordinary business' via a report by the chief executive or the chair.

If it is a minor matter, the item can still be presented, and the chair must again explain that the item will be discussed. However, the law determines that no resolution, decision or recommendation can be made except to refer the matter to a subsequent meeting for further discussion.

## Participating at meetings

Meetings are designed to be public and public access is vital for transparency and accountability to the communities that elected members represent.

### Public notice of meetings

The LGOIMA requires /kaunihera publish monthly schedules of all meetings, including all committee and subcommittee meetings, together with the time and place.

Alternatively, meetings held after the 21st of any month can be publicly notified not more than 10 or less than five working days before the day of the meeting. There are some exceptions to these rules relating to extraordinary meetings. See LGNZ's Guide to Standing Orders for more information.



## Attendance from the public and media

Members of the public and media have a right to attend all meetings unless all or part of the meeting is held under the 'public excluded' rule. The rules for excluding the public are very specific and prescribed in the LGOIMA.

Copies of agendas and associated reports must be publicly available at least two working days before the meeting and be available at the meeting. An exception is made for extraordinary meetings.

Many kaunihera give the media advance copies of order papers and reports and waive any charges for specialist reports. Increasingly, kaunihera are now broadcasting their meetings online.

Some kaunihera set aside time at the beginning of their meetings for a 'public forum' when members of the public can speak.

## Participating in meetings by electronic means

Local authorities can allow members to participate in meetings online or via phone. This can reduce travel requirements for councillors in large jurisdictions and facilitates participation for councillors when travelling.

If a kaunihera wishes to allow members to join remotely, then provision must be made in the standing orders. Under the current law, meetings must still have a physical quorum, a requirement that was suspended during the COVID-19 global pandemic.

## Conduct at meetings

Members are also expected to meet a 'standard of conduct' at meetings, to maintain community expectations of professionalism, inclusivity and respect for one another.

The chair has responsibility for maintaining order at meetings, but all councillors must take personal responsibility for maintaining acceptable standards. This includes allowing others to speak without disturbance, being respectful of others and avoiding offensive language.

An elected member may be asked to retract remarks or apologise if offensive language is used. A meeting can pass a resolution against any member who fails to do so or fails to stop creating a disturbance. This will be recorded in the minutes and may be accompanied by an order from the chair for the member to leave the meeting.

Where disturbances continue, provisions may allow the chair to suspend the meeting for a period. This might be followed by a vote, without debate, on whether the meeting should proceed or be adjourned.

## Meeting rules and procedures

Rules that apply to meetings are found in the LGOIMA and the LGA 2002. These form the basis of your council's standing orders.

### Duration

Individual kaunihera may provide time limits on the length of meetings and lateness of meeting completion times, in their standing orders. Unless the council has resolved otherwise, no meeting may last for more than six hours or go beyond 10.30 p.m. Any business on the agenda not dealt with within that time is listed on the agenda for the next meeting.

### Quorum

A meeting cannot occur without a quorum of members present. In the case of the governing body a quorum is either:

- » half of the members, where the number of members (including vacancies) is even, or
- » a majority of the members, where the number of members (including vacancies) is odd.

A committee meeting must have a quorum of at least two committee members. At least one of these (except in the case of a subcommittee) must be an elected member of the kaunihera. The quorum for joint committees will be set out in each committees' terms of reference.

Any member with a pecuniary interest in a matter under discussion is prohibited from participating in any discussion or voting on that contract and may have to leave the room while that matter is discussed; this can have an effect on the quorum.



## The order paper

Apart from its first meeting agenda, legislation leaves kaunihera free to determine their own 'order of business'. They usually adopt a consistent order of business from one meeting to another.

The order paper lists the items of business and is distributed to members before the meeting. At the meeting the business is dealt with in the order set out in the agenda unless the chair gives precedence to a particular item. If there is any business from which the public is excluded, it is usually dealt with at the end of the meeting.

## Rules of debate

The chair (or elected deputy), as the presiding member, is responsible for ensuring that the meeting follows standing orders. Typically, standing orders provide for the following:

- » Each person wishing to speak should raise a hand or otherwise signal their intention to the chair (the chair will then recognise the speaker, giving them permission to speak).
- » A person who speaks before they are given permission can be ruled out of order.
- » A chair will usually ensure that each councillor who wishes to speak on an issue will have an opportunity to do so.
- » Speakers rise when they speak unless the chair indicates that this procedure will not be followed.
- » Speakers must address all comments through the chair and should speak directly on the issue or motion under debate.
- » Speakers must refrain from personal attack or using defamatory language
- » Speakers should be heard in silence without interjection or discussion amongst other councillors.
- » If the chair stands, it is a signal for silence.

Provisions vary between council/kaunihera so check your own council's standing orders.

## Motions and resolutions

Local authorities make decisions through formal motions that are tabled, discussed, and voted on. Rules governing the process enable the orderly conduct of meetings and help those present arrive at an agreed outcome.

A 'motion' is a proposal put before a meeting for consideration and discussion. Motions are used to deal with every item of business and a chair will request a motion very soon after an issue is raised. Once a motion is before the meeting, all discussion is confined to the motion.

Motions and resolutions should:

- » relate to the business of the meeting,
- » meet the requirements of the law and standing orders and not be defamatory or offensive,
- » be clear statements free from ambiguity, and
- » be expressed in a positive way.

The motion is introduced and stated by the mover and seconded (supported) by another person. Every motion should be seconded unless the standing orders provide otherwise.

The process will vary depending upon the 'moving and speaking' option that each kaunihera adopts in their standing orders. See LGNZ's Guide to Standing Orders for more information on the three options.

The chair will typically provide the opportunity for discussion once for each speaker, except for the mover who may speak both in moving the motion and in reply at the end of the debate. Speakers may be ruled out of order if their points are not relevant to the motion. At the end of discussion, the chair or committee secretary will normally restate the motion and call for a vote.

Motions can also be amended. When an amendment is carried, it becomes a substantive part of the motion. Any members who have not moved or seconded the motion, or the amendments to it, may move and second further amendments. See your council's standing orders for details.

## Notice of motion

Members can give notice of their intention to move a motion. The motion must be put in writing and included on the order paper. Notices of motion are designed to seek the support of a majority of members to put an item on the agenda or make a non-significant decision. Because decisions must comply with the provisions of Part 6 of the LGA 2002, most notices of motion request that the chief executive prepare a report on a topical issue.

## Procedural motions

Procedural motions exist to enable members who have not spoken, to terminate or adjourn debate but not to interrupt a member speaking. If seconded, a procedural motion is put to the vote immediately. Procedural motions are not debated like other motions, and they take priority over other business.

## Points of order

Any member believing standing orders have been breached may raise a point of order by interrupting debate with the words “point of order, chair”. The member interrupted must stop speaking and the member raising the point of order must state the point of order without further explanation. The chair’s ruling on the point of order is final and not open to discussion.

## Voting at meetings

The chair, in putting the motion, calls for an expression of opinion on the voices or takes a show of hands. Once the kaunihera’s opinion has been ascertained, the chair announces whether a motion has been carried or defeated. Any member can request that their vote against a motion be recorded in the minutes.

Everyone present at the meeting must be able to see (or hear) how individual councillors’ vote: secret ballot voting is not allowed. Any member may abstain from voting and may request the abstention be recorded in the minutes.<sup>4</sup> If the result of a vote is unclear, members may immediately ask the chair to call a ‘division’. Alternatively, any member may call for a division immediately the chair has declared the result of a vote.

When a division is called, the principal administrative officer will take down the names of the members voting yes and no respectively and hand the list to the chair, who will declare the result. How members voted will be recorded in the minutes.

## Minutes

Minutes are the official record of a meeting.

The level of detail that the minutes of meetings should contain is a kaunihera decision and should be agreed at the start of a term, noting that the more detail required, the greater the cost.

Minutes are approved at the next meeting and signed by the chair becoming the legal evidence of the proceedings.

Minutes usually contain:

- » the time the meeting opened and closed, the date, place and nature of the meeting,
- » the names of councillor attending, those who have leave of absence or who have given an apology and the arrival and departure times of councillor who arrive or leave during the meeting,
- » a record of every resolution, motion, amendment, order or other proceeding of the meeting and whether they were passed or not,
- » the outcome of any vote taken, and
- » the names of members voting for or against a motion when requested or after a division is called.

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<sup>4</sup>Some councils, possibly due to the nature of their electronic voting systems, do not allow members to abstain.

## Frequently asked questions

### Want to know more?

Controller and Auditor-General (2004). Conflicts of interest: A guide to the Local Authorities (Members' Interests) Act 1968

LGNZ Guide to Standing Orders available from <https://www.lgnz.co.nz/our-work/our-policy-priorities/governance/>

#### **What do I do if I think I have a conflict of interest regarding an item on the agenda?**

This is not uncommon. If you believe that you might have a conflict of interest, actual or perceived, you should let the chief executive or chair know at the start of the meeting. Depending upon your degree of interest, you may be asked to stand back from the table and take no part in the debate or decision.

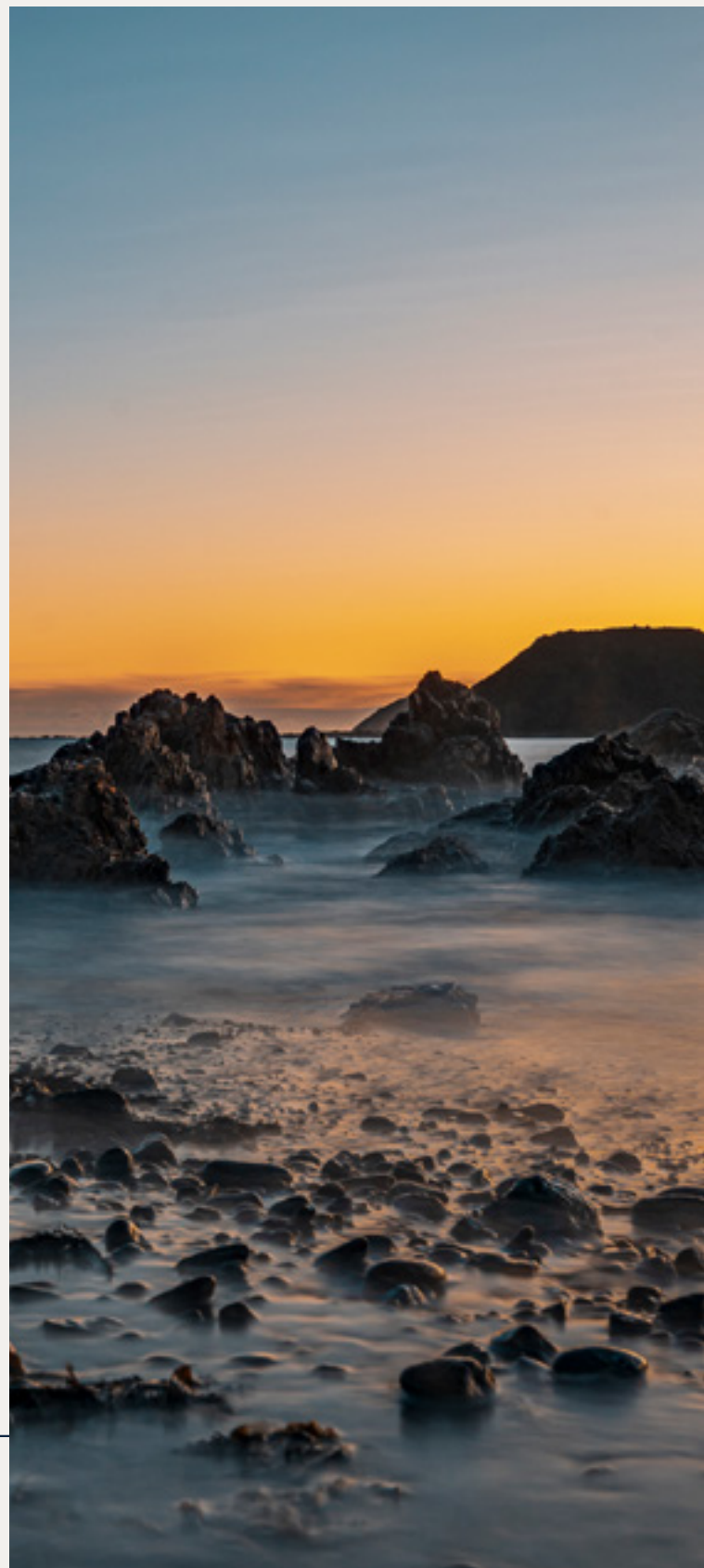
You may also wish to make a public declaration of your interest before any discussion of the item begins and take no part in the discussion or voting. This will be recorded in the minutes for audit purposes. Some councillors then choose to withdraw from the meeting during discussion of items they have declared an interest in. It is best practice to do so.

#### **Does the quorum have to be present for the full meeting or only at the start?**

The quorum must be present for the full meeting. As soon as the number of elected members drops below the required quorum the business of the meeting cannot continue. See your standing orders for more details.

#### **Do I have to vote or can I abstain?**

Elected members can abstain from voting if they choose, however some kaunihera have electronic voting systems that are programmed not to allow abstentions.





7

# Wāhanga SEVEN

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**Managing infrastructure – pipes,  
parks, paths and more >>**

**Kaunihera own assets worth approximately \$130 billion, a significant share of Aotearoa's essential infrastructure. The effective management of this portfolio is a key way in which local authorities enhance community wellbeing, not just for the current generation but for generations to come.**

A large part of a kaunihera's operational expenditure (opex) and most of its capital expenditure (capex) will be spent on its 'network infrastructure' which must be maintained for the life of the asset to a specified 'level of service'.

This includes infrastructure to provide:

- » **transportation** - roads, footpaths, flood banks, airports and ports,
- » **water** - drinking water supply, wastewater, stormwater and land drainage,
- » **solid waste**, and
- » **community** - parks, leisure, libraries, education, health, housing.

## The challenges facing infrastructure decision-makers

- » The scale of spending, complexity of financing and the financial risk of failure.
- » Planning for the needs of future generations may mean foregoing immediate consumption.
- » The level of complexity, often resulting in a greater dependency on external advice and the increased use of specialists.
- » Quantifying benefits and making trade-offs between immediate or delayed gratification e.g. events or drains.





## Levels of service

A level of service is the defined characteristic of a particular activity, area or asset against which performance can be measured, such as the level of service that specifies the degree of road smoothness or the grass height in your sportsground. Investment and renewal decisions are made to achieve and maintain a particular level of service.

By setting and communicating levels of service, a kaunihera provide certainty to its communities around what they can expect to receive. Levels of service can also assist with planning and decision-making. In some cases, they are determined by legislation.

When determining levels of service kaunihera should consider:

- » customer expectations and willingness to pay,
- » legislative and regulatory requirements,
- » the minimum needs of the asset,
- » council's strategic and corporate goals,
- » financial constraints, and
- » balance of customer and technical criteria, for example, setting customer measures such as a "maximum number of complaints of insufficient water pressure to undertake normal household tasks."

Elected members will need to make decisions about the level of service required of each asset class. Discussions normally occur in the year before adopting the LTP as service levels will drive the financial strategy of each kaunihera.

*"Elected members must understand the risk that an asset may fail to meet set standards and be confident their organisation is monitoring and reporting on this."*

## Key elements of good asset management include:

Some key questions for members are:

- » Do the levels of service align to community outcomes?
- » Have levels of service been documented for each council activity?
- » Do the levels of service relate to the activity, not just the assets used by that activity?
- » Are the levels of service based on specific customer consultation or are they assumed?
- » Is there a council-wide approach to how these are agreed with users or customers?
- » Is council ensuring the levels of service cover all aspects of the service or activity?

### Asset management

Assets are the infrastructure, buildings and physical equipment that councils own. Good asset management takes a life-cycle approach to deliver agreed levels of service for the lifetime of the asset. It requires an ongoing cycle of planning, creating, operating, maintaining, replacing, rehabilitating and disposing of assets.

- » supporting growth through demand management and investment,
- » managing risks associated with asset failure,
- » ensuring sustainable use of physical resources, and
- » showing continuous improvement in asset management practices.

The state of a kaunihera's assets has a significant influence on its finances. Good asset management means linking the kaunihera's strategy with asset performance and is crucial so that future demand is considered and planned for, levels of service can be maintained, financial assumptions and implications are understood, risks are clarified and mitigation can be planned.

Risk involves anything that might prevent or constrain a kaunihera from achieving its objectives. Kaunihera must understand the risks they face and the plans in place to manage them. To help do this, it's important that kaunihera keep an up to date 'risk register' and have a properly constituted Audit and Risk Committee.

Kaunihera should perform a regular risk analysis of all their key infrastructure systems, so they can take a well-informed and comprehensive approach to achieving resilience. Consider the following four steps.

### // 1.

**Understand the risks for all key infrastructure systems** - assessing a full range of hazards and severity of = risk, using root-cause analysis.

### // 2.

**Select key projects to reduce risk** - identify mitigation actions and the feasibility of implementation to understand functional benefits, costs and impacts.

### // 3.

**Seek funding opportunities for mitigation** - check to see whether government programmes provide any funding opportunities.

### // 4.

**Accept that achieving resilience is a continuous learning process** - reducing infrastructure risk requires ongoing initiatives to refine and adjust mitigations as hazards are variable and technologies are evolving.

*"Kaunihera must also have conversations with their communities to determine what infrastructure is essential and should to be reinstated first in a disaster. This is the infrastructure that should attract priority attention today."*

## Asset Management Plans

Council must prepare Asset Management Plans (AMPs) to ensure their long-term financial forecasts are based on robust information and provide certainty about levels of service.

The benefits of good AMPs include:

- » a more accurate understanding of a kaunihera's current and future financial viability,
- » improved accountability over the use of public resources,
- » improved understanding of the actual costs of agreed levels of service, today and in the future, and
- » assets that are better able to meet the requirements of their users.

AMPs are the key planning documents for providing the financial information that will inform the Long-term Plan (LTP). They detail:

- » the levels of service each asset is expected to provide,
- » the required level of service against which performance will be judged,
- » policies, procedures and timetables needed to achieve the cost-effective creation, acquisition, maintenance and operation, rehabilitation and disposal of assets, including future demands,
- » financial cash flow projections, and
- » scheduled capital, renewal and operation expenditure necessary to maintain required service levels.

Elected members should seek assurance through the chief executive regarding the completeness and quality of their asset management plans.



## Integrating asset management and financial strategies

Asset management strategies must align with financial strategies if kaunihera are to achieve effective and integrated infrastructure strategies. This requires:

- » good information about the condition and performance of assets,
- » the integration of that information with financial and service delivery decisions and risk management, and
- » an optimised decision-making approach to drive spending on maintenance and renewals.

The task was emphasised in the Office of the Auditor General's (OAG) 2014 report on water and roads. Key points were that local authorities cannot separate decisions about their assets and service delivery from considerations about funding sources and timing. Intentions need to be matched with revenue and financing policies and funding tools, which in turn, are based on information about assets and service delivery.

### 30-year Infrastructure strategies

A kaunihera's infrastructure strategy should outline how each local authority intends to manage its assets considering the need to:

- » renew or replace existing assets,
- » respond to a change in demand,
- » allow for changes in levels of service provided,
- » maintain or improve public health and environmental outcomes or mitigate adverse effects on them, and
- » provide for the resilience of assets in relation to natural hazards and make financial provisions.

In their reflections on the audit of kaunihera's 2021 – 2031 LTPs, OAG recommended that infrastructure strategies should:

- » tell the story about where kaunihera are, where they expect to be and how they intend to get there,
- » include relevant assumptions and disclosures of funding, data, risks and delivery, and
- » create the right debate and be credible by connecting with financial strategies, demographic change and other relevant influences.

