

**Open minutes of the Ordinary meeting of
Kaipara District Council**

Date: Wednesday 27 May 2020
Time: 9:30 am – 3.00 pm
Location: Conference Room, Northern Wairoa Memorial Hall,
Dargaville

Members Present: Mayor Jason Smith
Deputy Mayor Anna Curnow
Councillor Jonathan Larsen
Councillor Karen Joyce-Paki
Councillor Victoria del la Varis-Woodcock
Councillor Mark Vincent
Councillor Peter Wethey
Councillor David Wills

Apologies: Councillor Eryn Wilson-Collins

1. Opening

1.1 Karakia

Cr Joyce-Paki opened the meeting with a karakia.

1.2 Apologies

Moved By: Mayor Smith

Seconded By: Cr Curnow

That the Kaipara District Council:

a) Accept the apology from Councillor Eryn Wilson-Collins.

Carried

1.3 Confirmation of agenda

Moved By: Mayor Smith

Seconded By: Cr Wethey

That the Kaipara District Council:

- a) Confirms the agenda for the meeting held Wednesday 27 May 2020.

Carried

1.4 Conflict of interest declaration

Nil

2. Presentations and petitions

There were no presentations or petitions.

3. Minutes

3.1 Confirmation of Open Council Meeting minutes 29 April 2020

Moved By: Cr del la Varis-Woodcock

Seconded By: Cr Curnow

That the unconfirmed Open minutes of the Kaipara District Council meeting held 29 April 2020 be confirmed as a true and correct record.

Carried

4. Notice of motion

Nil

5. Decision

5.1 Council Response to Covid-19

Moved By: Mayor Smith

Seconded By: Cr Wetthey

That the Kaipara District Council approves:

- a) Establishment of a Hospitality and other Licences Fund of \$200,000 in the 19/20 year. This would provide grants up to \$1500 against license fees for hospitality and other license holders.
- b) Establishment of a Covid 19 Agility Fund in the 19/20 year of \$325,000 to
 - Provide a grant for rates to community and sports groups up to \$500
 - Provide a grant for rates to businesses of up to \$500
 - Provide a grant of up to \$1000 for professional advice for their business (up to a maximum of 50 applicants)
- c) Provision of a credit for

- Six months on leases to community groups leasing Council land (March 2020 to August 2020)
- Six months interest to the Mangawhai museum on its community loan (March 2020 to August 2020)
- Two months on leases to campsite operators on council land up to a maximum of \$1000

Carried

5.2 Adoption of the Spatial Plan for Key urban areas of Dargaville, Maungaturoto and Kaiwaka

Moved By: Cr Curnow

Seconded By: Cr del la Varis Woodcock

That the Kaipara District Council:

- a) Adopts the Spatial Plan for the Key Urban Areas of Dargaville, Maungaturoto and Kaiwaka as a policy for the development of these areas and a guide for development
- b) Notes that the Spatial Plan remains a living document where justified amendments will be considered
- c) Delegates the Mayor and Chief Executive the authority to make minor editorial amendments to the Spatial Plan for the Key Urban Areas of Dargaville, Maungaturoto and Kaiwaka

Carried

The meeting adjourned at 10.30 am.

The meeting reconvened at 10.40 am.

5.3 Adoption of the Draft Mangawhai Spatial Plan for Consultation

Moved By: Cr Larsen

Seconded By: Cr Wethey

That the Kaipara District Council

- a) Adopts the Draft Spatial Plan for Mangawhai (Attachment A to this report) for consultation with the public

Carried

5.4 Procurement Plan Approval for Accelerated Projects

Moved By: Mayor Smith

Seconded By: Cr del la Varis Woodcock

That the Kaipara District Council:

- a) Notes the procurement approach, plans and outline business cases provided within this report.
- b) Approves an exception from the requirement to provide a formal business case.
- c) Approves the recommended procurement approach for
 1. Kaihu Valley Trail
 2. Mangawhai Community Programme – 2020 Shared Path Package
 3. Kaipara Kickstart - Pouto Road
 4. Kaipara Kickstart - Waipoua River Road
 5. Shovel Ready Package

Carried

5.5 Submission on the Dome Valley Landfill Plan Change and Resource Consent applications in Auckland

Moved By: Mayor Smith

Seconded By: Cr Joyce-Paki

That the Kaipara District Council:

- a) Retrospectively approves the submissions on the Dome Valley Plan Change and the Resource Consents on the Auckland Unitary Plan (Attachments A and B to this report).

