Notice of motion Kaipara District Council Ordinary Meeting 31 March 2021

a) That Council directs the Chief Executive to arrange a briefing on the Mangawhai Community Wastewater Scheme (MCWWS) capacity and debt as soon as possible and prior to Long Term Plan (LTP) hearings taking place; and
b) That the briefing include clarification of the matters raised in the Kaipara Concerns column dated 19 March 2021 and Mangawhai Matters column in Mangawhai Focus dated 22 March 2021 regarding the MCWWS capacity and debt (both as attached); and
c) That the briefing may be held as part of an already scheduled briefing.

Reasons for the notice of motion

1. There is considerable concern in the community about the MCWWS capacity and debt both in general and in relation to the proposed development of the Mangawhai Central property.
2. Submissions relating to this will likely be received during the LTP process and it is important that elected members have the full information on these matters before hearing and deliberating on submissions.
3. A full briefing will allow elected members to be better informed when discussing these issues with the public.

Signed

Councillor Jonathan Larsen

23 March 2021

**KDC FINALLY ACKNOWLEDGES HISTORIC MCWWS DEBT** 19.03.2021

The KDC has responded to a LGOIMA request (Official Information) and revealed how much of the historic MCWWS is still outstanding.

We know that the remaining part of the debt allocated to district-wide ($1.4 million), and paid through the general rates by all ratepayers, has now been paid in full. (See posts below.)

**The current amount of the historic MCWWS debt, as at March 2021, is $34,430,745.**

This is made up of the two remaining allocations.

**<u>Existing users' allocation - originally $13.4 million</u>**

This allocation relates to the properties that were connected or connectable when the scheme became operative. KDC has clarified why those users still owe money. Rather than paying the development contribution in one lump sum, some of those who connected in the early days opted to pay over time. This allocation represents that outstanding debt.

**The KDC acknowledges that the current amount owing under this allocation is $9,563,745**

What the KDC has failed to tell us is whether the payments outstanding under the long-term payment arrangements are sufficient to satisfy this part of the debt. If they are not, then who will pay that part of the debt?

**Future communities' allocation – originally $26.2 million**

This allocation is to be paid by "future communities", being those who connected after the plant was first commissioned.

**KDC acknowledges that the current amount owing under this allocation is $24.867 million.**

**Error in calculation**

In my LGOIMA request I suggested that in calculating its repayment model the KDC had relied on the promise of 4,500 connections from Beca. That figure would have provided sufficient development contributions to pay this part of the historic debt.

KDC has finally acknowledged that it made a fundamental error in calculating the repayment of the debt. It has this to say:

*This was an error relating to connections (originally advised there would be 5000 not the 2800 that has eventuated).*

Both of those figures seem to be suspect. However, there was clearly a fundamental error that was made many years ago, and it has finally been acknowledged in March 2021.

The concern is that it was blindingly obvious many years ago that the capacity of the plant was nowhere near what was anticipated and it would be impossible to recoup that part of the debt before the plant reached capacity.

For years the KDC has failed to acknowledge the situation and to adjust its debt management. It is now faced with a massive black hole for which it has no realistic solution.

**Insurmountable problem**
The KDC states in its response to the LGOIMA request:

*We know that capacity will be reached in the next 4 years*

The reality is that for several years the treatment plant has not been able to cope with peak flows in summers and during heavy rainfall when stormwater infiltrates the wastewater pipes. For that reason a balance tank costing $2.8 million is being built as a matter of urgency. This will serve as detention tank to store the extra flow and discharge it to the plant when capacity is available.

In addition, the discharge field at Browns Road is close to capacity. The KDC is desperately searching for alternative disposal methods including, yet again, discharge to the golf course.

All of these issues will be exacerbated when Mangawhai Central comes on board.

The draft 2021/2031 LTP allocates $20.04 million of funding for this deferred maintenance and increase in capacity over the next 10 years. (However the 2019 WSP report estimated that a new disposal field would be needed by 2026 at a cost of $38 million.)

The point is that the KDC is faced with massive infrastructure costs in the future for the MCWWS. These will be funded by debt and that future debt will be repaid from development contributions from future connections.

However, if those development contributions are allocated to future debt, how will the current historic debt allocated to future communities of $24.867 million be repaid?

The KDC has just revealed its hare-brained proposals to pay both the historic and the future debts from development contributions.