Figure 5 provides an example of what a good infrastructure strategy will include. The graphic outlines what the expected costs of replacing this council's wastewater network will be over the coming 60 years and when these costs will be incurred.

Figure 5: Extract from a 30-year infrastructure strategy





## Questions for elected members

How resilient is our infrastructure?

Will our services remain the most viable, cost effective, affordable option for our smaller and declining communities?

Should we even assume some of these communities will exist in 30 years?

If the long-term cost of service is 'unaffordable', what are our options – exit, cross-subsidise, etc.?

Do we know what 'unaffordable' is for our communities?

Should we assume our existing institutional structures are the best for managing infrastructure over the 30-year period?

Is future local government reform likely to see options other than a continuation of the current approach?

Do we really know enough about the expected lifecycles of our assets to produce reliable long-term forecasts? If not, what more do we need to do?

What are our assumptions about key funding agencies (for example, NZTA) and regulators?

Have we adequately engaged with them to understand the 'most likely scenario' from their perspective?

(Office of the Auditor General 2014).

Are our AMPs prepared according to best practice?  
Was the process peer reviewed?

Will there be sufficient funds in future to ensure that the levels of services will be maintained?

Are the made sound and realistic?

Have options for shared service approaches with neighbouring council been explored?



## Financing infrastructure

New Zealand councils have access to a range of financing instruments that can be used for building new infrastructure or funding renewals as shown below in Table 6.

Table 6: Infrastructure financing options

// MECHANISM	// VARIATIONS	// DESCRIPTION	// APPLICABILITY
Borrowing	<ul style="list-style-type: none"> <li>» Commercial banks</li> <li>» Regional infrastructure bank</li> <li>» Local Government Funding Agency (LGFA)</li> </ul>	Allows the cost to be spread over the lifetime of the asset. Could be funded by general rate, targeted rate or development contribution. External ratings can reduce borrowing costs.	Since 1996 councils have broad discretion over borrowing with risk managed by lenders. New fiscal benchmarks with debt servicing thresholds (despite being non-binding) may limit use of this mechanism for some.
Specific purpose bonds	<ul style="list-style-type: none"> <li>» Designed to fund specific projects</li> <li>» May be repaid by a targeted rate or hypothecated charge e.g. development contributions</li> </ul>	Similar to borrowing but link between financing and infrastructure project is more visible and transparent.	Limited use so far by councils. May also be affected by the debt servicing threshold.
Development charges (contributions) (see Chapter 10 on local authority Rates)		Ensures the cost of growth is not a burden on existing ratepayers and can contribute to more efficient development patterns.	Makes an important contribution towards paying for the cost of growth in a number of councils. Recent LGA 2002 changes should limit the amount available to pay for new infrastructure.
Local taxes (Pay as You Go)	<ul style="list-style-type: none"> <li>» General or targeted rates</li> </ul>	Infrastructure projects funded as part of a council's annual operational expenditure.	Some councils make use of this operational expenditure to fund infrastructure however it is less dependable than borrowing as over time budgets can be re-prioritised.

<p>Public Private partnerships (PPPs)</p>	<ul style="list-style-type: none"> <li>» Design, Build, Finance, Maintain (UK Public Finance Initiative)</li> <li>» Design, Build, Own, Operate, Transfer (BOOT)</li> <li>» Design, Build, Operate, Transfer (DBOT)</li> <li>» Build, Operate, Transfer (BOT)</li> <li>» Design, Build</li> <li>» Private Contract Fee Service (Operate and Maintain)</li> </ul>	<p>Capital costs can be met by private sector and can improve efficiency and effectiveness with risks carried by the private sector or shared. However public agencies wishing to use PPPs must be able to specify outcomes and desired levels of service and be confident that these will apply for the length of the partnership – usually around 25 years.</p>	<p>Historically PPPs have been used by a few councils to finance wastewater projects, however, between 2002 and 2010 this was essentially ruled out due to legislative change. Also used for development of stadia, for example, the Vector Arena.</p>
<p>Private infrastructure provision</p>	<ul style="list-style-type: none"> <li>» Full privatisation</li> <li>» Contracting out the operation of a facility etc</li> </ul>	<p>Changes in technology and community value mean that over time some forms of infrastructure may not need to be publicly owned and operated e.g. Wellington City Council privatised its parking buildings after a review examining the rationale for undertaking the service.</p>	<p>The case for local public ownership tends to be stronger for services which are natural monopolies. S.17A of the LGA 2002 now requires that councils regularly review the cost effectiveness of arrangements for providing services.</p>
<p>Franchising/ concessions</p>	<ul style="list-style-type: none"> <li>» Capped charges</li> <li>» Fee for service</li> <li>» Regulatory agency</li> </ul>	<p>Private sector leases right to operate, maintain and charge of an infrastructure network.</p>	<p>Possibly the only example so far has been the former Papakura District's franchising of its water services. This was ruled out between 2002 and 20120 due to legislative changes.</p>
<p>Government Grants</p>	<ul style="list-style-type: none"> <li>» Tied</li> <li>» Untied</li> </ul>	<p>Government can provide capital grants to assist local governments develop new or upgraded infrastructural services. Councils can struggle to meet the cost of operation and depreciation.</p>	<p>For example, the Sanitary Wastewater Scheme which assisted councils in low socio- economic communities to upgrade waste water treatment plants.</p>

## Delivering services

Service delivery roles include professional services, maintenance, construction, general operations and services, and the provision of materials. Your kaunihera will be directly involved in a number of these roles but some may be done by other agencies and in other ways.

Deciding how activity is undertaken is primarily the responsibility of council officials; however, kaunihera can set policies and indicate preferences for example, a 'buy local' policy or stated commitment to social procurements rather than simply a 'least cost' basis.

Service delivery options available include:

### // Internal delivery

by an internal business unit. This option works when there is a lack of, or lack of trust in, external providers or a desire to promote local employment.

### // Shared services

Where economies of scale make the joint management or operation with another kaunihera an effective choice. An example is Wellington Water, where the four urban territorial councils and Greater Wellington have established a Council-controlled Organisation (CCO) to run their three waters. Shared services can be delivered through a joint committee model or through a CCO.

### // Schedule of rates contracting

this occurs where part of a service delivery function, such as maintenance, is contracted to a private sector agency and compensated on a tendered unit rate basis. In this model, the majority of risk usually stays with the owner.

### // Lump sum

in this approach a contractor is prepared to take quantity and pricing risk. The contract specifies performance but leaves it up to the contractor to determine how the outcome will be achieved.

## // Partnering/Alliance

policy, strategy and service lead development is provided by the asset manager or owner, with planning and budgeting a shared responsibility between contractor and owner, within the confines of the agreed service levels. These contracts tend to run for 3-15 years.

## // Public Private Partnerships

where a private organisation or consortium contracts with an owner to maintain assets to an agreed service level for an annual fee. The contract period is often up-to 30 years and selected because risk is borne by the private sector.

According to section 17A of the LGA 2002, kaunihera must review their approach to service provision and whether the existing service delivery model is both effective and efficient, at least once every six years, or other intervals in specific situations.

## Want to know more?

OAG (2014). Water and roads: funding and management strategies. Available from: [www.oag.govt.nz/2014/assets/docs/water-and-roads.pdf](http://www.oag.govt.nz/2014/assets/docs/water-and-roads.pdf)

LGNZ (2014). Exploring the Issues facing New Zealand's water, waste water and storm water sector. Available from [www.lgnz.co.nz/assets/Publications/LGNZ-3-Waters-Issues-Paper.pdf](http://www.lgnz.co.nz/assets/Publications/LGNZ-3-Waters-Issues-Paper.pdf)

OAG (2021) Reflections on the audit of Councils 2021-31 long term plans available at <https://oag.parliament.nz/2022/ltps/part3.htm>

Available from <http://www.lgnz.co.nz/assets/Publications/Managing-natural-hazards-LGNZ-think-piece.pdf>

Productivity Commission, Local Government Funding and Financing, at <https://www.productivity.govt.nz/inquiries/local-government-funding-and-financing/>

NZ Infrastructure Commission, Te Waihanga, <https://www.tewaihanga.govt.nz/>



# Wāhanga **EIGHT**

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**Planning – the first step to achieving change >>**

**The Long-term Plan (LTP) is by far the most significant planning and decision-making process for elected members. It sets the kaunihera (council) work programme and how it will be funded, for at least the next 10 years.**

The Long-term Plan (LTP) is by far the most significant planning and decision-making process for elected members. It sets the kaunihera (council) work programme and how it will be funded, for at least the next 10 years.

The LTP is your council's explanation of how you intend to use the powers you have to improve community wellbeing. It should help the public understand why their local authority has made the decisions it has and explain the consequences of alternatives. The LTP helps ensure the community is better-informed about the future.

It's a legal requirement for local authorities to have a LTP and to prepare it in the middle year of the local government electoral cycle. The next LTP is due for adoption by 30 June 2024. Although it is reviewed every three years and can be amended, it ultimately sets your kaunihera agenda for the coming term and beyond.

The LTP also provides the basis for annual planning and reporting, performance monitoring and corrective action.

*"The LTP has grown in importance with the Government's decision to remove mandatory consultation on annual plans. Some communities will find that they now have only one opportunity every three years to have a say on what their kaunihera does and how it pays for its services."*

The purpose of the LTP is set out in section 93 of the Local Government Act 2002 (LGA 2002). It is to:

// **describe the activities of your local authority**

in this approach a contractor is prepared to take quantity and pricing risk. The contract specifies performance but leaves it up to the contractor to determine how the outcome will be achieved.

// **set out the community outcomes**

the objectives your kaunihera is working towards,

// **provide integrated decision-making and coordination**

enabling your local authority to marshal its resources to achieve its objectives,

// **provide a long-term focus for the decisions and activities of your local authority**

enabling your local authority to marshal its resources to achieve its objectives,

// **set out the community outcomes**

the plan's 10-year timeframe should shift attention away from a single-minded focus on the annual rate requirement, and

// **provide a basis for the accountability of the local authority to the community**

it is your contract with your community.

## Putting together the Long-term Plan

The kaunihera must produce a LTP every three years and it must cover a period of at least 10 years. This means that kaunihera will undertake a major consultative process at least once every three years.

Once adopted a LTP can be amended but it cannot be revoked. An amendment must go through a consultation process, which is often completed in conjunction with the consultation process on the annual plan.

Some decisions and actions can only be undertaken if they are explicitly provided for in a LTP or a LTP amendment. These include:

- » a significant alteration to the service levels of a significant activity, and
- » a decision to transfer ownership or control of a strategic asset to or from the local authority.

The LTP provides the opportunity for councils to engage with their communities and focus on the issues that are of greatest importance to them. Having the 'right debate' means ensuring important and strategic issues are not lost in the large amount of detail that plans include.

To achieve this, the Office of the Auditor-General (OAG) recommends that a LTP should provide information in the following order:

// **1**

Strategic and major issues.

// **2**

The choices and options for addressing the issues.

// **3**

The implications (financial, levels of services and effect on wellbeing) of each option.

Figure 6 shows how the separate policies and plans combine within the LTP to provide an integrated approach to governance.

Figure 6: The elements of a long-term plan

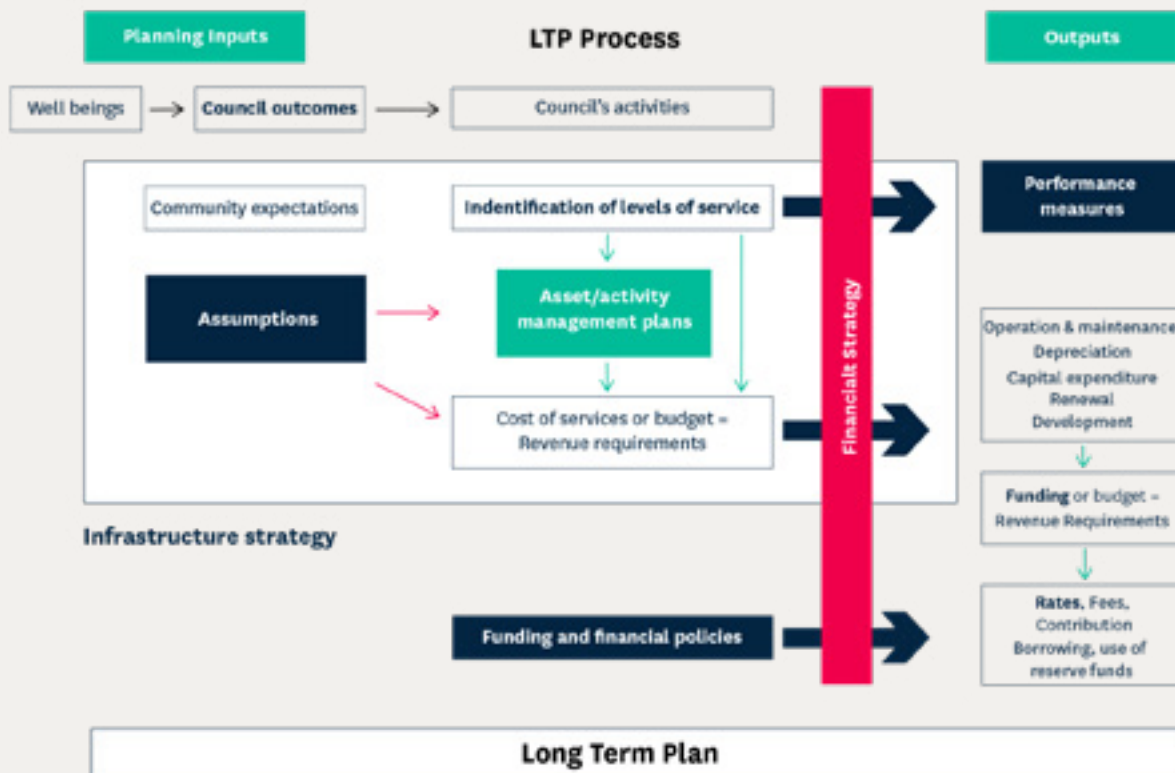


Diagram courtesy of Philip Jones PJ & Associates



The proposed financial statements for the 10-year period of the plan must also be included in the LTP. These must include information for the local authority itself and may include information for any Council Controlled Organisations (CCO), and any other organisation under the control of the local authority. 'Plain English' financial statements are also required.

Draft and final LTPs are subject to audit by the Auditor-General (paid for by kaunihera) regarding the quality of information provided, and assumptions underlying the forecast information. The auditors do not comment on the merits of any policy content but give the plans either a qualified or unqualified opinion, the latter indicating that the plan is 'fit for purpose'.

## The role of elected members in the LTP

The LTP is the result of a significant number of decisions. The long-term planning process is a councillor's main opportunity for making change and ultimately, they will be held to account for the content of the LTP, so ownership and buy-in are crucial to community acceptance.

In a territorial authority, it is the statutory role of the mayor/koromatua to lead development of the LTP, including policies and budgets for consideration by elected members. However, the active involvement of councillors in preparatory workshops is critical. In regional councils, the common expectation is that the chair will fulfil a similar role to the mayor/koromatua.

*"The LTP will only be successful as a blueprint for the future governance if it has the active support of elected members. LGNZ strongly recommended that elected members actively participate in the early stages of developing an LTP, whether they are councillors, local board members or community board members."*

Typically, management will organise workshops that enable elected members to identify issues that should be considered in developing the plan and define levels of service.

## The role of the public in the LTP

An effective LTP must be based on accurate information about what the community expects from the kaunihera in terms of services, the quality of those services and how they are to be paid for.

An effective LTP needs meaningful and in-depth public input throughout the process. This means working directly with existing community networks as well as setting up events and processes to understand what people are expecting and enabling input into the design and prioritising of services described in the LTP. Seeking public input through public consultation on a draft Consultation Document is not good enough.

The LGA 2002 defines community outcomes as "the outcomes that a local authority aims to achieve in order to promote the social, economic, environmental, and cultural wellbeing of its district or region in the present and for the future."

LTPs must describe the outcomes a kaunihera seeks to achieve; how it determines these is up to each kaunihera. They may wish to consult widely and employ a collaborative process, or simply workshop potential outcomes with elected members before including them in the LTP for consultation.

Although kaunihera are not bound by community outcomes, they must show how their activities contribute to achieving them and report on any measurement undertaken during the year in their annual report.

## Financial Strategies

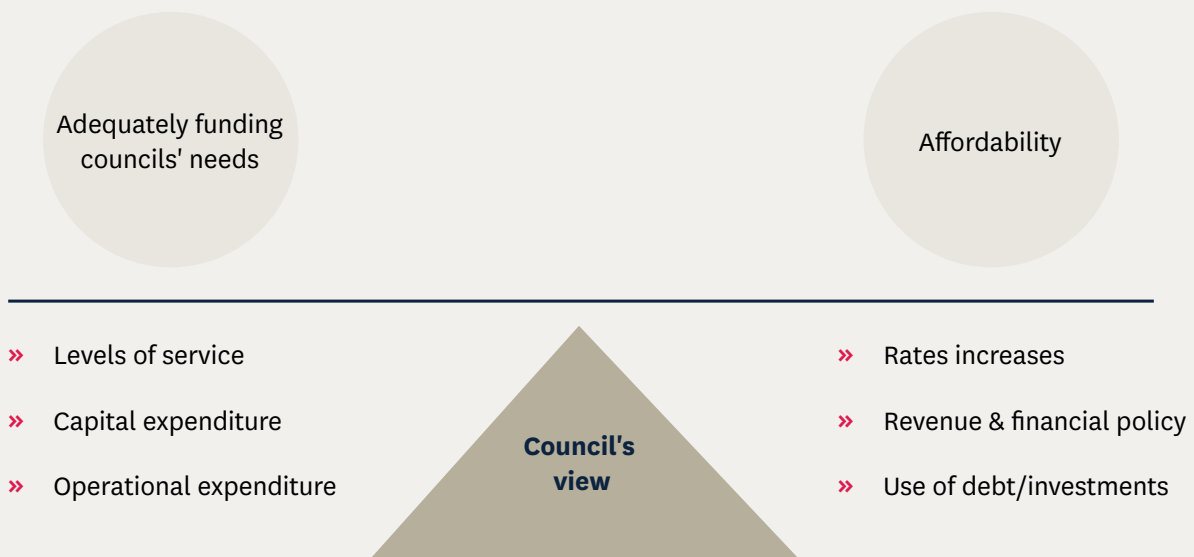
A financial strategy sets the overall direction of the financial aspects of the LTP and sets financial parameters for the kaunihera. It should contain a summary of the financial issues being faced, and the implications of any decisions.

Financial strategies set the context in which kaunihera develop their LTPs. They need to balance the levels of service desired by communities with the state of infrastructure, as set out in the infrastructure strategy. A financial strategy is ultimately a trade-off between the need to fund infrastructure to meet agreed levels of service, while ensuring rates and charges remain affordable and debt levels prudent.

The financial strategy must state a council's quantified limits on rates, rate increases and borrowing limits, and an assessment of the kaunihera's ability to meet planned service levels within those limits. Should expected limits not be met, councils must publicly explain the reasons why.

The process involved in creating a financial strategy is set out in Figure 7. For more information, see Chapter 9: It's all about the money.