Carried

5.6 Hearing Commissioners Policy Adoption

Moved By: Cr Curnow

Seconded By: Mayor Smith

That Kaipara District Council:

- a) Adopts the draft Hearing Commissioners Policy (Attachment A) with the following change;

- i) The Policy to allow for the appointment of internal hearings commissioners to Council initiated Plan Change hearings, subject to the same appointment process as for Private Plan Change hearings.
- b) Delegates authority to the Mayor and Chief Executive to make edits to reflect the above decision (Recommendation a(i)) in the Hearings Commissioner Policy.

[Secretarial note: an amendment to the substantive motion was proposed and a proposed amended policy was tabled -see attached].

Moved By: Cr Wethey

Seconded By: Cr del la Varis-Woodcock

That Kaipara District Council:

- a) Adopt the draft Hearing Commissioners Policy as tabled.
- b) Delegates to the Mayor and the Chief Executive the authority to make minor editorial changes that do not change the intent of the policy.

A division was called.

Elected Member name	Vote (For, Against, Abstain, Absent)
Deputy Mayor Cr Curnow	Against
Cr Victoria del la Varis-Woodcock	For
Cr Karen Joyce-Paki	For
Cr Jonathan Larsen	For
Cr Mark Vincent	For
Cr Peter Wethey	For
Cr David Wills	For
Mayor Dr Jason Smith	Against

Votes For six, Votes Against two. The amendment was Carried

The amendment became the substantive and motion put.

Moved By: Cr Wethey

Seconded By: Cr del la Varis-Woodcock

That Kaipara District Council:

- a) Adopt the draft Hearing Commissioners Policy as tabled.
- b) Delegates to the Mayor and the Chief Executive the authority to make minor editorial changes that do not change the intent of the policy.

Carried

The meeting adjourned at 12.45 pm.

The meeting reconvened at 1.15 pm.

5.7 Temporary Road Closure Approval – Spirit of Matariki 2020

Moved By: Cr Wills

Seconded By: Cr Joyce-Paki

That Kaipara District Council:

- a) Approves the application for the temporary road closure of Victoria Street, Dargaville between 1`6 – 36 Victoria Street, Dargaville and the Victoria reserve outside the Band Rotunda and Central Hotel as shown on the proposed Traffic Management Diagram (Attachment A to this report) on Saturday 27 June 2020 from 12:30pm to 07:00pm. A condition of approval being the event organiser to do a letter drop to all businesses/residents located within the road closure.
- b) Notes that the agreement above will be subject to the Ministry of Health's guidelines on public events, and that this information be included in the letter drop to affected residents/businesses.

Carried

6. Information

6.1 Quarterly Performance Measures Jan-Mar 2020

Moved By: Cr Vincent

Seconded By: Cr Curnow

That Kaipara District Council:

- a) Notes the Quarterly Performance Measures Jan-Mar 2020.

Carried

6.2 Exceptions Report April 2020

Moved By: Cr Wethey

Seconded By: Cr Larsen

That Kaipara District Council:

- a) Notes the Exceptions Report April 2020.

Carried

6.3 Resolutions register

Moved By: Cr del la Varis Woodcock
Seconded By: Cr Curnow

That Kaipara District Council:

a) notes the Resolutions Register dated 27 May 2020.

Carried

7. Resolution to move into Public Excluded session

Moved By: Cr del la Varis Woodcock

Seconded By: Cr Curnow

a) That the following items are considered with the public excluded:

Item	Grounds for excluding the public
Mangawhai Central Development Agreement Draft one	Enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations) (Section 7(2)(i))

Carried

The meeting moved into Public Excluded session at 1.55 pm.


The meeting returned to open session at 2.34 pm.

10. Closure

Cr Joyce-Paki closed the meeting with a karakia.

The meeting closed at 2.35 pm.