**KDC's solution**
KDC sets out the original model for repayment of the original allocation of $26.2 million from development contributions:

*$6 million in the 6 years from 2013 to 2021*

*$20 million over 10-30 years (2022-2042).*

However the KDC acknowledges that the model has failed because it relied on a capacity of 5,000 connections when the plant was built. Even though "*we decided we can't recoup the $26m over the next 4 years*" the KDC is sticking with the same model. That means that the allocation of the historic debt to future communities will not be paid off until 2042

So, if all future development contributions until the year 2042 are allocated to repaying the historic debt, how is the $20.04 million of future debt in the draft LTP to be repaid? This is the KDC's simplistic solution:

*The debt prior to new additions in the LTP 2021-2031 (ie old debt) is scheduled to be recouped by 2042 and new capital expenditure in 2021-2031 be recouped by 2051 when we reach 4600 connections in total.*

In other words:

- The development contributions collected from 2021 to 2042 (the next 21 years will) will be used to pay off the remaining historic debt of about $25 million (plus accrued interest). That means that the debt incurred in 2010 will take 32 years to pay.
- The new capital expenditure of $20.04 million from 2021 to 2031 (page 10 of the Consultation Document for the 2021/2031 LTP), plus accrued interest, will be paid off from development contributions collected in 2042 to 2051.

This bizarre proposal appears to be an attempt to play for time so that those running the KDC will be long gone to greener pastures before the proverbial hits the fan. That presumably is why the various successive iterations of the KDC over the past eleven years have not revealed the dark secret of the historic debt.

Note that at the KDC briefing of 03 March 2021 the report on the balance tank stated that it is to be paid from development contributions. However, it seems that in fact that it will be funded by debt which will not be repaid until 2042-2051. That means 30 years of accrued interest in addition to the original cost.

**Additional capital costs added to original debt**
The KDC advises that there was $2.009 million in capital expenditure on the MCWWS in the past ten years.

Can we trust that figure? The amounts allocated in the various LTPs and annual plan suggest that the figure is much higher. It is also unclear whether those additional capital costs are included as part of the historic debt.

**Interest**
KDC repeatedly makes the statement that capital expenditure is funded from development contributions. Well, yes, eventually if you wait 20, 30 or 40 years. The reality is that capital expenditure is funded through debt and it may take anything up to forty years for the debt to be repaid.

So how is the interest on that debt treated?

In the last 10 years $7.5 million in interest payments has been capitalised. It is unclear if this figure is included in the total amount owing under the historic debt or whether it is dealt with separately in the accounts.

This is the KDC's muddled explanation of what happens to the interest:

*The debt gets interest added to it which ranges from 4.56% to 2.47%. In the first year this is 1.3m and 404k is transferred through to the general rates rather than being charged to future development contributions. New capital expenditure is added each year.*

*The general ratepayer because of a Council decision pays 50% of the interest on its rates annually rather than putting 100% to the development contributions outstanding (10-20Years). This totals $404,000 in the first year of the LTP and is about the same in most years of the plan.*

**Finally**
You can search the Consultation Document for the draft 2021/2031 LTP but you will not find any of the above information. It is the KDC's dirty secret which it has been forced to reveal – very reluctantly. But it is not going to consult on it with the community.

The KDC's ineptitude in pursuing a model for repayment that was based on blatantly incorrect figures is mind-boggling. The secret solution to pay off the historic and future debts by 2051 is nothing more than KDC's version of a Ponzi scheme.

Following on from the bizarre misrepresentations re the current capacity of the MCWWS by KDC staff in the PC78 process, and the blow-out on the fit-out of the NRC new building in Dargaville, the latest revelations must raise serious doubts about the competence of the KDC to perform its functions in compliance with its statutory obligations, and with the fiduciary duties that it owes the community that elected it.

# Mangawhai Central: You won't know what you've got until its gone

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**When it purchased Estauary Estates, Viranda Partners promised plenty of community focused amenities and engagement. Unfortunately, the reality is beginning to look woefully different. A supermarket and petrol station were inevitable, even under the existing 500 lot Estuary Estate consent. So, nothing has changed…or has it?**

The well thought out and much debated Estuary Estate plans, contained in Chapter 16 of the District Plan (EE), allowed for 500 houses - say 1500 additional people - in our community (plus some retail, commercial, and light industrial activity). This alone would change the face of Mangawhai, but at least it was intended to be in keeping with the current character of our coastal community.

However, in Private Plan Change 78 the developer, Mangawhai Central Ltd (within which Viranda Partners retains a 10 per cent shareholding), is aiming for at least 1000 houses - say 3000 additional people - alongside the various other amenities already consented in EE. The shrinking of section sizes and expanding of zones clearly indicate a much more intensive urban landscape than was thought acceptable previously.

It can be assumed that Viranda Partners would have anticipated a profitable development under the plan provisions of Chapter 16 when it purchased the property. (It is interesting, though, that it was revealed during the recent hearing that consultants were working on the changes before the purchase). However, MCL can make substantially more profit if the changes proposed in PPC78 can be implemented.