Figure 7: The financial strategy



## The consultation document

When consulting on the LTP, kaunihera must prepare a consultation document. Its purpose is to provide an effective basis for public participation in the decision-making processes by:

- // a** providing a fair representation of the matters that are proposed for inclusion in the LTP in a way that:
  - i. explains the overall objectives of the proposals, and how rates, debt, and levels of service might be affected, and
  - ii. can be readily understood by interested or affected people,
- // b** identifying and explaining, significant and other important issues and choices facing the local authority and district or region, and the consequences of those choices, and
- // c** informing discussions between the local authority and its communities about the matters listed above (s.93B LGA 2002).

## The annual plan

The annual plan includes the annual budget and is a link to the rate-setting process. In its first year, the financial and service level information of a LTP is also the kaunihera's annual plan. In other years, kaunihera must prepare an annual plan that links the LTP to the annual budgeting process (including setting rates).

An annual plan must include:

- » A proposed annual budget including estimated costs and revenues.
- » A funding impact statement for the coming year.
- » Forecast financial statements for the coming year.
- » Information on reserve funds.
- » Details of any changes from the information in the LTP (including the reasons for change).
- » Financial statements for the previous year.

One important feature of the LGA 2002 is that kaunihera cannot make significant changes to their services or service levels through their annual plan; they can only do so through the LTP, or an amendment to the LTP using the special consultative procedure. This applies to proposals that would:

- » significantly alter service levels of a significant activity, including commencing or ceasing such an activity, or
- » transfer ownership or control of a strategic asset.

An annual plan can be used to amend a LTP, although it must be adhere to the rules that apply to amending an LTP.

Annual plans must be adopted before the beginning of the financial year they are for: this means they must be adopted by 30 June. There is no penalty for missing the deadline, however, if the delay is too long, then a kaunihera's authority to issue a rates' notice for the first quarter of the new financial year will be compromised (see s.50 of the Local Government (Rating) Act 2002.)

When preparing its annual plan, a local authority must consult in a manner that gives effect to the requirements of s.82 of the LGA 2002, the principles of consultation. This only applies if the proposed annual plan includes significant or material differences from the content of the LTP, for the financial year it relates to. There is nothing, however, to stop a council consulting on the proposed annual plan even if no significant or material changes are contained in it.

## The annual report

Annual reports close the ‘feedback’ loop with communities, reporting on what has been achieved over the course of the year, and what hasn’t. Some of the key information to include is:

- » capital expenditure including the amount spent to meet additional demand, improve the level of performance and replace existing assets,
- » the Statement of Service Performance (SSP) detailing financial and non-financial performance (which must be audited),
- » Funding Impact Statements (FIS) for groups of activities, including the amount of funds produced from each source and how they were applied and levels of internal borrowing,
- » reports on the performance of council-controlled organisations, and
- » rating information, including the number of rating units.

Kaunihera are also required to produce an Annual Report summary. This is important for transparency and accountability to your communities, as the simplified financial and performance information required in the summary, is more user-friendly than the more detailed annual report.

Annual reports must be audited and adopted by 31 October each year with the audited summary, publicly released within one month of the annual report being adopted.

## Frequently asked questions

### Who leads the development of the LTP?

The LGA 2002 states that, in a territorial authority, the mayor/koromatua is responsible however, they cannot lead alone and will require a clear statement of direction and priorities that is supported by the majority of councillors.

### How do elected members inform management what our priorities are?

The process for developing an LTP starts more than a year before it is due to be adopted. It starts with collecting up-to-date information on the state of assets and an agreement on the core assumptions that underpin the long-term forecasts. These will be presented for approval along with the opportunity for elected members to set directions, highlight priorities and set parameters.

### Do we have to wait until the middle year of the triennium to change our LTP?

A LTP can be amended at other times. Some councils are elected with very different priorities to those in the current LTP and make the decision to amend the LTP it in the year following their election, as part of the annual plan. An LTP amendment is costly as the whole plan must be audited.



## Want to know more?

The Office of the Auditor General has published a considerable number of reports on long-term planning, including its triennial report to Parliament. These reports provide an important resource for people wanting to identify what good long-term planning involves and how to improve performance. For more information go to [www.oag.govt.nz](http://www.oag.govt.nz)

Local Futures Research Project (2009). Local government strategic planning. Institute of Policy Studies. Wellington: Victoria University Press.

OAG (2021) Matters arising from our audits of the 2021 – 31 Local Authority Long Term Plans, available from [https://oag.parliament.nz/2022/ltps/?utm\\_source=subs&utm\\_medium=subs&utm\\_campaign=LTPs2022](https://oag.parliament.nz/2022/ltps/?utm_source=subs&utm_medium=subs&utm_campaign=LTPs2022)





# wāhanga **NINE**

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**It's all about the money >>**



**Local authorities are responsible to gathering public money and determining the most appropriate use for it for the benefit of the communities they serve. Members must be well-informed and competent financial managers.**

The power to levy a variety of property taxes, charges and user fees is prescribed in the Local Government (Rating) Act 2002 (the Rating Act), the Local Government Act (LGA) 2002 and other specific statutes that have their own charging regimes.

The LGA 2002 also sets out the accountability framework that councils must comply with. It contains several principles and requirements to ensure financial decisions are based on good analysis of their immediate and future impact.

A key principle is that of ‘prudent’ (careful, sensible or acting with careful deliberation) management and sustainability. Section 101(1) of the LGA 2002 states:

// 1

A local authority must manage its revenues, expenses, assets, liabilities, investments and general financial dealings ‘prudently’ and in a manner that promotes the current and future interests of the community.

// 2

A local authority must make adequate and effective provision in its long-term kaunihera (council) community plan and in its annual plan (where applicable) to meet the expenditure needs of the local authority identified in that long term council community plan and annual plan.

Section 102 details the specific financial policies councils must adopt.

In order to act prudently, the local authority must use the best available information and set operating revenue at a level that adequately funds forecast operating expenses, including the useful life of all kaunihera infrastructure assets. Other judgements include deciding the share of operating revenue that will be raised from rates and other sources.

**Financial governance in LGA 2002**

Section 101: Prudence and sustainability

To manage finances prudently in a manner that promotes the current and future interests of the community

Section 101A: Financial strategy

The adoption of a strategy to inform and guide the assessment of funding and expenditure proposals

Section 102: Funding and financial policies

The adoption of a set of funding and financial policies to provide predictability about levels and sources of funding

Balanced budget requirement

Operating revenues must be set at a level sufficient to meet operating expenses, unless prudent not to.

**Financial strategy**

Your kaunihera must adopt a financial strategy as part of its Long-term Plan (LTP).

A financial strategy is both:

- » An overall direction for the financial aspect of the LTP, and
- » A synthesis of the financial issues and consequences arising from your local authority’s decisions about policy and service delivery.

Section 101A of the LGA 2002 defines the purpose of a financial strategy as being to facilitate:

- » Prudent financial management by [your] local authority by providing a guide for considering proposals for funding and expenditure against, and
- » Consultation on your local authority’s proposals for funding and expenditure by making the overall effects of those proposals on services, rates, debt, and investments fully transparent.

Your financial strategy must be closely aligned to your infrastructure strategy - meaning it will look different for each local authority. For example, a financial strategy for a kaunihera with assets that are coming to their end-of-life with significant renewal expenditure, will probably have a completely different strategy than one creating new assets for growth or one with relatively new infrastructure.

A kaunihera's total revenue needs are based on expenditure; therefore, kaunihera must allocate the required revenue in accordance with section 101(3) of the LGA, by taking into account the relationship of each activity to be funded to:

- » the community outcomes to which the activity primarily contributes,
- » the distribution of benefits across the community,
- » the period in or over which those benefits are expected to occur,
- » the extent to which the actions or inaction contributes to the need to undertake the activity, and
- » the costs and benefits, including consequences for transparency and accountability, of funding the activity distinctly from other activities.

In addition, you must also consider the overall impact of any allocation of liability for revenue needs on your communities, which includes the impact on affordability.

## **Funding and financial policies**

Councils must also adopt a range of funding and financial policies. These include:

### **// A revenue and financing policy**

indicating how operational and capital spending will be funded. This policy sets the context in which the other funding and financial policies operate.

### **// A liability management policy**

indicating how the kaunihera will manage borrowing and liability such as the giving of securities.

### **// An investment policy**

indicating how kaunihera investments will be managed.

### **// A policy on development and financial contributions**

indicating how, and to what extent, the cost of capital expenditure will be met by a levy on new subdivisions and developments.

### **// A policy on the remission and postponement of rates on Māori freehold land**

indicating the conditions and criteria that will apply should the council decide to implement such a policy. See Chapter 10 Rates.

### **// A remission and postponement policy for other classes of land**

may also be adopted.

## Balanced budget

The LGA 2002 states that councils must balance their budget unless they have prudent reasons not to and outlines a set of exceptions. A balanced budget means expenditure by the kaunihera doesn't exceed income gathered by the kaunihera. The decision to depart from a balanced budget requires careful analysis of the kaunihera's funding needs and overall financial strategy to best deliver sustainable community services over the long term.

The grounds for departing from the principle of a balanced budget are outlined in s.100, LGA 2002, Balanced Budget Requirement:

### // 1

A local authority must ensure that each year's projected operating revenues are set at a level sufficient to meet that year's projected operating expenses.

### // 2

Despite subsection (1), a local authority may set projected operating revenues at a different level from that required by that subsection if the local authority resolves that it is financially prudent to do so, having regard to:

- // a The estimated expenses of achieving and maintaining the predicted levels of service provision set out in the long -term council community plan, including the estimated expenses associated with maintaining the service capacity and integrity of assets throughout their useful life; and
- // b The projected revenue available to fund the estimated expenses associated with maintaining the service capacity and integrity of assets throughout their useful life; and
- // c The equitable allocation of responsibility for funding the provision and maintenance of assets and facilities throughout their useful life; and
- // d the funding and financial policies adopted under section 102 (s.101).

If a council decides to take this approach, then it will have to make a resolution not to balance its operating budget in any year covered by the LTP. The resolution must state the reasons for and implications of the decision, and any other matters taken into account.

The balanced budget test focuses on deficits. While an operating deficit may indicate that levels of service and financial operations are unsustainable, resulting in future generations bearing the costs, a surplus does not necessarily mean that the LTP is financially prudent.

*"The core question is whether ratepayers are paying an appropriate level of rates bearing in mind the services they are receiving."*

## Depreciation in the local government context

Kaunihera must follow generally accepted accounting practice (GAAP), which define depreciation as an operating expense. *"Depreciation is the systematic allocation of the depreciable amount of an asset over its useful life"* (GAAP).

It must be considered alongside other operational costs, including interest, when a kaunihera determines its operating revenue.

The legislation requires that kaunihera ensure projected revenues are at least equal to projected operational expenditure including depreciation, unless it is prudent to do otherwise. The cash or funding generated by the revenue may be used for present capital needs (including renewals), debt reduction or set aside for future capital needs. This helps ensure sound asset management practice and continuity of service to future generations.

Depreciation is an expense that reflects the use or consumption of the service, implicit in an asset. The purpose of depreciation is not to provide for the replacement of the asset, although this may be a consequence.

There are two critical factors in determining the expense. The first is the cost or revalued amount, and the second is the useful life. It is not related to the physical wearing out of any asset. For example being able to sit on a park bench in year one is the same benefit to a ratepayer as being able to sit on park bench in year 15, 16, and 17.

## **Cost or revalued amount**

While the cost of an asset is relatively easy to ascertain, because assets provide benefit for a long period, kaunihera would normally revalue their assets regularly so they reflect the fair value (book value). For all infrastructure assets, this is based on depreciation replacement cost (DRC). This is the cost based on the replacement value of an equivalent asset, less the accumulated depreciation.

As a result of revaluing assets, depreciation will increase. However, as the purpose of depreciation is to charge the people who are using the asset their share of that asset, if the value has increased, in theory the people using the asset should pay a greater share. If the value has increased, then so have the future renewal costs.

## **Useful life**

Determining an asset's useful life can be difficult. Although there are 'standard useful lives', and often manufacturers give a 'minimum useful life', several factors are used in determining this. These can be grouped as either condition-based or performance-based. Condition relates to the physical attributes of the asset, while performance relates to the ability of the asset to meet the level of service requirements.

The range of useful lives are reflected in each kaunihera's accounting policies, included within the financial statements, and these can vary significantly. It is not uncommon for one kaunihera to have a standard useful life of 80 years and another, 160 years for the same asset because of different construction methods, environmental constraints, topography, and soil types.

The change in useful lives results in a different depreciation expense.

The approach to depreciation in the local government context is no different than in the commercial sector; the only real difference is the useful lives of local government assets are significantly longer than many assets used in the commercial sector.

Some councils use the average of future renewal expenditure to set revenue rather than the forecast depreciation expense. This is sometimes known as the Long Run Average Renewal Approach (LRARA). This approach averages the renewal expenditure for the next 25-35 years and uses this in calculating funding requirements. In these cases, the depreciation is still recognised as an expense, but not used for setting revenue.

However, LRARA cannot be used to calculate the depreciation expense as it is forward-looking, and this does not comply with the accounting concept of consumption. More importantly, if depreciation is calculated correctly then over the life-cycle of an asset (ignoring the impacts of inflation and revaluation) the depreciation expense and LRARA-based funding need calculation would be the same or similar in value.

## **Funding or cash implications of depreciation**

Depreciation is especially important as it ensures that today's ratepayers pay their fair share of consumption of the assets, making it a vital component of the process of setting rates and charges.

As depreciation is a non-cash item of expenditure, the combination of depreciation and total operational expenditure will result in a funding surplus from operations. It is then up to a kaunihera to decide how that surplus should be allocated.

## **Funding Impact Statement**

A local authority must include a funding impact statement (FIS) in its LTP and annual plans. The FIS sets out the amount of funding required, how those funds will be raised and how much each mechanism or funding tool will raise. It must also show how kaunihera activities will be funded, whether by rates, user charges or some form of targeted charge. It must detail the kaunihera forecasting assumptions and a description of any risks underlying the estimates.

The annual report must include an audited FIS for each group of activities and an audited FIS for the financial year, identifying the amount of funds produced from each source of funding and how the funds were applied. The information in the FIS should be reflected in a kaunihera's rating resolution.

# Frequently asked questions



## Why is it prudent for some councils not to balance their budget?

Because depreciation is regarded as an operational expense, where a kaunihera chooses not to fully depreciate an asset or assets the reduction is reflected as a deficit. There may be very prudent grounds for not depreciating an asset or class of assets, such as when an asset is not going to be replaced or when an asset is new and does not require expenditure on maintenance or renewal.

## Want to know more?

OAG 2021, Observations on the 2021 – 2031 Consultation Documents at <https://oag.parliament.nz/2021/consultation-documents>

LGNZ (2015). Local government funding review 10-point plan. Available from <http://www.lgnz.co.nz/assets/In-background/LGNZ-Funding-Review-Full-17-July.pdf>

The Office of the Auditor General's website, [www.oag.govt.nz](http://www.oag.govt.nz) contains a wide range of publications about financial governance.





# Wāhanga **TEN**

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**That old chestnut - rates >>**



**Rates, or property taxes, are the most common source of revenue in almost all kaunihera. They are also the most widely debated aspect of kaunihera responsibility. It is your role to ensure you understand the details.**

The rules that give kaunihera the authority to levy rates are found in the Local Government (Rating) Act 2002 (Rating Act). Rates are a tax on the value of property. The Rating Act enables kaunihera to levy two main types of rates:

## // general rates

where the kaunihera decides that all, or part of, the cost of a particular function or functions should be met by the whole community, and

## // targeted rates

where the kaunihera decides that all, or part of, the cost of a particular function or functions should be funded by a specific rate, potentially targeted to particular categories of rating units.

To set their rates, kaunihera must pass a rates resolution. This must be set in accordance with the Long-term Plan (LTP) or Annual Plan and be consistent with the Funding Impact Statement (FIS). Each rate must fit within the kaunihera's revenue and financing policy, which kaunihera must also ensure properly supports the rates resolution as stated by the Office of the Auditor-General (OAG).

In addition, kaunihera may also impose fees and charges where it decides that all, or part of, the cost of a particular function should be met by the individuals who benefit from it.

Many of the statutes that govern kaunihera activity also contain specific charging powers. In some cases these are prescribed and, because of inflation, no longer reflect the actual cost incurred. As legislation is updated, charging regimes are generally adjusted to allow kaunihera to set fees on an actual and reasonable basis.

## General rates

Local authorities have two sorts of general rating powers:

- » **general rates** – a rate per dollar of property value set on a land, capital or annual value basis, and
- » **uniform annual general charges (UAGC)** – a fixed dollar charge per rating unit or 'separately used or inhabited part of a rating unit'.

The concept of 'separately used or inhabited part' allows kaunihera to set rates on parts of a property that might have separate or distinct uses. It includes any portion of a rating unit inhabited or used by a person other than the owner, who has the right to do so by virtue of a tenancy, lease, licence or other agreement. If a kaunihera utilises separately used or inhabited parts of rating units in their FIS then a definition of what these are, must also be provided.

The general rate can be set at the same rate in the dollar for all rating units or differentially (different rates in the dollar for different categories of rating units). A common use of differential powers is a rural differential to reduce the rates charged on rural properties as they do not have the same access to the services that urban residents receive.

If differential rates are used, one or more of the following must be the basis for differentiating. NO other matters can be used.

- » property value (land, annual and capital),
- » location,
- » land area,
- » use (residential, commercial, farmland etc),
- » the provision or availability of a service by, or on behalf of, a local authority,
- » any activities that are permitted, controlled or discretionary for the area in which land is subject under an operative district or regional plan under the Resource Management Act, or
- » any activities that are proposed to be permitted, controlled or discretionary for the area in which land is situated, and the rules to which it is subject under a proposed district or regional plan (if there are no 'live' submissions in opposition to those proposed activities).

## Targeted rates

Targeted rates are designed to fund specific work or services provided by the kaunihera. If a kaunihera sets a targeted rate for a particular purpose, it cannot use the revenue for another purpose. Kaunihera can set:

- » a targeted rate for more than one function (for example, some kaunihera charge what are called 'ward rates', which fund several different services in a defined area), or
- » more than one targeted rate for a single function (for example, where kaunihera have different water schemes, they might use a targeted rate to fund each scheme).

Kaunihera can set a targeted rate on all rating units in their area, or they can exclude some. For example, a kaunihera might set a targeted rate for security, street cleaning or beautification in the central business district.

The factors that can be used when developing a targeted rate are outlined in Schedule 3 of the Rating Act. These provide the basis for calculating who pays what. These factors include:

- » property values (land, capital, annual or improvement values) set by the Rating Act,
- » land area (either the total area of land in the rating unit; the area of land that is sealed, paved, or built on; the area of land protected by any facility or amenity provided by a local authority, or the area of floor space of buildings within a rating unit),
- » the number, or nature, of connections to any reticulation system,
- » the number of water closets (toilets) and urinals (although a rating unit used primarily as a residence for a single household must be treated as having only one water closet or urinal),
- » the number of separately used or inhabited portions of the rating unit, for example, it is legal to set a targeted rate on most of what are currently called apportionments, and
- » the extent any service is provided to the rating unit by the local authority, subject to a rider that the extent of provision must be measured objectively and be able to be verified. For example, half charges for availability of connection to a water or sewage scheme can still be made by using this factor.

The Rating Act carries on what is known as the '30 per cent cap'. This is a limit on local authority's ability to raise revenue from fixed rates, including any UAGC and any targeted rate that is calculated as a fixed amount per rating unit or separately used or inhabited part of a rating unit (and which is not used solely for water supply or sewage disposal).