Kaipara District Council

	Title of Policy	Hearing Commissioners Policy		
	Sponsor	General Manager Engagement and Transformation / Chief Executive	Authorised / adopted by	
	Author	Kathie Fletcher	Date authorised / adopted	
	Type of Policy	Administration	Last review date	
	File Reference	3825.01	Next review date	

Document Control			
Version	Date	Author(s)	Comments
1 st Commenced	14 March 2019	Kathie Fletcher	Draft Policy for discussion at 4 April 2019 Council Briefing.
1.1	25 June 2019	Kathie Fletcher	Draft Policy for discussion by Regulatory Working Group with three sets of tracked changes
1.2	23 July 2019	Kathie Fletcher	All tracked changes from the above accepted and minor changes from the Regulatory Working Group at their 23 July 2019 meeting. Circulated to the Regulatory Working Group for their comment via e-mail.
1.3	05 December 2019	Kathie Fletcher	Amended version following input from Regulatory Working Group, legal advice and staff. To be discussed at 05 February 2020 Council Briefing.
1.4	16 January 2020	Kathie Fletcher	Addition of tikanga Māori as a criterion as a result of a legal opinion.

1 Background

This policy outlines how the Kaipara District Council (the Council) will appoint Independent Hearings Commissioners under the Resource Management Act 1991 (RMA) and delegate to them, the functions, powers and duties under section [34A\(1\)](#) of the RMA to hear and/or make decisions on RMA hearings matters also having regard to section [34A\(1A\)](#) of the RMA referring to tikanga Māori knowledge .

This Policy also outlines how Council will appoint appropriately accredited elected members to act as Internal Hearing Commissioners alongside Independent Hearing Commissioners.

Hearing Commissioners are required to provide sound advice and make sound decisions, following robust practice, without any conflicts of interest or bias. The processes outlined in this Policy are designed to support Hearing Commissioners to achieve this.

2 Objective

- a) Provide guidance, transparency and consistency on:
 - Recruitment of Independent Hearing Commissioners to the Council's Independent Hearing Commissioners List.
 - The process for selecting and appointing Independent Hearing Commissioners to a hearing/hearing panel.
 - Elected members serving as Internal Hearing Commissioners.
- b) Ensure hearings involving Hearing Commissioners comply with legislation and the principles of fairness and natural justice.
- c) Ensure appropriate expertise is available for complex or joint hearings (i.e. with Northland Regional Council (NRC)).

3 Definitions

In this policy, the following terms and phrases shall have these meanings:

Appointment means the formal process by which the Council appoints individuals to serve as Hearing Commissioners on behalf of the Council under this Policy.

Authorisation means the formal process by which the Council delegates specific authority to individuals to undertake RMA functions of Hearing Commissioners on Council's behalf.

Council, unless stated otherwise, means the Kaipara District Council.

Independent Hearing Commissioner means a person who is not an elected member, nor an employee of the Council, who has been appointed by the elected Council to be a Hearing Commissioner to conduct hearings and who has been authorised to either make decisions on behalf of, or recommendations to, the elected Council.

Independent Hearing Commissioners List ('the List') means a list of those persons who have been appointed and authorised by resolution of the elected Council to be Independent Hearing Commissioners.

Internal Hearing Commissioner means an elected member of the Council, who has been appointed by the elected Council to be a Hearing Commissioner to conduct hearings, who is appropriately accredited and who has been authorised to either make decisions on behalf of, or recommendations to, the elected Council.

Recruitment means the process of advertising for, interviewing and recommending Independent Hearing Commissioners to the elected Council for appointment.

Selection means the selection of an appropriate Independent Hearing Commissioner from the Independent Hearing Commissioner List or an Internal Hearing Commissioner to hear a specific matter on behalf of the elected Council.

NB: All statutory references are references to the Resource Management Act 1991 unless stated otherwise.

4 Policy Statement

4.1 Appointment to Independent Hearing Commissioners List

Council will maintain a list of Independent Hearing Commissioners who collectively have the range of skills needed for future hearings. There is no set number of Independent Hearing Commissioners that can be included on the List. However, it is recommended that between 10-15 Independent Hearing Commissioners be included to meet potential demand.

Council will review this list every three years, following the triennial local body elections, or as required to assess if there are any specialist skills required that are not available in the existing pool.

Council will advertise for applications from Independent Hearing Commissioners to be on the List every three years following the triennial local body elections, or as required. This may be advertised in numerous ways but will always include a notice in a newspaper circulating in the district.