These changes, though, throw up serious issues for the rest of us, some of which we address here.

The community has asked many questions without getting any clear answers from Viranda Partners, Mangawhai Central Ltd, or Kaipara District Council. Unfortunately, if history is anything to go by, the community will only get the answers when, and if, MCL secures the plan change and then lodges resource consent applications for individual parts of the development. Here are some of the outstanding issues.

**Scale**

It is obvious that the earthworks to date are far greater than what was required to give life to the consented Estuary Estate project, even though PPC78 is not yet consented. Indeed, the hillside has been irrepairably carved out for a far greater density of visible houses than provided for Estuary Estates in the current district plan. What restrictions will the Commisioners impose, if any, on the development of so many 350sqm sections and the dense development land? What would MCL plan to develop on this intense zoning?

Among other things, Pacifecon, the building intelligence company, has revealed Viranda Holdings' apparent intention to apply for and build a 6-storey, 60 bed hotel in Mangawhai Central. That announcement comes despite PPC78 providing for no more than four stories (which in itself greatly changes the character of Mangawhai).

PPC78 can be seen as pushing the sustainable limits of development in Mangawhai, but is MCL already looking beyond those limits?

**Character**

Viranda has always claimed that the smaller lots and the shopping centre will be shielded from public view by planting along Molesworth Drive. Bt it's a much taller ask if plantings are going to hide the incongruous and unsightly view of a 6-storey hotel or an intensely developed hillside.

Even if MCL does get consent to go down the path of urbanisation, it is to be hoped that KDC will at least impose serious landscaping requirements to try to disguise what will be an out-of-character development in a low density coastal environment.

**Sell-off and the water dilemma**

The reticulated water system to the proposed 500-600 small lots comes with huge costs for storage, pumping/piping and treatment to potable standards. The controversial water-take consent from NRC is a mockery in that there is little chance of the water from the consented stream off-takes ever filling or maintaining the proposed one million cubic litre reservoir. Indeed, the reservoir (or reservoirs) have not even been planned or consented.

Relying on taking high flows from the erratic stream tributaries of the upper harbour is a risky water supply strategy in the face of increasing drought prospects. More than that, it is potentially damaging to water quality in the harbour as high flows are part of the cycle of flushing sediment and contaminants arising from catchment development from the harbour's upper reaches.

MCL was unable to confirm to the Commisioners that it would continue to own and operate its costly water scheme. Nor did it appear to have contingency plans in place for prolonged low flow, periods when supplementary ground water is usually in heavy demand by existing households. Can we only assume that MCL hopes to lay off that risk to ratepayers by vesting the system in the KDC?

If PPC78 is consented then MCL will probably not want to be saddled with the many millions of dollars required to build and operate a potable water supply. One solution may be to dump its proposal for a large number of lots under 500sqm and, instead, create properties with the capacity to collect sufficient roof-top water for individual households, as the community has been arguing.

Another option that MCL might opt for would be to develop the bigger lots that don't need reticulated water, and sell off the higher density zoned land to other developers or housing companies, leaving the new owners to sort out water supply. The upshot is that the council cannot know who will be left standing to meet the cost of building and operating a water-supply plant unless it is considering ratepayers taking over this responsibility.

One rumour is that the smaller lots will be sold to Kiwibuild and other Government agencies for social and state housing. However, with a high cost or unreliable water supply and limited local employment capacity, it is hard to see takers for an affordable development on the site.

**Sewerage connection**

This is perhaps the biggest of several "elephants in the room". KDC has still not answered the key questions around the sewerage reticulation and treatment needs of the proposed development. We assume that MCL will be required to pay for the additional network, plant, and disposal capacity needed by its development. However we don't yet know the numbers of their connections, whether the full developer costs will be passed on, or when the development contributions will be paid.

What we do know is that development contributions, and other levies, were supposed to pay for the EcoCare debacle, yet there is $26 million still owing with very few connections left available. There is no budget in the draft Long Term Plan to repay the outstanding debt but there is a published commitment to borrow more for any increased capacity.

Given that the wider Kaipara community has paid off its share of the EcoCare debt we can only assume that KDC will ask Mangawhai residents to pay the remainder alongside the cost of any increased capacity shortfall. However, seeking cost recovery for the additional capacity for Mangawhai Central and requiring its residents to contribute towards the existing plant through development contributions could put another nail in the coffin of high density development. Or is this going to be another cost of development that will be "socialised", i.e. shared through rates by the community at large. Or is it another reason to accept that, unlike Estuary Estates, Mangawhai Central is an exercise in planning for unsustainable development?

Even if the PPC78 is approved by the Commissioners, as more facts and fallacies emerge there is no guarantee that all that is planned will be consented.