In any one year, your local authority cannot collect more than 30 percent of its total rates revenue in this way. The cap is less restrictive than it appears. The exemption of fixed rates for water supply and sewage disposal is one reason (there are local authorities that raise more than 50 percent of their rates revenue in this way, entirely legitimately).

## Non-rateable land

The Rating Act sets out categories of land that are exempt from certain kinds of rates, either completely or in part. The following is a simplified list of land that is non-rateable.

### // Conservation land

such as National Parks, wildlife refuges, the bed of the sea and any navigable lake or river where that land is vested in the Crown. However, land that is used primarily for private or commercial purposes under a lease, licence or other agreement is not exempt. Similarly, land owned by an association, open to the public and not used for private/commercial purposes is non-rateable

### // Heritage land

land owned and used by any of the Historic Places Trust, the QE2 Trust, Te Papa, Health Camps and the Foundation for the Blind provided the land is both owned and used by these organisations. If leased to someone else, it is fully rateable.

### // Local authority land

used as a public garden, reserve, playground, hall, library, athenaeum, museum, art gallery, pool, water closets, or for soil conservation or river control, games and sports. This does not apply to local authority-owned utilities. However, if the kaunihera does not want to collect rates from these properties it has to either remit the rates, or give them a differential.

### // Education land

including schools of any type and ownership such as early childhood centres, polytechnics, teachers' colleges, universities and wananga. School houses are also non-rateable if the house is used by a principal, caretaker or teacher and the house is let at a discounted rent.

In addition, the following are also non-rateable:

- » Te Whatu Ora Health New Zealand land used to provide health or health-related services.
- » Institutions used as a place of religious worship.
- » Cemeteries and crematoria less than 2.0 hectares in area (except those conducted for profit).
- » Māori customary land, urupa and anything used as marae or hui house that does not exceed 2.0 hectares in area.
- » Roads owned by the Crown or a local authority.
- » Airports where the land is owned by the Crown or an airport authority and used as the runway or for the loading and unloading of goods and passengers.
- » Wharves.
- » Machinery.
- » Railways (regardless of ownership).
- » Charitable institutions used or occupied by, or for the purposes of, any institution that is for the 'free maintenance or relief of persons in need' and does not exceed 1.5 hectares in area.

Although unable to set a general rate on these, kaunihera can set targeted rates for sewage disposal, water supply and waste management.

The Rating Act also creates a special category of rating units that are 50 per cent non-rateable. These are liable for targeted rates for sewage disposal, water supply and refuse collection and are also liable for 50 per cent of the general rates set for sewage disposal, water supply or waste management. The types of rating unit that fall into this category include:

- » Land owned and used as showgrounds or as a place of hui, by a society incorporated under the Agricultural and Pastoral Societies Act 1908.
- » Land owned or used by a society or association of persons (whether incorporated or not) for games or sports except for galloping, harness or horse racing.
- » Land owned or used by a society or association of persons (whether incorporated or not) for any branch of 'the arts' (not defined).

However, any land, including land detailed above, that is subject to a liquor licence is fully rateable.

## Other rating matters

### Water metering

The Rating Act authorises the use of water metering but limits it to funding water supply. For example, kaunihera cannot use water consumption as the basis of a charge for sewage disposal, unless water and wastewater are delivered through a kaunihera-controlled organisation.

### Educational establishments

The Rating Act gives the Minister of Local Government the power to make regulations on the rating of educational establishments for sewage disposal, particularly if the Minister believes kaunihera are overcharging schools for this service.

## Development or financial contributions

Please note that the reform of water services will impact on kaunihera's development contribution powers.

Development contributions are a fiscal tool to identify and allocate the cost of growth. Growth can result in services coming under pressure, requiring expensive redevelopment. This may include demand for infrastructure to be redeveloped to meet an increased need for roads and transport, sanitation, flood protection or recreation facilities.

The purpose of the development contributions is to enable territorial authorities to recover from those undertaking development a fair, equitable and proportionate portion of the total cost of capital expenditure necessary to service growth over the long-term.

Development contributions may be required if the effect of the development will require new or additional assets, or assets of increased capacity, and the territorial authority incurs capital expenditure to provide appropriately for either reserves or network or community infrastructure.

A development contribution must be used for the capital expenditure for which it was required. It cannot be used maintenance of the infrastructure.

## Frequently asked questions

### Policy on development contributions

Kaunihera must adopt a policy on development or financial contributions. It must explain the total cost of capital expenditure identified in the LTP or forecast to be needed to meet the increased demand. It must also state the proportion of that total cost that will be funded by development contributions, financial contributions and other sources of funding.

The policy must explain why a decision to use these funding sources has been made. It must identify separately each activity, or group of activities, for which the contribution will be required and specify the total amount of funding to be sought for each, by these contributions.

Although kaunihera are required to adopt a development contribution policy, that policy can be zero rated; contain no charge where a kaunihera might wish to attract development or has excess infrastructure capacity.

### Why do rates always go up?

They don't always increase. However, there are three main reasons why this is common.

#### // 1

Increased levels of service and community expectations which generally require more income and therefore higher taxes.

#### // 2

The increased cost of kaunihera network infrastructure the materials used, which often increase at a faster rate than the consumer price index.

#### // 3

Additional duties and responsibilities given to kaunihera by central government.

### Which is best, land value or capital value rating?

It depends on the nature of your community, land use and priorities. Capital value is often adopted as it is seen to have a closer relationship with ability to pay, investing in a property can be considered an indication of wealth. It is also regarded as having a closer relationship to the benefit principle, as land that is built on is more likely to use kaunihera services. Alternatively, land value rating is often supported as it is seen to be less distortive and encourages owners to make the best economic decisions about their land, including providing a tool to reduce land banking.



## Want to know more?

For more comprehensive information, please see Local Government New Zealand's publication Elected Members' Guide to the Local Government (Rating) Act 2002, available from [www.lgnz.co.nz](http://www.lgnz.co.nz)

Setting rates: potential issues for kaunihera to watch out for, available from <https://oag.parliament.nz/2022/setting-rates>

Productivity Commission 2019, Local government funding and financing at <https://www.productivity.govt.nz/inquiries/local-government-funding-and-financing/final-report/>









11

# Wāhanga ELEVEN

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**Performance – how do we know if we are getting it right? >>**

## **Performance means meeting your community's needs and expectations and performing any statutory duties set by legislation. When it comes to the performance of your kaunihera the buck stops with you.**

Performance management is a process of determining objectives, measuring progress against them and using the results to improve the delivery of services to the community. The outcome of it is an improvement in service delivery.

### **Legislative requirements**

The legislative framework under which local authorities operate, includes multiple requirements on kaunihera to measure and report their performance, from specific requirements under the Building Act and the Resource Management Act, to more general requirements under the Local Government Act (LGA) 2002.

Kaunihera must also act according to principles, set out in the LGA 2002, to ensure public resources are used wisely and efficiently. These principles require a kaunihera to:

- » conduct its business in an open, transparent, and democratically accountable manner; and give effect to its identified priorities and desired outcomes in an efficient and effective manner, and
- » actively seek to collaborate and co-operate with other local authorities and bodies to improve the effectiveness and efficiency with which it achieves its identified priorities and desired outcomes.

The first principle emphasises the fact that kaunihera operate in the public sphere and must ensure it is also open, transparent, and democratically accountable. The second principle expects kaunihera to explore shared service options with other local authorities. Some service and back-office areas allow for economies of scale.

### **Performance measures, Statements of Service Performance, and the Long-term Plan**

Kaunihera must set performance measures in their Long-term Plans (LTP). They must clearly articulate what their targets are, what has been achieved and how the local authority is making people's lives better.

These constitute a council's Statement of Service Performance (SSP) which includes performance measures for groups of activities.

The first set are mandatory; a standard set of non-financial measures<sup>5</sup> that are specified by government for water supply, sewerage (infrastructure), the treatment and disposal of sewage, stormwater drainage, flood protection and control works, and the provision of roads and footpaths.

The second set are measures selected by kaunihera for other major activities including targets for each measure, any intended changes to levels of services, the reasons for the changes and the reason for any material change to the cost.

The performance measures chosen should provide a balanced picture of the important aspects of a kaunihera's activity. They should make sense to everyone, be focused on quality not quantity, and reflect significance, importance and risk.

Performance against these measures is tracked and shared in the annual report, which must include an audited statement that:

- // a** compares the level of service achieved in relation to a group of activities with the performance target or targets for the group of activities,
- // b** specifies whether any intended changes to the level of service have been achieved, and
- // c** gives the reasons for any significant variation between the level of service achieved and the intended level of service.



In its 2010 analysis of performance measures the Office of the Auditor General (OAG) made the following observations:

*“Local authorities that included definitions and/or contextual information to support technical words made the intended levels of service more understandable to the lay reader. Translating technical information into simple terms will be more effective in engaging the community. A large number of performance measures were often included in each activity. It is the quality of the performance measures that matter and not the quantity.*

*In selecting performance measures to report, entities should consider the characteristics of performance that:*

- » *are of greatest importance to stakeholders,*
- » *reflect the financial significance of the activity, and*
- » *reflect both the objectives for carrying out the activity and any (external or internal) risks needed to be managed in achieving those objectives.”*

## **Mandatory financial prudence benchmarks and Government intervention**

The Government has developed benchmarks for assessing whether a kaunihera is managing its finances prudently - see table 7. Kaunihera report against these benchmarks annually in the annual report.

The benchmarks have been designed to provide an overall financial picture of your kaunihera and for highlighting any significant trends. They should provide early warning of any emerging issues and enable kaunihera to resolve problems without central government intervention.

However, failure to meet benchmarks is not sufficient grounds for intervention. The Minister of Local Government must be satisfied, independent of the benchmarks, that there is a financial prudence problem, and the Minister cannot intervene if the kaunihera is willing, and able, to deal with the problem. The Department of Internal Affairs' approach to intervention is based on the existence of:

- » consistent failure to meet predictability benchmarks needs prompt action, and
- » consistent failure to meet sustainability or affordability benchmarks needs strategic consideration and response.

Caution is urged if using the benchmarks to compare kaunihera as the context and circumstances of each will differ. For example, kaunihera with growing populations should have higher levels of debt than those with a static or declining population. Also, some of the benchmarks may not be directly relevant to your local authority.



Table 7: Seven fiscal benchmarks for assessing prudent financial management.

	<b>// BENCHMARK NAME</b>	<b>// DESCRIPTION</b>
Affordability benchmarks and indicators	Rates benchmark <i>(indicator)</i>	Rates income complies with the limits set in the council's financial strategy <i>(Rates per rating unit)</i>
	Debt benchmark <i>(indicator)</i>	Debt complies with the limits set in the council's financial strategy <i>(Net debt per rating unit)</i>
Sustainability benchmarks	Balanced budget benchmark	Revenue, excluding income from development and financial contributions, revaluations and vested assets, exceeds operating expenditure
	Essential services benchmark	Capital expenditure on the five network infrastructure services equals or exceeds depreciation on those five services
	Debt servicing benchmark	Borrowing costs are less than 10 per cent of operating revenue (as defined in the balanced budget benchmark) for all local authorities, except those with projected growth at or above the New Zealand average. For those local authorities, the benchmark is borrowing costs being less than 15 per cent of operating revenue
Predictability benchmarks	Operations control benchmark	Net cash flow from operations equals or exceeds budget
	Debt control benchmark	Net debt is less than or equal to forecast net debt in the local authority's long-term plan

## Ministerial review of a Council

For the most part, local governments have a high level of autonomy in how they govern. However, the Minister of Local Government has a range of intervention options should a local authority experience a 'problem'; defined in s.256 (a), LGA 2002 as:

- i. a matter or circumstance relating to the management or governance of the local authority that detracts from, or is likely to detract from its ability to give effect to the purpose of local government within its district or region,
- ii. a significant or persistent failure by the local authority to perform one or more of its functions or duties under any enactment, or
- iii. the consequences of a state of emergency and includes a failure by the local authority to demonstrate prudent management of its revenues, expenses, assets, liabilities, investments, or general financial dealings.

In relation to any problem (as defined above) the Minister may require a local authority to provide information on the extent of a problem, or appoint a Crown Review Team, a Crown Observer, a Crown Manager or appoint a Commission.

A Crown Manager or Observer may be appointed to observe or manage a specific activity within a council, such as a building control activity. When appointing a Commission, the Minister may also delay a general election of the local authority.

## Assessing council efficiency – the s.17A process

In 2014 the LGA 2002 was amended to require kaunihera to regularly review how their services are being delivered and whether or not alternatives might be more efficient or more effective.

The Act requires that reviews are carried out:

- » in conjunction with significant changes planned to relevant service levels,
- » within two years before the expiry of any contract or other binding agreement relating to the delivery of that infrastructure, service, or regulatory function; and
- » at such other times as the local authority considers desirable, but not later than six years following the last review.

Exceptions to this are situations where a kaunihera is undertaking an activity that is governed by specific legislation and where the local authority is satisfied that the potential benefits of undertaking a review into that activity do not justify the costs of undertaking it.

Your officials will advise you from time to time on their plans to undertake the required service delivery reviews. They will also report to the governing body of your local authority on the results of any reviews carried out and options or actions taken in response.

## CouncilMark – the LGNZ Excellence Programme

The CouncilMARK™ programme is a voluntary independent assessment system, designed to improve the public's knowledge of the work kaunihera are doing in their communities and to support individual kaunihera to improve the service and value they provide.

Kaunihera receive an overall performance rating from an Independent Assessment Board and commentary on their performance across five priority areas:

### // 1

Governance.

### // 2

Leadership and strategy.

### // 3

Financial decision-making and transparency.

### // 4

Service delivery and asset management.

### // 5

Communicating and engaging with the public and business.

Specific indicators have been developed for each area and a ranking is provided to each participating kaunihera. Councils will also be assessed on each area and provided with information on their strengths and weaknesses. It is then over to each kaunihera to develop an action plan and engage with its communities on the issues that matter locally. A kaunihera's ratings are published online and the assessment is repeated every three years to monitor progress.

The programme is not about finding fault but identifying areas for future focus. It rewards robust decision-making, and promotes a more responsive council culture, improved services and better communication. It complements current kaunihera plans and activities and existing benchmarking initiatives. For more information see

<https://councilmark.co.nz/>

## Pre-election reports

Pre-election reports must be prepared and signed-off by each chief executive no later than two weeks before nomination day. They provide another source of critical information designed to help residents assess trends in councils' performance.

The purpose of the pre-election report is to provide information and promote discussion about the issues facing the local authority. The kaunihera has considerable discretion about how this is published. The pre-election report must contain, for the three years preceding the election and the three years following the election:

- » the funding impact statement,
- » a summary balance sheet,
- » a statement setting out the extent to which the authority has complied with limits in its financial strategy, and
- » information on planned major projects.

Elected members cannot influence the content of a pre-election report. Most are web-based and published on kaunihera websites. Pre-election reports can provide a helpful snapshot of a kaunihera's financial performance over time.

## Satisfaction surveys

Many kaunihera commission surveys to identify how satisfied residents are with their performance. In addition, surveys are often taken of the users of kaunihera facilities, such as museums or swimming pools. The results provide important performance information for elected members and the community.

Surveys on their own are unlikely to provide a complete view of performance. They are more powerful when interpreted alongside results from previous years or other comparative information so that trends can be identified. Satisfaction survey results are often used in a kaunihera's SSP and can usually be found published in full on kaunihera websites.

# Frequently asked questions



## How do I know how efficient my council is?

As an elected member you can request your chief executive provide information on whatever initiatives they undertake to ensure they are operating efficiently. Kaunihera often benchmark themselves against other councils of similar size and circumstance and much of this information will be publicly available.

## Is amalgamation the best way to improve efficiency?

For some services, maybe. There is no simple recipe for improving efficiency without reducing the standards of the services you deliver; in fact, there are multiple options to explore. One way of achieving economies of scale is through 'shared services'. Many kaunihera have joined together to deliver and procure services together, including procurement, backroom services, and valuation. A range of shared service initiatives exist throughout New Zealand; ask your officials for information on these.

## How can I compare average rates between my council and others?

Ask your chief executive for advice on this issue. There are no measures that are fair to every class of local authority. Some measures, for example rates per person, disadvantage councils with large numbers of holiday homes. Alternatively, rates per rating unit (the government's measure) disadvantage councils that have a high number of apartments (multiple households on a single rating unit) and provide services to large numbers of visitors or non-resident workers. Both categories are distorted by the size of commercial rates income and the use of differentials. Some councils use a 'rates paid by an average valued property' as a comparator.

## How do I ensure my council is operating prudently?

There are several answers to this question. It is important to ensure you have an Audit and Risk committee with an appropriately qualified external appointee. It is the role of an Audit and Risk Committee to monitor and report on any risks to the sustainable operation of the local authority. In addition, you need to monitor any trends revealed by the mandatory financial benchmarks which are reported in your annual reports. The benchmarks are designed to give you information on the degree to which your council's finances are being managed prudently. See Chapter 5, Decision Making for more information on Audit and Risk.

## Want to know more?

OAG (2010). Local government: Examples of better practice in setting local authorities' performance measures. Available from [www.oag.govt.nz/2010/examples-of-better-practice/docs/examples-of-better-practice.pdf/view](http://www.oag.govt.nz/2010/examples-of-better-practice/docs/examples-of-better-practice.pdf/view)

For information on financial and other statistics of all local authorities go to the local council site at [www.localcouncils.govt.nz](http://www.localcouncils.govt.nz)









# 12

# Wāhanga **TWELVE**

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**Community boards – the heart of local communities >>**

## As local government bodies become larger, new avenues are needed for people to engage in the decisions that shape their future. Community boards are one way for achieving this.

Not only do they ensure better representation, but Community Boards also promote stronger community wellbeing for all the diverse communities that exist in their area.

For the 2022 local authority elections, there will be 110 community boards, established in 40 territorial authorities across Aotearoa. Of these territorial authorities, 11 will have full city or district-wide coverage by community boards.

### What are Community Boards?

Community boards are unincorporated bodies which are neither local authorities nor committees of a local authority. They provide a voice for specific communities within a kaunihera catchment and act as representatives, advocates and connectors of those communities.

The Local Government Act (LGA) 2002 sets out the role and powers of community boards, including things they may not do, e.g. acquire, hold or dispose of property; appoint, remove or suspend staff (kaimahi). It also provides the statutory framework within which boards must operate, including particular rules and processes which govern how they work.

Community boards may be established in a territorial authority district but not in regions. They may be established as the result of a local government reorganisation, a proposal by electors under Schedule 6 of the LGA, or through a representation review process undertaken by the territorial authority. They can only be disestablished by a reorganisation or as the result of a territorial authority representation review.

Community boards must consist of no fewer than four and no more than 12 members. At least four members must be elected but boards can include members appointed by the territorial authority as long as their number is less than half the total number of members.

At elections, candidates may stand for both a community board and the council (kaunihera), but if elected to both, are deemed to have vacated the community board position and to have been elected to the kaunihera only.

Kaunihera kaimahi can be elected to a community board.

### The role of a community board and its members

The role of a community board member is varied and focuses mainly on providing a voice for distinct community groups – be it geographic or demographic – and acting as a bridge between the community and the kaunihera. When compared to the role of councillors, Community Board members spend a greater proportion of their time on representation matters and proportionally less on governance.

The role of a community board is set out in the Local Government Act (LGA) 2002, section 52 and is stated as to:

- // a represent, and act as an advocate for, the interests of its community
- // b consider and report on all matters referred to it by the territorial authority, or any matter of interest or concern to the community board
- // c maintain an overview of services provided by the territorial authority within the community
- // d prepare an annual submission to the territorial authority for expenditure within the community
- // e communicate with community organisations and special interest groups within the community
- // f undertake any other responsibilities that are delegated to it by the territorial authority.