Applicants should complete the Standardised Commissioner Curriculum Vitae ([Appendix 1](#)) which may be accompanied by a full curriculum vitae and such other supporting information as the applicant desires.

Skilled persons sought will generally have some legal, planning, community, political, scientific, technical, landscape, heritage, ecological, urban design, engineering or tikanga knowledge and experience. Their previous work should demonstrate sound unbiased decision making, effective report writing and analytical skills and demonstrate process of thought (i.e. how and why the decision was reached).

Final approval and listing will be based on the following attributes:

- a) Mandatory Pass or Fail
 - Must be accredited by the Ministry for the Environment as a RMA Commissioner with evidence provided.
 - Must accept terms and conditions of contract.
 - Applicants must provide written acceptance of proposed charge-out rates.
- b) Relevant skills 40% ranking
 - Ability and experience to undertake work successfully and efficiently on a hearing panel or as the sole Commissioner.
 - Ability to assess information and facts, with a working knowledge of the RMA.
Sufficient cultural, legal, planning or technical background and wide experience across a range of matters anticipated to arise in future hearings e.g. tikanga Māori, coastal development, engineering, landscape architecture.
- c) Relevant experience 40% ranking
 - Ability to assess information, with a working knowledge of the RMA.
 - Have been involved in projects with successful outcomes over last five years.
 - Sound references.
 - Demonstrate other relevant life experience e.g. experience operating a local business, developing properties or managing a farming operation.
- d) Local knowledge 20% ranking
 - Local knowledge particularly knowledge of local strategic documents e.g. District Plan and Regional Policy Statement.

Independent Hearing Commissioners who are endorsed as Chair by the Ministry for Environment will also be required.

Final approval and listing of Chairs will be based on the following attributes:

- e) Mandatory Pass or Fail
 - Must be accredited by the Ministry for the Environment as a RMA Commissioner with evidence provided of Chair endorsement.
 - Must accept terms and conditions of contract.
 - Applicants must provide written acceptance of proposed charge-out rates.
- f) Report writing skills 20% ranking

- Proven ability to write good reports including effective analysis, demonstration of process of thought and clear written decisions.
- g) Relevant skills 30% ranking
- Ability and experience to undertake work successfully and efficiently when chairing a Hearing Panel.
 - Ability to assess information and facts, with a working knowledge of the RMA.
 - Sufficient cultural, legal, planning or technical background and wide experience across a range of matters anticipated to arise in future hearings e.g. tikanga Māori, coastal development, engineering, landscape architecture.
- h) Relevant experience 30% ranking
- Experience in assessing information, with a working knowledge of the RMA.
 - Have been involved in projects with successful outcomes over last five years, as a Commissioner and as a Chair.
 - Sound references.
 - Demonstrate other relevant life experience e.g. experience operating a local business, developing properties or managing a farming operation.
- i) Local knowledge 20% ranking
- Local knowledge particularly knowledge of local strategic documents e.g. District Plan and Regional Policy Statement.

All applicants who demonstrate that they have the above attributes will be put forward to a Council meeting for a resolution that they be approved and included on the List. This resolution appointing Independent Hearing Commissioners to the List will include conferring on them the necessary delegations under the RMA e.g. section [34A\(1\)](#). Once approved by Council, final contracts will be issued to the successful Independent Hearing Commissioners.

4.2 Internal Hearing Commissioners List

The Council will maintain a list of current elected members who are accredited to serve as Internal Hearing Commissioners. The Council will review this list every three years, following the triennial local body elections, or as required. Training will be offered to elected members who are interested in becoming Hearing Commissioners. On the successful completion of the Ministry for the Environment Making Good Decisions training programme, the elected member will be listed as an Internal Hearing Commissioner.

4.3 Appointment of Independent Hearings Commissioners to a Hearings Panel

When appointing Independent Hearing Commissioners to hear an application, appeal etc., Staff will follow these steps:

- a) Review the List and shortlist those Independent Hearing Commissioners who have the relevant subject knowledge, necessary skills and experience to hear a consent application or plan change.