It is important to note that, with the exception of (f), the statutory role of community boards exists independent of the views a kaunihera may have.

*A community board must consider the wellbeing of its community at all times when making decisions and carrying out its responsibilities on behalf of its community.*

Aside from possible delegations of decision-making responsibilities from the kaunihera, the statutory community board role is primarily concerned with firstly, representing and advocating on behalf of its community and secondly, acting as a bridge between the community and kaunihera, providing advice and ensuring an effective channel of communication.

## Representation and advocacy

These parts of the role are driven by the need to promote wellbeing across all aspects of a community – social, cultural, economic and environmental wellbeing. Representation and advocacy also apply to specific issues, like providing community responses to kaunihera policies, plans and bylaws, processes and procedures, including the way kaunihera decisions are made and the allocation and distribution of resources.

Community boards have several tools they can use to be effective advocates and to act in the best interests of their communities, including for example:

- » developing a community plan, including the commissioning of research and surveys as input into this plan, to reflect community preferences and concerns,
- » making submissions on kaunihera policies and plans and on proposed legislation and departmental consultation documents,
- » lobbying councillors and committees as well as other organisations and individuals of influence, and
- » developing communication programmes with a view to influencing opinions.

There are some constraints on advocacy. For example, boards must act within budgetary constraints set by the kaunihera and they may need to rely on the kaunihera for kaimahi support for helping to prepare documents, submissions or analysis of issues.

### Advice and communication

Community boards act as a bridge between kaunihera and the community, providing information and advice to the kaunihera about local needs, issues and matters of concern; at the same time, conveying information and advice back to the community from the kaunihera.

Community boards can be a very effective mechanism for sharing critical information with the community. For example, they can help the kaunihera to promote local resilience by sharing important information about community risk awareness and the need for emergency preparedness.

To do this effectively, boards need good processes and mechanisms for understanding what is going on in their communities. For example, boards should consider:

- » holding public forums at the start of meetings,
- » holding board meetings in community settings such as marae or community or school halls,
- » giving each member of the board a sector of the community to liaise with, such as the business sector, youth, migrant or education,
- » setting up committees with members drawn from the community, to provide intelligence,
- » building local partnerships with community organisations, and
- » holding regular outreach meetings throughout the community, such as displays and presentations at local community events.

## Decision-making and delegations

The decision-making role of community boards is different in nature from its other roles, which they are empowered by legislation. Decision-making is undertaken at the discretion of the kaunihera and as a result of the delegations it makes, which can be withdrawn by the council at any time.

Clause 32(4) of Schedule 7 of the LGA makes the nature of delegations very clear. It states that a community board to which any responsibilities, powers or duties are delegated, may, without confirmation by the kaunihera, “*exercise or perform them in the like manner and with the same effect as the local authority could itself have exercised or performed them*”.

As such, community boards have the authority to give advice and make recommendations under their statutory role and regardless of delegations. However, a delegation is needed to make decisions that bind a kaunihera into action. Without such a delegation, community boards have no authority to direct the kaunihera in what it must do.

### What can be delegated

The types of activities or services that can be delegated to community boards are largely of a non-regulatory nature but there are some relating to particular regulatory activities. The list includes:

- » *Community facilities:* governance decisions in respect of local libraries, swimming pools and community halls including local usage policies and approvals, opening hours, appointments to committees.
- » *Parks and reserves:* governance decisions in respect of reserve declarations and classifications, management plans, names, granting of leases and licences, details relating to new developments.
- » *Community development:* governance decisions, within kaunihera policies and budgets, in respect of community projects and events, collections and parades, community grants.
- » *Solid waste and recycling:* governance decisions in respect of the operation of community recycling and resource recovery centres.
- » *Health and safety:* decisions in respect of the application of legislation and bylaws in the community such as approvals of non-compliance or exemptions, alcohol bans, dog access and exercise areas
- » *Roading and transport:* acting as the roading authority for the community under the LGA 1974 in respect of roadways, names, concept/landscape plans, public safety, health, convenience, vehicle crossings, bus shelters, road stopping, traffic control and enforcement, traffic and parking bylaws.

### What cannot be delegated

There are some things kaunihera cannot delegate to their community boards. These include the following (see clause 32(1) of Schedule 7 of the LGA for the full list):

- » the power to make a rate,
- » the power to make a bylaw, and
- » the power to borrow money, purchase or dispose of assets, other than in accordance with the long-term plan (LTP).



# Getting started



The performance of community boards is guided by decisions made in the first few weeks after the triennial elections. These decisions, often made at the first meeting after the election, can include:

- » electing the community board chairperson,
- » adopting standing orders,
- » adopting a code of conduct,
- » agreeing how the board will operate over its three-year term, including the style, formality, level of inclusiveness and frequency of meetings,
- » deciding whether there will be a committee structure and, if so, what committees and their terms of reference,
- » deciding whether members will have portfolios and, if so, on what topics,
- » deciding whether the 'additional duties' allowance provided for by the Remuneration Authority should be used.

Community boards should look to schedule a full induction workshop shortly after members are sworn in. The induction is not only designed to explain the logistics associated with the community board and the kaunihera, it should also engage members in a discussion about their priorities for the community and the way in which they want to work as a team.

## First meeting

The kaunihera chief executive, or an officer acting on his or her behalf, will call the first meeting of the community board and prepare the agenda. The business that must be considered at the first meeting is set out in statute (*cl. 21(5) of Schedule 7, LGA 2002*)

The chief executive or, in their absence, their nominee, must chair the meeting until the chair has been elected and has made and attested the declaration. Other business that must take place includes member declarations; the election of the chair and deputy; an explanation of relevant legislation, and fixing a schedule of meetings.

In addition, a community board will normally adopt its standing orders at the first meeting, although this is not a requirement as existing standing orders remain in force after each triennial election.

## Electing community board chair

The chief executive, or their nominee, will call for nominations and members will vote. The system of voting is outlined in LGNZ's Standing Orders Template for Community Boards and Guide to Standing Orders. Once the chair is elected, the chief executive will step down and the new chair will chair the remainder of the meeting.

While not a legislative requirement, good practice suggests that the chair is an elected member of the board rather than an appointed member. This diminishes the risk of a conflict of interest and it also builds the capability of the elected board members.

In some cases, board members will not know each other well enough to decide who is best placed to take on the role of chair. Some boards have adopted the practice of electing an appointed member as chair for say an initial three-month period, during which the elected members have time to get to know each other. In time, another election is held to enable the election of an elected board member as chair.



## Replacing a chair

The chair can be replaced during a triennium should a majority of members so decide. The rules that apply are the same as apply to the removal of a kaunihera chair, deputy chair or deputy mayor/koromatua and involve a prescribed process (*cl. 18 of Schedule 7, LGA*).

The decision to remove a chair must be signalled by resolution or a requisition signed by a majority of members, not less than 21 days before the meeting scheduled for that purpose. The resolution or requisition must indicate whether or not there is an intention to elect a new chair at that meeting.

## Standing orders

While community boards must adopt a set of standing orders, in practice many community board meetings are run with little or no reference to them other than the fact that meetings are open to the public, minutes are recorded and if necessary, a vote is taken.

It is still important, however, for chairs to be familiar with standing orders. If difficult issues arise or some members dominate debate, the chair should apply standing orders to ensure all members get a fair hearing and that decisions are made based on evidence, so that the public can have confidence in the quality of decision-making.

## Code of conduct

All members of a kaunihera must abide by that kaunihera's code of conduct (*cl. 15 of Schedule 7, LGA*). However, section 54 of the LGA, explicitly excludes this provision from applying to community boards.

Regardless, LGNZ recommends that community boards also adopt a code of conduct to guide the behaviour of its members. Community boards often adopt the same code of conduct as their parent kaunihera. This avoids the risk that different standards of behaviour will apply to members of community boards than apply to members of kaunihera.

Ideally, a draft code should be on the agenda of a community board induction workshop so that members of the community boards within the district can debate and contribute to its content.

Should a community board decide not to adopt their council's code of conduct, there is nothing to stop it developing and adopting its own version of the code. A template code of conduct is available from LGNZ at: <https://www.lgnz.co.nz/our-work/our-policy-priorities/governance/>

## Appointing members to community boards and their role

Community boards frequently comprise a combination of elected members and members appointed by the kaunihera. Kaunihera make this decision as part of their representation review.

Community boards have no statutory role in determining whether there are appointed members and who they will be. However, it is not unusual for boards to take a view and it is reasonable for the chair of the board, or any board members, to communicate their preferences to kaunihera.

Appointed board members are full members of the community board with the same rights and responsibilities as elected members. They can be elected as the chair or deputy. This can however put that person and the board in a difficult position and is not advised.

Having to wear two hats, as councillor and board chair, can limit the board's ability to take a community perspective, as opposed to a city or district view. It can confuse public and media perceptions about the nature and role of the community board.

Appointed members can avoid this conflict by standing aside from the discussion at their community board which can be particularly difficult if they are the chair. However, they may then be poorly positioned to properly represent the community board's point of view when acting as a member of the kaunihera.

To address such situations, some kaunihera and community boards have adopted policies which require or recommend appointed members stand back and not take part in any decisions that will be considered by the kaunihera.

## Relationship between the council and community boards

The effectiveness of community boards will largely depend on their relationships with their kaunihera and their community.

This relationship needs to be open and respectful, acknowledging the importance of the different roles each play, including the role of kaunihera kaimahi. Work is required on a continuous basis to establish and maintain effective relationships and good communication is fundamental.

In the 2018 Community Boards Survey, respondents noted that relationships might be improved by:

- » kaunihera kaimahi, councillors and community board members receiving training in community engagement (49.7 per cent)
- » regular reviews (48.4 per cent)
- » community boards being involved in the development of community plans (39.9 per cent).

The survey found that conflict can arise primarily due to a lack of clarity about the respective roles of both bodies with the expectations of each other misaligned.

Given the importance of the relationship between the kaunihera and community boards, it is strongly recommended the relationship be set out in some form of document e.g. community board agreement, charter, terms of reference.

This document needs to positively acknowledge the existence of boards and their statutory role.

Equally important, the document needs to set out protocols and mutual expectations the kaunihera and the community boards have of each other, in order for the relationship to be as productive as possible and to function on a 'no-surprises' basis.

## Things councils can do to help relationships

- » Be aware of local issues and concerns
- » Provide adequate funding
- » Provide appropriate administrative support
- » Create opportunities for boards to contribute to decisions about services in their area
- » Enable boards to participate in processes to set direction such as kaunihera long-term plan
- » Allow boards the right to speak at kaunihera and committee meetings
- » Encourage ward councillors to work closely with their boards.

## How community boards add value

### Giving effect to Te Tiriti o Waitangi

As Aotearoa's founding charter, Te Tiriti of Waitangi sets a framework within which local authorities work.

Māori organisations, whether because of their traditional mandate, their membership, or in some cases the services they provide, are important stakeholders in communities that community boards represent. Formal Treaty or statute-based relationships are likely to exist between local iwi or hapū and kaunihera, reflecting the status of the kaunihera as local government and the fact that the kaunihera carry various Treaty obligations.

Community boards are free to develop relationships at the sub-district level that are appropriate for the way in which Māori organisations are structured in the community. Certainty and clarity is important if relationships with Māori are to flourish and provide value to the respective organisations.

### Connected to the community

Because of their proximity to local communities, community boards have the potential to play a critical role in building trust in democracy and connecting people with important public institutions.

If community boards are to be effective, they need to have a clearly visible community profile. Locals need to know that the board exists, what it does, how it adds value and how they can participate in the board's work programme. Boards cannot afford to be invisible.

To create a community profile, boards need a communications strategy setting out their communication and engagement objectives and the way in which these will be achieved. For example, community boards can:

- » publish a report of each meeting in local newspapers immediately after each meeting,
- » develop a social media strategy and ensure that the board is easy to find on the kaunihera website – ideally having a separate board page with news about its activities,
- » develop a network of partner agencies and groups and provide regular information to those agencies and groups to share with their members on the board's activities,
- » develop a presence in local schools which may include promoting civics education and kids voting,
- » encourage individual members to liaise with local organisations representing residents, business and other sectors,
- » hold public forums at the start of every regular community board meeting, or
- » get to know and build contacts with the regional kaunihera – it often plays a big role in local environmental issues for example.

Good local networks enable boards to respond to requests for advice in a useful and timely manner. In many ways, a board's value to the kaunihera reflects the strength and relevance of the local networks it is plugged into.

## Consultation and engagement approach

The LGA sets out principles of consultation to guide kaunihera, and where appropriate community boards, and also a minimum standard that must be met. The challenge is to move beyond consultation simply to meet statutory requirements, to enabling communities to participate in a meaningful way so that expectations are met and relationships between community boards and their communities are strengthened. In this way, democratic mandates are strengthened and the ability of boards to influence decision-making and outcomes is enhanced. Read Chapter four: Engagement and participation for more discussion on these matters.

Kaunihera can use many different approaches for seeking advice from their community boards. These include: community board chairs being co-opted onto kaunihera standing committees; chairs being given speaking rights at kaunihera meetings, or convening regular community board and council liaison meetings.

## Community board planning

Community boards can play an important role in their kaunihera's planning processes. The nature of this role includes: identifying local issues for inclusion in the long-term plan (LTP); providing feedback on the impact and effectiveness of kaunihera services; providing input on service levels for local services; promoting the kaunihera's draft LTP/annual plan in their community and encouraging local residents and businesses to make submissions; providing a community board submission on the draft LTP and annual plan.

To assist these processes, several community boards develop their own community plan setting out the community's preferences and priorities.

## Community board decision-making

The LGA 2002 sets out obligations that must be followed when kaunihera are making decisions, whether or not these decisions have direct financial consequences. These obligations also apply to community boards.

The Act's decision-making principles and processes are designed to create opportunities for public participation in decision-making, increase confidence in local government decisions and to strengthen transparency and accountability. Community board members need to be familiar with these and they are discussed in more detail in Chapter five: Democracy in action.

## Want to know more?

Local Government New Zealand (LGNZ) have also produced a Guide to Community Boards which provides additional information on the history of community boards and relevant legislation. There is also a specific Standing Orders Template available. This Guide can be found <https://www.lgnz.co.nz/our-work/our-policy-priorities/governance/>

Hammond and Hammond (2018), Serving New Zealand? A survey of community boards, available from Business Lab <https://www.businesslab.co.nz/insights/community-board-survey>

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# 13

# Wāhanga **THIRTEEN**

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**The Resource Management Act – the  
dos, the don'ts, the judgements >>**

Please note that the Resource Management Act 1991 is under review and will be replaced by a suite of new statutes during 2023.

**The purpose of the Resource Management Act (RMA) is to promote the sustainable management of natural and physical resources. Local government is responsible for implementing and administering the RMA, making it critical for all members to understand.**

The RMA requires kaunihera to provide integrated management of the use and development of natural and physical resources and manage the resulting environmental effects. It also codifies many good practice requirements.<sup>6</sup>

The RMA sets out the resource management functions of each type of local authority and what those entail. It also provides kaunihera with the powers required to administer their plans and it establishes a resource consent process for activities not permitted as of right by a plan or the RMA.

The RMA also contains Tiriti o Waitangi-based obligations. In preparing RMA plans, councils are required to consult with iwi and to recognise and provide for Māori matters important to them.

## Mana whakahono agreements

A Mana Whakahono ā Rohe is a binding statutory arrangement that provides for a structured relationship between one or more iwi authorities or hapū and one or more local authorities. They provide an opportunity for tangata whenua and local authorities to work together on environmental issues under the RMA. The intent is to improve working relationships and to enhance Māori participation in RMA resource management and decision-making processes.

The Ministry for the Environment's guide, [Mana Whakahono ā Rohe guidance](#), sets out the process that should be followed to initiate and develop a Mana Whakahono. They can be initiated by an iwi authority or hapū.

## Sustainable management as a driving principle

Achieving sustainable management is about ensuring our natural and physical resources pass to the next generation in no worse condition than they are today, so that they can meet future needs.

Sustainable management is defined in section 5 of the RMA as “*managing the use, development and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic and cultural wellbeing and for their health and safety while:*

### // 1

*sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations,*

### // 2

*safeguarding the life-support capacity of air, water, soil and ecosystem, and*

### // 3

*avoiding, remedying or mitigating any adverse effects of activities on the environment.”*

The definition of environment is broad and includes ecosystems, people and communities, natural land, physical resources and amenity values. The definition of effects is also broad; it includes positive and adverse effects, temporary, permanent and cumulative effects.

The RMA focuses on the effects of activities rather than the activities themselves. The underlying assumption is that activity should proceed if there are no adverse environmental effects, or if those effects can be avoided, remedied or mitigated.

## Policy statements and plans

The RMA outlines a hierarchy of policies and plans to enable authorities to deal with issues of national, regional or local significance. These are outlined below. A single plan can sit across regional and district planning instruments although the RMA provides for both joint and combined plans. This enables a territorial authority to create a combined plan with a neighbouring territorial authority or a joint plan with a regional council. To date, only the three Wairarapa territorial authorities have created a combined district plan.

### National policy statements

National Policy Statements (NPS) are statutory documents through which the Minister for the Environment can state policies of national resource management significance. A process of public consultation, enquiry and reporting is required in the process of preparing a statement, before it is approved and published. As at the beginning of 2022, councils must give effect to the following national policy statements:

- » Urban Development.
- » New Zealand Coastal Policy Statement.
- » Electricity Transmission.
- » Renewable Electricity Generation.
- » Freshwater Management.

## National environmental standards and regulations

National Environment Standards (NES) are a tool under the RMA to set mandatory bottom line standards for specified activities and outcomes. A standard in a NES is a rule that a local authority must administer. As at the beginning of 2022, the following standards are in force as regulations:

- » Air quality standards.
- » Sources of human drinking water standard.
- » Telecommunications facilities.
- » Electricity transmission.
- » Assessing and managing contaminants in soil to protect human health.
- » Resource Management (Measurement and Reporting of Water Takes) Regulations 2010
- » Plantation forestry.

### Regional policy statements

The RMA requires regional kaunihera and unitary authorities to prepare a Regional Policy Statement (RPS) for the sustainable management of the region's resources. These cover significant regional resource management matters; for example, objectives and policies concerning biodiversity, natural hazards and freshwater. An RPS must give effect to an NPS.

### Regional plans

Regional plans deal with specific resource management issues such as air, water, or land management. They must give effect to any NPS. Although their preparation is optional, regional kaunihera must consider the desirability of preparing one, taking into account the degree of relevance to the region. Any person may ask for a regional plan to be prepared.

The major benefit of a regional plan is that it provides a public process for resolving resource issues so that conflicts are debated once during the formation of the plan, rather than each time a resource consent is applied for. Once a plan is in place it provides the basis for granting resource consents. In the absence of a plan for water and air, use of these resources generally requires resource consent.

## **Regional coastal plans**

Regional coastal plans are mandatory for all coastal marine areas. A regional coastal plan may form part of a regional plan, although most regional councils have prepared stand-alone plans.

## **District plans**

City and district councils and unitary authorities must prepare a district plan for the sustainable management of the district's resources. District plans must give effect to any NPS, the New Zealand Coastal Policy Statement and regional policy statement. District plans must not be inconsistent with a regional plan.

Among other matters, a district plan must contain objectives and policies and the rules to implement the policies. The district plan may also state the reasons for adopting the policies and methods, the anticipated environmental outcomes and the significant resource management issues for the district.

Under the RMA, district plans have a life of 10 years. After this they must be reviewed to keep pace with the changing environment. Councils can choose to review the plan as a 'rolling review', reviewing different sections of the district plan separately over the course of 10-years.

## **Strategic and spatial plans**

Some councils are collaborating to prepare a spatial or strategic plan. These are prepared under the Local Government Act (LGA) 2002, although one of the mechanisms for implementing a spatial plan is through the RMA. Examples are the Auckland Spatial Plan and SmartGrowth, the spatial plan for the Western Bay of Plenty sub-region.



## The RMA in practice

### Duty to consider alternatives, assess benefits, and costs

The RMA requires kaunihera to evaluate the extent to which each resource management objective is appropriate and whether the stated policies and rules are the most appropriate for achieving the objectives. They must do this by considering the costs and benefits of alternative options for example, fiscal measures and providing information and services.

### Monitoring

There are significant requirements on kaunihera to monitor, gather and keep information on the state of the environment. The LGA 2002 has provided additional monitoring and reporting responsibilities that complement the environmental emphasis of the RMA with the wider brief of social, economic and cultural wellbeing.

### Consultation process for RMA policies and plans

Community participation in resource management is a key principle of the RMA and it provides for consultation and public participation at various stages in the policy and plan-making process. The same process applies when the kaunihera or a private party wants to make a change to an existing policy statement or plan. The process is as follows:

#### // 1

Kaunihera begin the process by preparing a proposed version of the policy statement or plan. Many also choose to issue a draft plan prior to this step, to solicit early views and input. In this process kaunihera may consult with anyone but must consult with the responsible ministers of the Crown, other affected kaunihera and tangata whenua.

#### // 2

The kaunihera then publicly notifies the proposed policy statement or plan and makes it available to anyone who is interested. Anyone can make a submission on the proposal.

#### // 3

Kaunihera then summarise submissions and invite further submissions. Kaunihera must hold a meeting or hearing, to enable people who made a submission to be heard if they wish.

#### // 4

Decisions are then publicly notified and provided to everybody who made a submission. Those who made a submission have a right of appeal against a council decision to the Environment Court.

RMA policy statements and plans have a 10-year life. The consultation and review process must be commenced within 10 years of the document being finalised.

## Resource consents

A person who proposes to use the environment in a manner not allowed (as of right) by the district or regional plan must apply for a resource consent.

The RMA sets out the following four types of activity:

#### // 1

**Permitted activities** – those that are allowed by a plan ‘as of right’ without a resource consent. The plan may specify conditions to be complied with.

#### // 2

**Controlled activities** – those that are allowed if all standards set in the plan are met. A resource consent is required which must be approved but may impose conditions.

#### // 3

**Discretionary activities** – those over which the kaunihera has discretion to refuse or grant a resource consent. A district or regional plan may have restricted its discretion (known as a restricted discretionary activity).

#### // 4

**Restricted discretionary activity** – consent can only be withheld or conditions imposed on those matters over which the council restricted its discretion.



**Non-complying activities** are those that are not specifically provided for in the plan. The kaunihera must not grant consent unless it is satisfied the environmental effects will be minor or the application will not be contrary to the objectives and policies of the plan. If one of these tests is satisfied, then the council assesses the application on its merits.

**Prohibited activities** are those activities the plan expressly prohibits and for which no resource consent application can be made.

### Types of consent

There are six types of resource consents and permits.

City or district councils deal with these two:

#### // 1

**Land use consents** - including building, excavation and activities on the surface of water.

#### // 2

**Subdivision consents** - including cross-lease, company lease and unit titles.

Regional councils deal with these four:

#### // 1

**Coastal permits** - for activities within the coastal marine areas.

#### // 2

**Water permits** - for using, taking or damming surface water, groundwater or geothermal water.

#### // 3

**Discharge permits** - for the discharge of contaminants into water, air, or onto land.

#### // 4

**Land use consents** - for matters such as soil conservation, managing ecosystems, managing water quality and quantity, and natural hazards.

### Notification of applications

There are three notification statuses for resource consent applications:

#### // 1

**Notified applications** - the RMA specifies the criteria for notification of an application. If these are met then the application must be notified. Any person may make a submission setting out their reasons for an application and the outcomes they seek. Approximately five per cent of applications are notified.

#### // 2

**Limited notified applications** - applications where the effects are minor but the approval of affected parties is not obtained. The application is served only on affected parties and only those parties may make submissions. Approximately two per cent of applications are limited notified.

#### // 3

**Non-notified applications** - applications where there is no opportunity for submissions. An application may be non-notified if the plan specifies non-notification, or if any affected parties have consented in advance and environmental effects are minor. Approximately 94 per cent of applications are non-notified.

## Resource consent process

The application process varies depending on what category of activity is proposed. In general, the process will involve:

- » A decision on whether the application is complete or if more information is required.
- » A decision on the effects associated with the proposal and parties that might be affected.
- » A decision on whether to notify the application.
  - » If the application is notified or limited notified, notice of the application is served on affected persons and public notification may occur with an invitation to make submissions.
- » Subject to the agreement of the respective parties, the consent authority may hold a pre-hearing meeting.
  - » The consent authority has discretion over whether to hold a hearing or not; a hearing may also be held on a non-notified application.
- » The consent authority assesses and determines the application in accordance with the criteria and requirements of the RMA. The decision is given in writing with reasons

The applicant or a submitter may appeal the kaunihera's decision to the Environment Court and depending on the Environment Court ruling, the decision may be appealed to the High Court on matters of law.

## Assessment of environmental effects

All applications must include an assessment of environmental effects, providing information on effects and mitigation measures to people likely to be affected, developers, managers and consent authorities. The detail of the assessment corresponds with the likely scale of the adverse effects that would occur if the approval were given.

## Resource consent hearings

When a hearing is required, applications can be heard by a standing committee of kaunihera, for example the regulatory committee, or by a hearings panel formed specifically for it. While councillors generally opt to take this role, legislation does not require them to.

Decision-making is a quasi-judicial function and must be kept separate from the kaunihera's representative or service delivery functions (for example, advising consent applicants) so that the application can be assessed independently. Committee members should not discuss proposals other than with other committee members and official advisors. A kaunihera officer normally prepares a written report on the application to assist the committee and is usually present at the hearing.

The RMA requires that the chair and all members of a hearings panel are accredited RMA decision-makers. LGNZ and the Ministry for the Environment jointly deliver the "Making Good Decisions Programme", which is an accreditation scheme under the RMA for all hearings commissioners, councillors and independent commissioners.

A pre-hearing meeting is sometimes held to make sure all parties are clear on the issues to be heard. It may also be an opportunity to find ways to avoid, remedy or mitigate adverse effects and to allow the affected parties to resolve the issues to be heard in the hearing. Any kaunihera member, delegate or officer who is empowered to make a decision may attend but only on the basis that all parties attending (including the consent authority) agree to their presence.

## Delegation of functions

Kaunihera may delegate authority to a committee or to one or more commissioners to hear and decide a resource consent application on its behalf. Commissioners are usually involved if the kaunihera has a conflict of interest or if the specialist knowledge of a commissioner will help in considering the application. Local authorities may, except in defined circumstances, also delegate authority to kaunihera kaimahi (staff) to grant resource consents. As they do not involve hearings and are processed on a non-notified basis, decisions on most applications for resource consent are delegated this way.

## **Making Good Decisions Programme**

The Making Good Decisions Programme was established by LGNZ and the Ministry for the Environment to provide councillors, community board members and other RMA decision-makers with the skills they need to navigate the resource consent process.

The programme involves a two-day workshop, assessment of understanding and update seminars. Successful participants are issued with a certificate that is valid for three years. Certificate holders are obliged to attend update seminars and have their understanding re-assessed if they wish to have their certificates reissued when they expire. Once recertified, the certification expires after five years.

Without sufficient accredited decision-makers, a council is forced to delegate its resource management decision-making, including resource management policy, to independent commissioners.

## Role of central government

Since 2009 applicants with proposals of 'national significance' (as defined within the RMA), have been able to lodge them directly with the Environmental Protection Authority (EPA), the central government agency responsible for protecting the environment. The RMA also has a direct referral process where applicants request that their notified application or notice of requirement be decided by the Environment Court rather than the relevant council.

Typically, when an application is notified (publicly or limited), it is open to submissions from people who may be affected by it and then proceeds to a kaunihera hearing for a decision. With direct referral, while the kaunihera notifies the application and receives submissions, the application is then transferred to the Environment Court for a decision, bypassing the kaunihera hearing stage.

## The interface of the RMA and the LGA

The sustainable management purpose of the RMA underpins all decisions made under that Act. In comparison the sustainable development approach of the LGA 2002 is only one of several principles of local government. The Long-term Plan (LTP) does not override the provisions of RMA plans, nor is there a legal requirement that new RMA plans must conform to the LTP. However, because the LTP both records the outcomes adopted by the council and explains how the local authority will contribute to them, it is expected that local authorities will use this process to inform other plans and strategies such as RMA plans.

The RMA codifies the consultation and decision-making process at a level very different from the enabling approach of the LGA 2002. The consultation and decision-making processes of the LGA generally do not apply to RMA consultation and decision-making. However, if a council chooses to consult on a draft policy statement or plan, it must do so using the LGA 2002 consultation principles. In addition, a council may not be required to undertake the RMA consultation requirements in preparing a policy statement or plan if it consulted with the same people on the same matter under the LGA 2002 (or another Act) in the previous 12 months. The LGA also enables combined or concurrent consultation.

## Want to know more?

The Ministry for the Environment has produced many publications on the RMA. These are available on [https://environment.govt.nz/publications/?topic=17\\_27](https://environment.govt.nz/publications/?topic=17_27) or by contacting the Ministry.

[www.qualityplanning.org.nz](http://www.qualityplanning.org.nz) is a partnership between LGNZ, the Ministry for the Environment, the New Zealand Planning Institute, the Resource Management Law Association, the New Zealand Institute of Landscape Architects and the New Zealand Institute of Surveyors. The website contains significant and detailed guidance material for practitioners on all aspects of RMA implementation, as well as an extensive library and news service.







# 14

# Wāhanga FOURTEEN

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**Council-controlled organisations – when  
others are responsible for delivery >>**

## **Good governance means ensuring that services are delivered in a way that gives best value for money, responds to the needs and preferences of communities and meets public standards of equity and access.**

Kaunihera (councils) have many options for how they provide quality public services; Council-controlled organisations are arms-length bodies that are under the control of one or more local authorities, otherwise known as council-controlled trading organisations (CCTOs).

### **What are council-controlled organisations?**

Since 1989 kaunihera have been able to establish local and regional, publicly-owned corporations. They can be thought of as a local version of state-owned enterprises. Today there are approximately 198 CCOs, of which 124 are CCTOs.

A CCO is an entity in which one or more local authorities control 50 per cent or more of the voting rights, or appoint 50 per cent or more of the members of the governing body. They can be a company, trust, partnership, incorporated society, joint venture or other similar profit-sharing arrangement. A CCO that operates to make a profit is referred to as a CCTO. Not-for-profit entities are CCOs. There are many examples in the local government sector, including:

- » Dunedin City Holdings Limited, a holding company that is a CCO that owns and monitors other CCOs owned by Dunedin City Council.
- » Wellington Water, a council owned, shared-service organisation, providing three waters network management services to Wellington City Council, Porirua City Council, Hutt City Council, Upper Hutt City Council and Greater Wellington.
- » Bay Venues Limited, which oversees the Tauranga City Council's aquatic and indoor sport and recreation facilities.

The definition of a CCO excludes port companies, energy companies, electricity lines businesses and their parent trusts, and several other named entities. Such entities aim to make a profit and as a result are described as CCTOs. In the following chapter the phrase CCO also refers to CCTOs.



## Why establish a CCO?

A kaunihera might consider establishing a CCO to provide services for many reasons. In some cases, they don't have a choice. For certain activities, such as energy companies, legislation requires that they must be CCTOs. In most cases, however, the decision to establish a CCO is a discretionary one, made for policy reasons, such as:

- » The activity has a 'public' dimension that distinguishes it from a purely business undertaking and rules out privatisation.
- » The council expects that the activity might attract a significant level of public support through voluntary effort and donations if established as a stand-alone activity.
- » Greater transparency can be provided regarding the cost of the activity, and a CCO can also be a device for constraining expenditure.
- » As stand-alone, agencies tend to negotiate longer-term contracts with the kaunihera, and greater security of service is assured.
- » They create the opportunity for greater levels of self-management by kaimahi and customers.
- » They remove the activity from the 'political' realm of direct kaunihera control and enable the directors to focus on achieving pre-determined outcomes.
- » They access the skills and expertise that experienced directors can bring.

In addition to commercial activities, CCOs are most commonly used where a high degree of expertise is needed in operating a service, or where economies of scale and scope might be achieved by joining together operational management.

The establishment of a new CCO is a complex business and should be carefully considered. Before doing so, a kaunihera must undertake community consultation in accordance with the principles of section 82 of the Local Government Act (LGA) 2002.

## What is council responsible for?

The local authority is responsible for the following:

- » Appointing members of the CCO's governing body.
- » Annually considering and commenting on the CCO's draft Statement of Intent.
- » Describing the significant policies and objectives for the CCO in the kaunihera's long-term plans (LTP) and annual plans.
- » Monitoring and reporting on the CCO and reviewing the cost-effectiveness of a CCO's activity.
- » Considering whether to exempt small non-profit CCOs from the accountability requirements in the LGA 2002 and periodically reviewing any exemptions given.

## Appointing directors

A kaunihera is responsible for the appointment of a CCO's directors. The LGA 2002 requires a local authority to have an objective and transparent process for making appointments. This includes having, and applying a policy that sets out the knowledge, skills and experience required of directors.

For a board to be fully effective it should comprise directors who have complementary skills and experiences to ensure that ideas are challenged and tested, and that decision-making is robust.

### Should elected members also be directors?

Reasons for appointing councillors as directors can range from a desire to reinforce the kaunihera's objectives and expectations of a CCO, to ensuring an effective flow of information the two.

Some councils have policies that exclude elected members from such an appointment. This is usually to reduce the risk of a conflict of interest or to address community concerns about elected members being paid for both jobs. These matters must be addressed in each council's policy for the appointment of directors.

## Objectives and Statements of Intent

One of the principal roles of a CCO is to achieve the objectives of its shareholders as specified in the Statement of Intent (SOI).

*A CCO must also exhibit a sense of social and environmental responsibility by having regard to the interests of the community in which it operates, and to be a good employer. If it is a CCTO, its principal objectives will also include conducting its affairs in accordance with sound business practice.*

The SOI sets out the activities and intentions of a CCO for the coming year and the objectives those activities will contribute to. The content of an SOI is laid out in Schedule 8 of the LGA 2002. Key components include:

- » The objectives of the CCO and any subsidiary organisations.
- » A statement of the board's approach to governance of the group.
- » The nature and scope of any activities to be undertaken.
- » The performance targets and other measures by which performance will be assessed.
- » Any activities for which the board seeks compensation from any local authority.
- » The board's estimate of the commercial value of the shareholders' investment in the group including the time at which the value is to be reassessed.

The board of a CCO is required to prepare a draft SOI for consideration by each kaunihera. Some, such as Christchurch City Council and Dunedin City Council, have established holding companies to oversee their CCOs and CCTOs.

## Performance monitoring

The board of each CCO must report on a six-monthly basis, with their half-yearly report provided to the kaunihera within two months of the end of the first half of the financial year. The annual report is required within three months of the end of the financial year.

Reports must include enough information to enable an informed assessment of each CCO and its subsidiaries. All CCO financial statements must be audited in accordance with generally accepted accounting practice.

A kaunihera's annual report must also disclose information about the performance of their CCOs.

Some councils have also developed systems for formally evaluating the performance of their CCO directors. Such systems can help determine whether the right mix of skills and experience exist, highlight training needs and skill gaps, and help when deciding on future directors.

## CCOs in Auckland

Auckland Council has four substantive CCOs operating region-wide activities. They are:

- » Auckland Transport, responsible for managing the transport system.
- » Watercare Services Ltd, responsible for integrating the management of bulk water, reticulation of drinking water and wastewater services.
- » Tataki Auckland, which formed from a merger of Regional Facilities Auckland (RFA) and Auckland Tourism, Events and Economic Development (ATEED), to promote economic growth.
- » Eke Panuku Development Auckland, which works with Auckland Council, other CCOs and local boards towards implementing the Auckland Plan and encouraging economic development.



Given the significant role CCOs play in the city, Auckland Council has been given additional measures to manage and guide its 'substantive' CCOs; those that are responsible for delivering a significant service or activity, or own or manage assets with a value of more than \$10 million. For these CCOs the following applies:

- » Elected members may not be appointed as directors, except for Auckland Transport, where two board directors may also be elected members.
- » The Auckland Council will appoint the chair and deputy.
- » They must give effect to the kaunihera's LTP and any other plans or strategies identified by the kaunihera, such as the spatial plan or local board plans.
- » They must allow the public to be present in at least two meetings a year and can also be required to report quarterly, rather than half-yearly.

In addition, the Local Government (Auckland Council) Act 2009 requires the kaunihera to adopt a policy on the accountability of its substantive CCOs. This policy must include a statement of the kaunihera's expectations for each CCO's contributions to, and alignment with, the kaunihera's objectives and priorities, and state any additional accountability requirements.

Policies on substantive CCOs must also include a definition of any strategic assets they hold and how decisions about them will be made. Policies must be included in the kaunihera's LTP and can be changed only through an amendment to the LTP. Unlike other kaunihera, three of Auckland's CCOs have been established by statute and if the kaunihera wishes to change the status of those CCOs, Parliament's agreement is required.

## Dis-establishing CCOs

A kaunihera may decide to disestablish a CCO for several reasons, such as the CCO having achieved its objectives, financial insolvency or a desire to bring the activity under the direct control of a kaunihera committee. The legal procedures will vary depending upon the type of entity that the CCO is and legal advice is recommended.

## Frequently asked questions

### Does the Local Government Official Information and Meetings Act 1987 (LGOIMA) apply to CCOs?

Yes, but only Parts 1 to 6. Part 7, which is to do with public access to meetings, does not apply.

### Can the council make loans to its CCOs?

Yes, but it cannot subsidise the activities of its CCOs, so any loans or capital grants must be made at market rates. Kaunihera cannot give any guarantee, indemnity, or security in respect of the performance of any obligation by a CCO.

### How do you change directors?

Kaunihera can, through a resolution, replace a director on a CCO before their term has expired. Removal is sometimes used as a sanction where an elected member who holds directorships has been found guilty of breaching their kaunihera's Code of Conduct.