- b) Arrange the Independent Hearing Commissioners on the short list in alphabetical order and further prioritise them based on additional disbursements they will incur i.e. those who will incur less travel and accommodation costs will be ranked higher than those who will incur higher costs.
- c) Contact the Independent Hearing Commissioners on the short list one after the other in order (as per above), to confirm their availability. In the event that the first on the short list refuses, staff will check the availability of the next person on the short list and so forth in order until an Independent Hearing Commissioner is found to be available.
- d) If selection is required for another hearing panel and the same names are selected for the short list, the listing order will start from where it finished for the previous selection process (i.e. the person who accepted the position last time shall be the last to be offered the position next time), so that the equal opportunity is afforded to all those on the List.
- e) Council reserves the right to appoint Independent Hearing Commissioners who are not on Council's List to a hearing panel on a case by case basis. This will typically only be done for hearings where the necessary subject knowledge to hear a case cannot be sourced from the List. In such cases, the appointment and delegation must be approved by Council resolution.
- f) The Independent Hearing Commissioners appointed to any given hearing panel and the process used to appoint them shall be disclosed to the public and communicated to the applicant.
- g) Council staff will record when an Independent Commissioner is used, including what knowledge was required, the short list and why selected. This information will be made available upon request.
- h) At least one of the hearing panel Commissioners must have an understanding of tikanga Māori and the perspective of local iwi or hapū.

4.4 Appointment of Internal Hearing Commissioners to a Hearings Panel

Suitably qualified elected members of the Council may be appointed to serve as Internal Hearing Commissioners provided they:

- a) Fulfil the accreditation requirements of the RMA by holding a current Ministry for the Environment certificate under the Making Good Decisions programme.
- b) Do not have any actual or perceived conflict of interest or potential bias.
- c) ~~Are not the elected member for the ward in which the development/matter the hearing relates to is located.~~
- d) Are able to take on the workload involved (e.g. the need to read through and analyse all submissions).
- e) Can be available as required for the duration of the hearing and any work associated with supporting the Chair to write the decisions report.

Subject to the other requirements of this policy (e.g. conflict of interest) and availability, elected members ~~will~~ may be appointed to serve as ~~an~~ Internal Hearing Commissioners ~~on private plan~~

~~change on~~ hearing panels of two or more panel members. ~~No more than one Internal Hearing Commissioner will be appointed per panel.~~

The panel Chair ~~and any other member(s) of the panel~~ shall be an Independent Hearing Commissioners. Where the hearing panel consists of an even number of members, the Chair shall have a casting vote.

~~Internal Hearing Commissioners will not be appointed to hearing panels other than those for private plan changes.~~

~~Selection of an Internal Hearing Commissioner to serve on a given hearing panel shall follow the same process as for Independent Hearing Commissioners under clause 4.3.~~

Qualified Internal Hearing Commissioners will be contacted in alphabetical order, to confirm their availability for a hearing. In the event that the first person refuses, staff will check the availability of the next person and so forth in order, until the required number of Internal Hearing Commissioners is selected.

If selection is required for another hearing panel, the listing order will start from where it finished for the previous selection process (ie the person who accepted the position last time shall be the last to be offered the position next time), so that an equal opportunity is afforded to all.

Appointment of an Internal Hearing Commissioner to a hearing panel shall be by Council resolution, with that resolution to include the necessary delegations under the RMA.

4.5 Disputes over Appointments

Where any person wishes to dispute one or more appointments under 4.3 and 4.4 to the hearing panel, the matter shall be referred to the Chief Executive Officer of the Kaipara District Council for resolution.

4.6 Independent Hearing Commissioner Remuneration to be Standardised

Independent Hearing Commissioners' remuneration shall be standardised and will be reviewed not less than every three years.

All Independent Hearing Commissioners must agree to these standard rates as part of their contract when being appointed to the List. Disbursements such as travel and accommodation expenses shall be negotiated individually.

In such cases that an Independent Hearing Commissioner/s with special skills is required and is not available through the List, Council shall engage and remunerate such a Commissioner at a rate agreed between Council and that Commissioner. In the event that the agreed rate is higher than the standard rates, the agreed rate must be approved by Council's Chief Executive Officer.

The Council will on-charge remuneration costs to applicants or submitters as the case may require.

NB: Remuneration for Internal Hearing Commissioners is set by the current Local Government Members Determination.