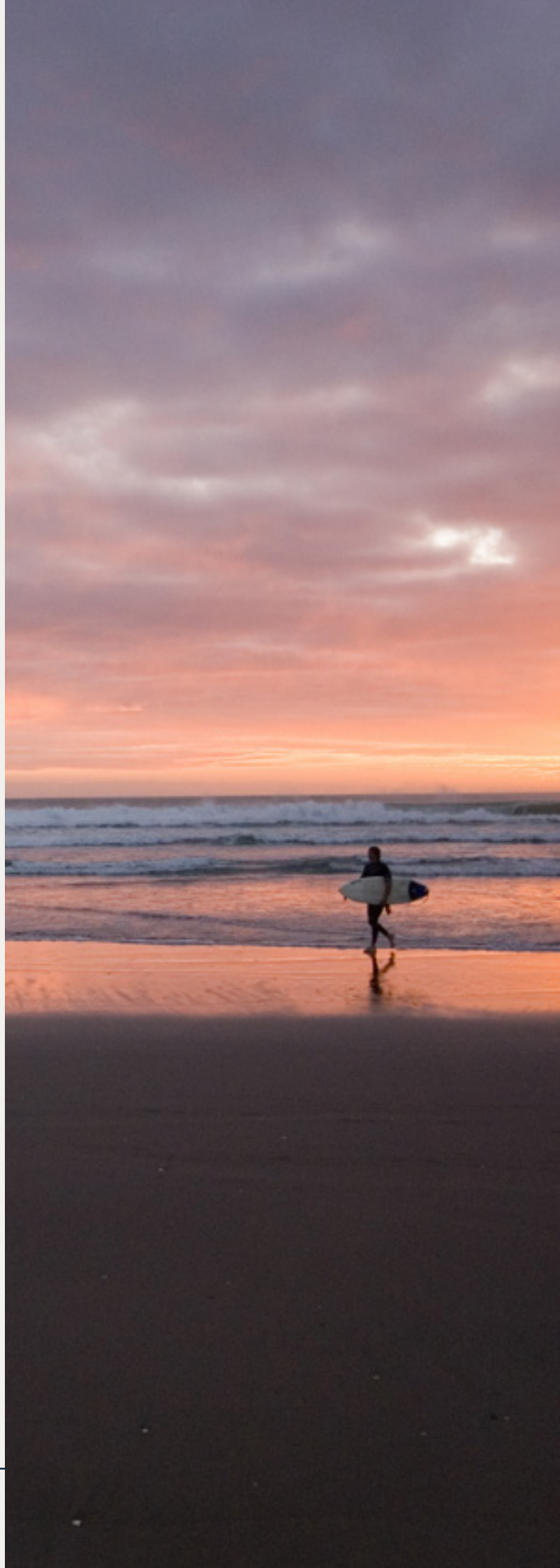
## Want to know more?

For more detailed information of the factors to be considered before establishing a CCO, see the Office of the Auditor General's publication "Governance and accountability of council-controlled organisations" at <https://oag.parliament.nz/2015/cco-governance/docs/cco-governance.pdf>

OAG (2015). Governance and accountability of council-controlled organisations. Available from [www.oag.govt.nz/2015/cco-governance](http://www.oag.govt.nz/2015/cco-governance)

OAG (2014). Inquiry into property investments by Delta Utility Services Limited at Luggate and Jacks Point. Available from <https://oag.parliament.nz/2014/delta>

OAG (2007). Queenstown Lakes District Council - regulatory and resource management services. Available from [www.oag.govt.nz/2007/queenstown-lakes](http://www.oag.govt.nz/2007/queenstown-lakes)



# Attachment

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**A** ●

**Experiencing  
abuse,  
harassment, and  
intimidation from  
the public >>**

**Please note that this chapter includes information about harassment and intimidation and provides options for how to respond. Some people may find these topics distressing and should seek support before reading this material. The information contained in this attachment should not be a substitute for legal advice – no liability is assumed by Local Government New Zealand.**

As many a public figure will tell you, there are both upsides and downsides to having a public profile. There is unfortunately, a high chance that you will experience abuse, intimidation and even harassment during your time in office. However, tolerating or ‘putting up with it’ is not an expectation of the job and is not a phrase that will appear in any job description, code of conduct or legislation that governs the role of an elected member.

Abuse, harassment, and intimidation can take place in person, via mail, phone and also online. The channel of delivery makes no difference to the severity of the behaviour; online abuse and abusive mail should never be minimised just because they didn’t occur in a face-to-face environment.

Many things can serve as catalysts for harassment and abuse such as kaunihera events or decisions or a media article. However, the reason or cause of the behaviour is irrelevant and there are times when there is no discernible trigger for what can occur.

How it affects you as an elected member should be the main consideration when deciding how to respond. No matter who the concerning behaviour comes from or the ‘reason’ for it, if it impacting on you in any way, you should take action, whether that be seeking support for your wellbeing, discussing it with your kaunihera, colleagues, friends or whānau or alerting the police.

Delaying action may increase the risk to your and your whānau’s safety. Do not be discouraged to seek help and support.

**If you’re concerned about the immediate safety of yourself or someone else, call 111.**

## What the law says

Harassment and intimidating behaviour have legal definitions in Aotearoa New Zealand meaning that legal action can be pursued if you experience harassment and intimidation. The following acts are relevant:

- » [The Harassment Act 1997](#)
- » [The Summary of Offences Act 1981 \(Section 21\)](#)
- » [The Harmful Digital Communications Act 2015](#)

## Harassment and the Harassment Act 1997

The Harassment Act 1997 states it’s a criminal offence for someone to harass you, if they intended to make you fear for your safety or if they knew that what they were doing was likely to make you fear for your safety. If you report harassment to the police and they believe the harassment is criminal, they can arrest and charge the person responsible.

If what happened doesn’t meet the test for criminal harassment, you may still be able to use the non-criminal process under the Harassment Act against the person responsible. This will involve going to the District Court to get a restraining order.

Harassment is limited to intimidating behaviour; if a person has attacked you or destroyed your property, talk to the Police about criminal charges.

[See the Harassment Act 1997 here.](#)

For there to be “harassment”, there must be both of the following:

- » the type of behaviour set out in the Harassment Act, and
- » a pattern of behaviour, not just a one-off incident.
- » **Twice in one year:** if the person does any of the things listed above twice or more within 12 months. It doesn’t have to be the same kind of thing each time.
- » **A continuing act:** there’ll also be a pattern if the person does any of the things listed above as one continuing act over a period of time.

**Under the Harassment Act 1997, these are the types of acts or incidents that can amount to harassment:**

- // a** watching, hanging around, or blocking access to or from your home or workplace, or any other place you regularly or often visit; or
- // b** following, stopping or confronting you; or
- // c** coming into your home or onto your property, or interfering with your home or any of your things; or
- // d** contacting you either by phone, letter, email or text, or through social media sites or apps like Facebook, or in any other way; or
- // e** giving you offensive material, or leaving it where you'll find it or where someone else will give it to you or bring it to your attention – this includes posting offensive pictures or other material online; or
- // f** doing anything else that makes you fear for your safety, and that would make a reasonable person in your situation fear for their safety. This includes where the harasser does the thing to a member of your family, rather than to you directly, in order to target you, and even if that family member doesn't in fact fear for their own safety.

## **Intimidation and the Summary of Offences Act 1981**

The Summary of Offences Act 1981 states it's an offence to intimidate you and defines intimidation as when a person commits an offence with intent to frighten or intimidate any other person, or knowing that their conduct is likely to cause that other person reasonably to be frightened or intimidated:

This includes when someone:

- // a** threatens to injure that other person or any member of his or her family, or to damage any of that person's property; or
- // b** follows that other person; or
- // c** hides any property owned or used by that other person or deprives that person of, or hinders that person in the use of, that property; or
- // d** watches or loiters near the house or other place, or the approach to the house or other place, where that other person lives, or works, or carries on business, or happens to be; or
- // e** stops, confronts, or accosts that other person in any public place.

[See the section on intimidation in the Summary of Offences Act 1981](#)

## **What about indirect harassment through targeting whānau?**

It is still harassment if any of the acts above are directed toward someone's whānau in a bid to indirectly harass someone else. An example of this could be if a letter is sent to a member of your whānau with the intention of upsetting you.

## Online harm and the Harmful Digital Communications Act (HDCA) 2015

Netsafe (Aotearoa New Zealand's independent, non-profit online safety organisation) describes distressing content as that which is hateful, sexual or illegal material (like age-restricted material or extreme violence). Offensive or illegal content could include topics, images or other information that could be prohibited in Aotearoa. It is illegal for anyone to send or publish threatening, offensive, or sensitive material and damaging rumours.

Online abuse includes cyberbullying and the distribution of inappropriate material, such as violent and sexual material that can cause emotional and physiological distress. Online bullying or cyberbullying is when digital platforms or technology are used to send, post or publish content intended to cause harm to another person.

The Harmful Digital Communications Act (HDCA) 2015 aims to help people dealing with serious or repeated harmful digital communications. It includes criminal penalties of fines and jail-time.

The HDCA covers any digital communications that are harmful such as text messages, social media messages, emails and social media content which contain discriminatory, sexist, racist, religiously intolerant comments as well as discriminatory comments about sexual orientation or disabilities.

The HDCA sets out 10 communications principles that a digital communication should not include:

// **1**

disclose sensitive personal facts about an individual

// **2**

be threatening, intimidating, or menacing

// **3**

be grossly offensive to a reasonable person in the position of the affected individual

// **4**

be indecent or obscene

// **5**

be used to harass an individual

// **6**

make a false allegation

// **7**

contain a matter that is published in breach of confidence

// **8**

incite or encourage anyone to send a message to an individual for the purpose of causing harm to the individual

// **9**

incite or encourage an individual to commit suicide

// **10**

denigrate an individual by reason of colour, race, ethnic or national origins, religion, gender, sexual orientation, or disability

[See the Harmful Digital Communications Act 2015](#)



## SHIELD principles for handling harassment and intimidation

While there is no expectation that anyone ‘put up with’ harassment and intimidation as part of the job, each elected member will have a different tolerance threshold. Seeking support is a personal decision and is actively encouraged; if you have an instinct to seek support and protection, do so.

In some instances, not dealing with the behaviour may increase risks to safety.

In the United Kingdom, the Local Government Association (the national membership body for local authorities) has developed the SHIELD principles to support elected members when responding to harassment and intimidation.

The SHIELD principles provide a basic framework for elected members for engaging with the public to mitigate risks and handle incidents if they occur.

The SHIELD principles are:

- » **Safeguard:** protect yourself online and in-person by proactively setting a zero-tolerance policy for abuse, harassment or intimidation. Seek advice regarding your safety online and in-person.
- » **Help:** ensure you are safe before you take further action and get help if you need it. If the threat is immediate, call 111.
- » **Inform:** only if it is safe to do so, say that you consider the actions to be harassing and intimidating and challenge poor behaviour.
- » **Evidence:** gather evidence of harassment or intimidation, threatening communications, take photos, recordings or screenshots, keep any letters, emails and details of any witnesses.
- » **Let people know:** report the incident to the appropriate people such as your council or the police if necessary.
- » **Decide:** determine whether you want to continue interacting with the person. If you do not, use social media functions to end engagements online and consider further options to inhibit them from approaching you in person.

[Source: LGA Shield Principles – Local Government Association UK](#)

## Other tips for keeping safe

If you’re concerned about the immediate safety of you or someone else, call 111.

### Have a safety network with your whānau, friends and colleagues

Creating a safety network with people you trust is a good way to have support if you need it. This could look like:

- » Letting your safety network work know about any activities or engagements you have planned so that they are aware of where you may be and when to expect you back home for example.
- » Asking someone to come with you to public activities, engagements, and events.
- » You could consider having a safety word, you could text or say on the phone if you need support or assistance.
- » Elected members sharing their experiences so that they can support each other.

Keep a record of events that make you feel unsafe. Not only is this useful if you need to go to the police, but keeping a record of ongoing acts of aggression, harassment, or intimidation no matter what the scale will help identify patterns of behaviour. This could be used to warn your peers and colleagues of red flags. It could also help your council create a coordinated response if it is required.

### Try to stay calm

Some people could be infuriated, angry or upset with local issues and may expect elected members to fix issues beyond their control or mandate. In conversations like these, try your best to keep calm and do not debate with the person. Staying calm, does not mean you have to ‘take it’ and tolerate aggressive behaviour but more so about de-escalating a situation for your own safety.

### You don’t have to ‘take it’

Putting up with harassment and intimidating behaviour from the public is not an expectation or a part of the job description of being an elected member or representative of your local community.

If you are on the receiving end of threatening, intimidating, racist, homophobic, sexist or derogatory remarks, it is your right to bring any meeting or interaction to an end and seek assistance and support. If you feel comfortable and safe doing so, you could try to tell the person that you could pick up the conversation again when the situation is calmer.

### **Let your council know and contact the police if you feel unsafe**

If you experience harassment, abuse or intimidation make a detailed note of the incident and those involved. Let your council know that it has happened. You can make a call on whether you want to inform the police.

## **Dealing with online or digital abuse or distressing content.**

Many elected members use social media to connect with their local communities. Online abuse, harassment, bullying, and intimidation can be common but should not be minimised as 'normal political banter' or 'freedom of expression'.

If you feel unable to deal with abuse yourself or have any concerns about your safety, report any incidents to Netsafe, your council or the police. If you are unsure about the seriousness of what you are experiencing, get in touch with Netsafe.

### **Netsafe**

Netsafe is Aotearoa New Zealand's independent, non-profit online safety organisation providing online safety support, expertise and education. Netsafe is responsible for helping resolve reports related to alleged breaches of the 10 communication principles. They are not enforcement agency, but do have a high rate of resolution.

Some of the things Netsafe can do include:

- » liaising with website hosts, Internet Service Providers (ISP) and other content hosts (both here and overseas) and request they takedown or moderate posts that are clearly offensive
- » using advice, negotiation, mediation and persuasion (as appropriate) to resolve complaints

[Learn more about Netsafe's services here](#)

If Netsafe have tried to resolve the incident but can't, you may be able to apply to the District Court for action e.g. for a takedown order against the author or host of the allegedly harmful content.

Netsafe will provide you with a Netsafe Summary that can be taken to the District Court to show that someone has tried to resolve the incident and that there are no further options that can be considered. The Netsafe summary will include a report of the incident and the resolution options offered, completed or attempted. The Netsafe Summary informs the District Court but does not impact the decision the District Court makes.

Netsafe's services are free, confidential, non-judgemental and available seven days a week.

- » Email [help@netsafe.org.nz](mailto:help@netsafe.org.nz)
- » Call toll free on 0508 NETSAFE (0508 638 723)
- » Online report at [netsafe.org.nz/report](https://netsafe.org.nz/report)
- » Text 'Netsafe' to 4282

## Here are some practical tips to deal online abuse:

### Be security conscious

Social media profiles are actively targeted by cyber criminals, foreign intelligence services and others. Maintaining good online security practices can help mitigate the risks involved in using social media. Members should:

- » Choose a strong password (preferably a whole phrase rather than a single word) and never share it.
- » Use two-factor authentication where it is offered.
- » Keep operating systems and apps up to date as they will contain the latest security improvements. Seek the advice of your kaunihera staff if you do not know how to do this.
- » Be careful about locations for accessing social media: public wi-fi networks (such as in cafes, airports, hotels etc) put members at greater risk of being hacked.
- » Only install trusted apps and avoid granting them access to contacts, camera, photos, files etc.
- » Avoid posting information about their location by disabling location-sharing.

### Get familiar with social media platform settings

Make sure that you know the different setting and processes to block, mute, report and delete comments and users on the platforms you are using. If you're not sure how, you can visit the safety settings of social media platforms to find out how or talk to you council communications staff.

### Set expectations on your social media platforms

You can post your own rules of engagement on your social media platforms establishing clear expectations on behaviour, boundaries and the possible response to those who breach those rules.

Here's an example of a rules of engagement statement:

“I welcome your comments and interactions but have two simple rules for a safe social community: 1) Be respectful to others; and 2) Do not post any harmful content. Content that I judge to be harmful will be hidden or removed. This includes misinformation, swearing, hate speech, trolling and spam. If I believe you are repeatedly disrespectful of myself or others, or if harmful content is repeatedly posted, then you may be banned or blocked.”

### Plan your approach to responding, before you post

Some information and content will be more controversial than others. Before you post it, think about how you intend to manage any engagement (comments and questions) with the content. For example will you respond to all engagements or only those specifically addressing the content itself?

### Wait to de-escalate

Fires burn out when they have no fuel. Heat can be taken out of a situation if you hold-off responding for a time. Don't feel obliged to reply immediately as it may be more beneficial to wait before responding to abusive or angry messages. If you do not feel comfortable replying at all, you do not have to.

### Be firm and factual

De-escalate negative situations by acknowledging a person's frustrations, assuring them that they have been heard, and committing to follow up where appropriate

### Call out inappropriate comments

Make it clear that the language being used is unacceptable and inappropriate. Publicly challenging inappropriate behaviour can be a powerful tool in stopping it.

### Know that you can step back if you need to

You never have to engage with online abuse, bullying or harassment. While you may wish to respond with factual information, you are under no obligation to do so. You can step back or step away at any time.

## Block email addresses and numbers/callers on your phone

You can block phone numbers and email addresses that are sending harassing, intimidating or abusive messages or calls. Search online using the words “how to block phone numbers” and the model of your cell phone. Your mobile service provider may also be able to help you block numbers. You may also want to consider having a separate work and personal phone. You can also talk to council staff for assistance with email and phone security.

## Record and report any abuse or threatening communications

Screenshot comments, content or messages and keep a record of abusive or threatening communications. Report abusive comments using the social media platform’s reporting functions, and mute or block repeat offenders.

## Dealing with misinformation

There are three kinds of misinformation:

- » Misinformation is information that is false, but not created with the intention of causing harm.
- » Disinformation is information that is false and was created to harm a person, social group, organisation or country.
- » Malinformation is information that is based on reality, used to inflict harm on a person, organisation or country.

Misinformation can be stopped by reporting fake accounts, pages and domains that post or share misinformation. Most misinformation is legal, and people have the right to express their views or opinions. However, if you see content on social media that you believe to be false or misleading, you can report it to the social media platform you found the information on:

- » How do I mark a Facebook post as false news? — <https://www.facebook.com/help>
- » Report inappropriate content — [YouTube.com](https://www.youtube.com)
- » Report a tweet, list or direct message — [Twitter.com](https://www.twitter.com)
- » Reduce the spread of false information — [Instagram.com](https://www.instagram.com)
- » Staying safe on Whatsapp — [WhatsApp.com](https://www.whatsapp.com)
- » Report a problem — [TikTok.com](https://www.tiktok.com)

Misinformation, including leaflets and scams, can be reported to Government agency CERT NZ (Computer Emergency Response Team) and you can report to Netsafe any online harms including misinformation and hate speech or extremism.

*With thanks to Auckland Council for sharing their social media policy and guidelines.*

# Attachment

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**B.**

**Key legislation  
in the history  
of local  
government >>**



**This timeline selects some key events to bring a historical perspective to the development of local government in New Zealand.**



1842 Gazetting of Wellington Corporation as a council

### **1846 Municipal Corporations Ordinance**

This ordinance created the earliest form of European- style local government in New Zealand. Before this, the only recognised geographical divisions were Māori tribal boundaries. The Ordinance applied to settlements having a population of 2,000 or more. It provided for elected councils and the levying of rates based on property ownership. Non-ratepayers could be enrolled on payment of a prescribed fee.

### **1846 Constitution Act (UK)**

This Act provided for the establishment of two or more provinces in New Zealand. The provinces of New Ulster and New Munster were established.

### **1852 Constitution Act (UK)**

This Act provided for the establishment of six provinces with elected provincial councils. Over the next few years these councils set up a number of municipalities, often haphazardly, in Dunedin, Christchurch, Wellington, and Otago.

There was a notable lack of uniformity of powers, responsibilities and constitution between these provinces.

### **1867 Municipal Corporations Act**

This Act attempted to regularise the establishment of municipalities. It also authorised municipalities to undertake a wide range of functions and services that realised their important role in the social, economic and administrative life of a community.

### **1876 Abolition of Provinces Act**

This Act abolished the provinces set up in 1852 and gave the government the responsibility for the local administration of the whole country. Unlike its 1867 predecessor, this Act was mandatory for existing and future municipalities.

### **1876 The Counties Act and the Municipal Corporations Act**

These Acts established 63 counties and 45 municipalities in New Zealand and laid the foundation for our present systems of rural and urban local government.

1920 The number of municipalities and counties had reached 246.

### **1946 Local Government Commission Act 1946**

This Act established the first Local Government Commission as an independent body with responsibility for continually reviewing all local authorities.

1950s The number of territorial authorities falls. In the 1950s some reduction was achieved in the number of territorial authorities as a result of recommendations made by a number of Local Government Commissions and government-appointed committees.

1950 Special purpose authorities. The number of special purpose authorities responsible for the administration of harbours, health, education, water catchments, drainage and pest destruction reached 537.

### **1953 Town and Country Planning Act**

Under the new Town and Country Planning Act it became mandatory for councils to prepare a district scheme to promote and safeguard the health, safety and general welfare of the inhabitants and all amenities.

### **1953 Local Government Commission Act**

This Act severely curtailed the powers given to the Commission in 1946. It could no longer initiate inquiries and its recommendations for reform were more easily overturned by the introduction of new polling provisions. The Act introduced an appeal authority to hear appeals against any decisions of the Commission.

### **1956 Health Act**

This Act confirmed the role of local authorities in public health and management of “nuisance”. It provides for local health bylaws.

### **1963 Auckland Regional Authority established**

The ARA was created as a directly elected regional council to carry out a range of regional planning and delivery functions in the Auckland metropolitan area and adjoining rural districts.

### **1974 Local Government Act**

Merged the municipal and counties legislation and provided for the creation of regional and united councils and territorial local authorities.

### **1977 Town and Country Planning Act**

Extended previous planning legislation to include matters of national importance such as the relation of Māori to their land, regional plans and maritime planning authorities.

### **1977 Reserves Act**

Vested ultimate authority for reserves and domains in the Minister of Lands and required the development of management plans for all reserves.

### **1981 Public Works Act**

### **1986 Local Government Amendment Act**

This Act reformed the electoral franchise by abolishing rating qualifications for property occupiers. Voting eligibility extended from ratepayers to residential electors using the parliamentary rolls as the base for local rolls.

### **1987 Conservation Act**

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

This Act provides for the public availability of local authority official information. It also sets out various provisions relating to local authority meetings.

### **1988 Local Government Amendment Act (No 3)**

This Act suspended existing reorganisation procedures and required the Local Government Commission to prepare final reorganisation schemes for New Zealand by 1 July 1989. At the time of the final reorganisation schemes there were:

- » 205 territorial authorities with the various names of county, city, borough, town, and district councils
- » 22 regional authorities, made up of the Auckland Regional Authority, Wellington, and Northland Regional Councils and 19 united councils
- » more than 400 special purpose authorities.

### **1989 Local Government Amendment Act (No 2)**

This amendment to the Act gave local government wider powers. It led to or introduced:

- » a reduction in 74 territorial local authorities redesignated as city or district councils (including Chatham Islands County Council) and 13 regional councils
- » the abolition of most special purpose authorities
- » major restructuring of local authorities at committee and staff levels.

### **1991 Resource Management Act**

This major reform of legislation dealing with the environment, providing an integrated approach to environmental management, replaced some 50 previous statutes, notably including the Town and Country Planning and Water and Soil Conservation Acts. The cornerstone of the RMA is the sustainable management of natural and physical resources. It defines the functions and responsibilities of various authorities and persons on resource management issues. These include the relevant ministers and local authorities.

- » Various amendments have been made to the Resource Management Act:
- » Resource Management Amendment Act 2003
- » Resource Management (Energy and Climate Change) Amendment Act 2004
- » Resource Management (Foreshore and Seabed) Amendment Act 2004
- » Resource Management Amendment Act 2005
- » Resource Management (Simplifying and Streamlining) Amendment Act 2009

### **1991 The Building Act**

Introduced a new national building code replacing previous local building bylaws. The code was “performance based” rather than prescriptive about building standards. It introduced a national consenting system administered by territorial authorities, replacing the previous local permit system. This Act was later repealed and replaced by the Building Act 2004, with later amendments also made.

### **1992 Local Government Law Reform Act**

This Act introduced new changes, especially affecting regional councils. One regional council (Nelson Marlborough) was abolished and the three territorial authorities in the former region were constituted as unitary authorities undertaking regional as well as territorial functions. The same amendments also:

- » placed additional disciplines on regional councils in deciding whether to undertake functions in-house or to contract them out
- » constrained the powers of regional councils to engage in public relations and public information activities and in tourism promotion
- » gave the Minister of Local Government new powers to initiate reviews of local authorities
- » established the Auckland Regional Services Trust.

### **1993 Biosecurity Act**

This Act enables regional pest management strategies. The pest management strategies identify plant and animal pests for that region, and how these will be controlled. Regional Councils are also able to undertake small-scale management programmes under Section 100 of the Act for new incursions of pests without having to have them included in a pest management strategy. The following amendments have since made:

- » Biosecurity Amendment Act (No 2) 2008
- » Biosecurity Law Reform Act 2012

### **1996 Dog Control Act**

This Act repealed the previous legislation and introduced new legislation to better control dogs and manage dangerous dogs. The following amendments have since been made:

- » Dog Control Amendment Act 2003
- » Dog Control Amendment Act 2006

### **1996 Local Government Amendment (No. 3) Act**

This contained financial management provisions that required all local authorities to prepare long-term financial strategies together with funding, borrowing and treasury management policies.

## 2001 Local Electoral Act

This Act modernised the statutes dealing with local government's electoral processes. Key changes included:

- » the ability of communities and / or councils to adopt transferable voting systems (STV)
- » the ability to create separate Māori wards
- » the ability to have a mix of wards and "at large" electorates
- » an enhanced representation review process, required to be undertaken at least once every six years, which also included the requirement that the establishment of community boards also be examined.

The Act also allowed the use of regulations and best practice as a way of dealing with much of the technical detail associated with the elections. The Act was amended in 2002, and again in 2013.

## 2002 Local Government (Rating) Act

This Act modernised the previous Rating Powers Act 1988, which was widely regarded as difficult to interpret. The new Rating Act provides councils with flexible powers to set, assess and collect rates. Its features include:

- » the creation of a new targeted rate able to be applied to characteristics of properties
- » a change in liability from property occupiers to owners
- » clarification as to the unit of liability.

## 2002 Local Government Act

This Act replaced a large part of the previous LGA 1974. It is widely regarded as a radical departure from the previous way in which local authority powers and functions had been prescribed. It builds on the planning and policy regimes that were introduced in the 1996 Local Government Amendment (No 3) Act. Among its features are:

- » the introduction of an empowerment clause, which means that councils can do whatever is required to achieve their purpose as long as it is within the law and not given exclusively to another agency
- » a clear statement of purpose
- » a statement of principles to govern the way in which councils undertake their business
- » clarification on relationships with Māori
- » a modernised by-law making power
- » an enhanced long-term planning framework.

Underpinning the new Act is a much clearer obligation to engage with communities in decision-making procedures and to seek to work in a collaborative way with other agencies. This Act was later amended in 2010, 2012 and 2014, and a further amendment Bill was introduced in 2016.

## 2002 Climate Change Response Act

This Act provides the overarching framework for the Emissions Trading Scheme which became law in September 2008.

## 2002 Civil Defence Emergency Management Act

This Act repealed the Civil Defence Act 1983 and provided for new mechanisms for planning and preparing for emergencies. All local authorities must participate in civil defence emergency management groups.

### **2003 Gambling Act**

This Act was designed to provide an overarching framework for regulating and controlling the growth in gambling, and minimising resulting harm. It introduced a new role for territorial authorities of setting policies to control the location and number of class four (non-casino pokie) gaming machines. All territorial authorities were required to adopt their first policies during March 2004 and must review them at least every three years.

### **2003 Prostitution Reform Act**

This Act began life as a private member's Bill and gives local authorities the power to regulate the location of brothels and place controls on signs advertising commercial sexual services, all through by-laws.

### **2004 Building Act**

Repealed the 1991 Act and introduced the requirement for councils (and any others) processing building consent applications to be accredited building consent authorities. It included prescriptive requirements for processes, procedures, quality assurance and competency. It also introduced a licensing scheme for building practitioners, a product certification scheme, a dam safety scheme (consenting by regional councils) and requirements for councils to have policies for earthquake prone buildings, and dangerous buildings. This Act was later amended in 2012.

### **2005 Public Records Act**

This Act sets a framework for recordkeeping in public offices and local authorities. Its purpose is to promote accountability through reliable recordkeeping, enhance public confidence in the integrity of local government records and protect New Zealand's documentary heritage.

### **2006 Local Government (Rating) Amendment Act**

This Act clarifies the process for objecting to rating valuations and the consequences of an objection.

### **2008 Waste Minimisation Act**

The purpose of the Act is to encourage waste minimisation and a decrease in waste disposal. It puts a levy on waste disposed of in landfills and contains the requirements for product stewardship schemes.

This Act clarifies the roles and responsibilities of territorial authorities with respect to waste minimisation. Territorial authorities must prepare a Waste Management and Minimisation Plan in accordance with the Act and the New Zealand Waste Strategy. This fund is half of the levy collected on waste disposed of in landfills. The other half is a contestable fund for waste minimisation initiatives.

### **2009 Local Government (Tamaki Makaurau Reorganisation) Act**

This Act established the Auckland City council as a single unitary authority to take effect on 1 November and prescribed a range of transitional provisions.

### **2009 Local Government (Auckland Council) Act**

This Act makes further provisions for the new Auckland City Council, including details about the nature and functions of local boards.

### **2009 Resource Management (Simplifying and Streamlining) Amendment Act**

This was a substantial amendment Act imposing "efficiencies" on councils primarily in their assessment and processing of resource consents; for example, restricting further information requests, restricting ability to extend timeframes, introducing a discount regime for late consents. The Act established the phase one Environmental Protection Authority with the ability to receive applications for projects of national significance. It also provided for direct referral to the Environment Court.

### **2010 Local Government (Auckland Council) Amendment Act**

This Act provided greater detail on how the new council would operate, including the role of the mayor/koromatua and council-controlled organisations, particularly Auckland Transport and Auckland Water.

### **2011 Local Government Borrowing Act**

This Act facilitates the operation of the New Zealand Local Government Funding Agency Ltd (LGFA), a council-controlled organisation which is owned by 30 Local Authority Councils and the Crown. The provision of more efficient funding costs and diversified sources of funding (including foreign currency) are the primary purpose of the LGFA.



### **2011 Canterbury Earthquake Recovery Act**

Measures provided in this Act ensured that the councils and communities of greater Christchurch could respond to, and recover from, the impacts of the Canterbury earthquakes.

### **2011 Freedom Camping Act**

This Act regulates freedom camping on land controlled by local authorities (city, district and regional councils) and by the Department of Conservation. It does not regulate freedom camping on private land.

### **2012 Local Government Amendment Act**

This Act amends the Local Government Act 2002. It was introduced as an implementation of the first four points of central government's "Better Local Government" reform programme, with a view to more effective and efficient operation of local government via:

- » refocusing local government's purpose
- » introducing financial prudence requirements
- » strengthening council governance
- » streamlining council reorganisation procedures.

### **2012 Building Amendment Act**

This Act resulted from a comprehensive review of the Building Act 2004, carried out in 2009/10, with the aim of lifting the overall performance of the building and construction sector.

### **2012 Climate Change Response (Emissions Trading and Other Matters) Amendment Act**

This Act amends the Climate Change Response Act 2002. It was introduced to help maintain the costs that the Emissions Trading Scheme (ETS) places on the economy at current levels, particularly during the continued economic recovery. It also highlights a number of changes designed to improve the operation of the ETS.

### **2012 Sale and Supply of Alcohol Act**

This Act replaces the Sale of Liquor Act 1989, and amongst other things provides greater ability for communities to have a say by increasing the range of matters on which objections to licenses can be made. It allows councils to adopt local alcohol policies.

### **2013 Local Electoral Amendment Act**

The 2001 Act was amended to incorporate the following changes in order to improve provisions for the conduct of local elections, and to strengthen the integrity, transparency and efficiency of local electoral processes:

Transparency of campaign donations was tightened and increased – a limit of \$1500 was imposed for any single anonymous donation; the definition of an "anonymous donation" was revised; more stringent recording, reporting and disclosure obligations are now required; and penalties for non-compliance have been introduced.

### **2014 Local Government Amendment Act**

This Act completed the Government's Better Local Government programme. It required councils to adopt Infrastructure Strategies, undertake regular reviews of the way in which their services were delivered and adopt a Significance and Engagement policy.

### **2018 Local Government (Community Well-being) Amendment Act**

This Act changed the purpose of local government back to the wording introduced with the passage of the LGAS 2002. Popularly known as "reintroducing the 4 well-beings".

2021 local electoral (Māori wards and Māori constituencies) amendment act 2021

This act abolished the right to hold binding referendums on the establishment of Māori wards and constituencies for local authorities.



# Attachment

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C.

[Glossary >>](#)

## **Accrual accounting**

An accounting method whereby income and expenses are included in the financial reports when they are incurred, regardless of when they are actually received or paid. Revenues are included in the period when the earning occurred (for example, the period the rates relates to) even though it may not yet have been invoiced or paid for. Similarly, expenses are included in the period in which the expense was incurred.

## **Assets**

The economic resources controlled by the council. Assets commonly include cash, investments, accounts receivable, inventories (stock), land, buildings, machinery, equipment, etc. Assets are divided into current and non-current for financial reporting purposes.

## **Annual plan**

A document adopted by a local authority that sets out the budget for the year, and the sources of funding for the year.

## **Annual report**

A document that a local authority prepares each year which provides the public with information on the financial and non-financial performance of the local authority during the year.

## **Balance sheet**

Also known as Statement of Financial Position, the balance sheet summarises the council's financial position, its assets, equity, and liabilities, at a specific point in time. According to the basic equation in a balance sheet, the council's assets equal its liabilities plus owner's equity. Balance sheet data is most helpful when compared with information from a previous year and this information is included in the published financial statements.

## **Casting vote**

An additional vote which may be exercised by a person presiding over a meeting when the voting is otherwise tied, should the council's standing order provide for such a vote.

## **Community**

A network of people and organisations linked together by common factors. This might refer to a network of people linked by place (that is, a geographic community), common interest or identity (for example, a hapū, a voluntary organisation or society), an administrative community (such as a district).

## **Code of conduct**

A document that sets out members' expectations as to their roles and conduct while acting as an elected member.

## **Community outcomes**

Are outcomes that achieve the purpose of local government which is to enable democratic local decision-making and action by, and on behalf of, communities; and, to promote the social, economic, environmental, and cultural well-being of communities in the present and for the future

## **Council organisation (CO)**

Any organisation in which one or more local authorities own or control any proportion of the voting rights or has the right to appoint one or more of the directors, trustees etc.

## **Council-controlled organisation (CCO)**

Any organisation in which one or more local authorities own or control 50 per cent or more of the voting rights or have the right to appoint 50 per cent or more of the directors of the organisation.

## **Council-controlled trading organisation (CCTO)**

Any CCO that operates a trading undertaking for the purpose of making a profit.

## **Depreciation**

An expense that represents the consumption (or using up) of the asset over time. Different methods of depreciating assets include diminishing value (reducing balance) and the straight line method. GAAP defines depreciation as the systematic allocation of the depreciable amount of an asset over its useful life.

### **Depreciation replacement cost (DCR)**

The current gross replacement cost of an item less any allowance for physical deterioration, and optimisation for obsolescence and relevant surplus capacity.

### **Equity**

The value of the council's assets minus its liabilities. On a balance sheet, equity is also referred to as shareholders' equity, owners' equity or in the public sector taxpayers' equity.

### **Generally accepted accounting practice (GAAP)**

The rules and conventions accountants follow in recording and summarising transactions and preparing financial statements. In New Zealand, this is either approved financial reporting standards so far as they apply: or if there are no approved standards, accounting policies that are appropriate to the entity and have authoritative support within the accounting profession in New Zealand.

### **Infrastructure assets**

Systems (for example, roading or power) that form a network and serve whole communities, where the system as a whole is intended to be maintained indefinitely to provide a particular level of service by the continuing replacement and refurbishment of its components.

### **Infrastructure strategy**

The infrastructure strategy must outline how the local authority intends to manage its infrastructure assets for at least 30 consecutive years.

### **Long-term plan (LTP)**

A plan, covering at least 10 years, adopted under s. 93 of the LGA 2002, that describes the activities the local authority will engage in over the life of the plan, why the local authority plans to engage in those activities and how those activities will be funded.

### **Local governance statement**

A collection of information prepared under s. 40 of the LGA 2002 that includes information about the ways in which a local authority engages with its community and makes decisions, and the ways in which citizens can influence processes.

### **Notice of motion**

A notice giving the precise words of a motion is intended to be moved at a later time, or more usually a later meeting.

### **Renewals**

Works to refurbish or replace existing facilities with facilities of equivalent capacity or performance capability.

### **Significance and Engagement Policy**

A local authority's general approach to determining the significance of proposals and decisions in relation to issues, assets, and other matters and the criteria for determining the level of engagement and consultation.

### **Special consultative procedure (SCP)**

A formal consultation process defined in the LGA 2002 that sets out a series of steps a local authority must follow when consulting on particular types of decisions.

### **Statement of proposal (proposal)**

A document that provides the basis for consultation with the community under the SCP, by setting out a local authority's proposals with respect to a particular matter.

### **Strategic asset**

An asset or group of assets that the local authority needs to retain to maintain its capacity to promote any outcome it considers important to the current or future well-being of the community.

### **Statement of intent (SOI)**

A document that sets out the objectives for a council-controlled organisation over the coming year, its expected activities and forecasts of its performance.

### **Sustainable development approach**

Taking into account the social, economic and cultural interests of people and communities; maintaining and enhancing the quality of the environment and taking into account the reasonably foreseeable needs of future generations.



## Triennial agreement

An agreement entered into by all of the local authorities within a region that sets out the basis for communication and coordination between the authorities.



# Attachment

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**D.**

**Acronyms >>**

<b>CCO</b>	Council-controlled organisation
<b>CCTO</b>	Council-controlled trading organisation
<b>CO</b>	Community outcomes
<b>DIA</b>	Department of Internal Affairs
<b>DPMC</b>	Department of the Prime Minister and Cabinet
<b>EDA</b>	Economic Development Agency
<b>FIS</b>	Funding Impact Statement
<b>FPP</b>	First past the post
<b>LGA 1974</b>	Local Government Act 1974
<b>LGA 2002</b>	Local Government Act 2002
<b>LGFA</b>	Local Government Funding Agency
<b>LGNZ</b>	Local Government New Zealand
<b>LGOIMA</b>	Local Government Official Information and Meetings Act 1987
<b>LGRA 2002</b>	Local Government (Rating) Act 2002
<b>LGRA</b>	Local Government Risk Agency
<b>LTCCP</b>	Long term council community plan
<b>LTP</b>	Long term plan (incorporating the LTCCP)
<b>NPSET</b>	National Policy Statement on Electricity Transmission
<b>NZCPS</b>	New Zealand Coastal Policy Statement
<b>RC</b>	Regional council
<b>RMA</b>	Resource Management Act 1991
<b>RPS</b>	Regional policy statement
<b>SCP</b>	Special consultative procedure
<b>SOI</b>	Statement of intent
<b>SSC</b>	State Services Commission
<b>STV</b>	Single transferable vote
<b>TA</b>	Territorial authority