4.7 Independent Hearing Commissioners on non RMA Hearing Panels

Beyond the RMA, there are numerous situations within local government which require consultation and the presenting of submissions to a hearing e.g. Bylaws, Reserve Management Plans and the Long Term Plan.

These hearings may be heard by the full elected Council or by a hearing panel consisting of a subset of elected members. Depending on the situation, the elected Council may delegate the function to hear and make decisions and then report back, or delegate to hear and make recommendations to the elected Council, for the elected Council to adopt. Non-elected members may also be appointed, by resolution of the elected Council, to sit on these hearing panels alongside elected members. These individuals may be representatives from Mana Whenua, members of a Council Committee (e.g. the Taharoa Domain Governance Committee) or Independent Hearing Commissioners depending on the nature of the matter being discussed.

This Policy directs that one or more Independent Hearing Commissioners may be appointed to non RMA hearings panels where Council determines that specialist expertise would benefit the panel's deliberations.

NB: Elected members serving on non RMA hearings panels are acting as elected members, not as Internal Hearing Commissioners, and as such no special qualifications are required. No special qualifications are required for non-elected members appointed to a non-RMA hearing panel.

4.8 Appendix 1: Standardised Hearing Commissioner Curriculum Vitae

Hearing Commissioner Contact Details																												
Name:																												
Company																												
Contact Phone:	Mobile:	Work:																										
Contact E-mail:																												
Relevant Qualifications																												
Address:	Postal:	Physical:																										
	Post Code:																											
Identify the last five Hearings you have been involved in.	Hearing Title	Date	Organisation	Outcome																								
References:																												
Please tick your relevant areas of expertise: <table border="0" style="width: 100%;"> <tr> <td><input type="checkbox"/> Chair</td> <td><input type="checkbox"/> Subdivision Consents</td> <td><input type="checkbox"/> Extraction/mining/basic raw materials</td> </tr> <tr> <td><input type="checkbox"/> Panel Member</td> <td><input type="checkbox"/> Heritage Issues</td> <td><input type="checkbox"/> Forestry.</td> </tr> <tr> <td><input type="checkbox"/> Mediation</td> <td><input type="checkbox"/> Landscape Issues</td> <td><input type="checkbox"/> Transport/Traffic</td> </tr> <tr> <td><input type="checkbox"/> Legal Issues</td> <td><input type="checkbox"/> Urban design</td> <td><input type="checkbox"/> Hazardous Substances</td> </tr> <tr> <td><input type="checkbox"/> Tikanga Māori</td> <td><input type="checkbox"/> Kiwi protection</td> <td><input type="checkbox"/> Financial Contributions</td> </tr> <tr> <td><input type="checkbox"/> Treaty of Waitangi Settlement obligations</td> <td><input type="checkbox"/> Natural features/geology</td> <td><input type="checkbox"/> Land Use Consents</td> </tr> <tr> <td><input type="checkbox"/> Planning Policy – Plan Changes</td> <td><input type="checkbox"/> Ecology Issues</td> <td><input type="checkbox"/> Other, please specify:</td> </tr> <tr> <td></td> <td><input type="checkbox"/> Noise/Acoustic</td> <td></td> </tr> </table>					<input type="checkbox"/> Chair	<input type="checkbox"/> Subdivision Consents	<input type="checkbox"/> Extraction/mining/basic raw materials	<input type="checkbox"/> Panel Member	<input type="checkbox"/> Heritage Issues	<input type="checkbox"/> Forestry.	<input type="checkbox"/> Mediation	<input type="checkbox"/> Landscape Issues	<input type="checkbox"/> Transport/Traffic	<input type="checkbox"/> Legal Issues	<input type="checkbox"/> Urban design	<input type="checkbox"/> Hazardous Substances	<input type="checkbox"/> Tikanga Māori	<input type="checkbox"/> Kiwi protection	<input type="checkbox"/> Financial Contributions	<input type="checkbox"/> Treaty of Waitangi Settlement obligations	<input type="checkbox"/> Natural features/geology	<input type="checkbox"/> Land Use Consents	<input type="checkbox"/> Planning Policy – Plan Changes	<input type="checkbox"/> Ecology Issues	<input type="checkbox"/> Other, please specify:		<input type="checkbox"/> Noise/Acoustic	
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