

Mangawhai Harbour Restoration Society

Guarantee

Meeting: Kaipara District Council
Date of meeting: 29 May 2024
Reporting officer: Sue Davidson, GM Sustainable Growth & Investment

Purpose | Ngā whāinga

To seek approval for Council to guarantee a potential \$400,000 overdraft for the Mangawhai Harbour Restoration Society Guarantee

Executive summary | Whakarāpopototanga

Council guaranteed an original loan of the Mangawhai Harbour Restoration Society for \$750,000 to be repaid by 2026. About \$40,000 remains outstanding as repayments have been made from the targeted rate Council provides. MHRS now want Council to guarantee a potential overdraft of \$400,000 to be used in an emergency.

Recommendation | Ngā tūtohunga

That Kaipara District Council:

- a) Approves to guarantee an overdraft of \$400,000 for the Mangawhai Harbour Restoration Society, to their bankers.
- b) Delegates to the Chief Executive, the authority to approve the documentation to enact the above decision (a).

Context | Horopaki

The Mangawhai Harbour Restoration Society (MHRS) has nearly repaid its loan to Westpac Bank which Council guarantees and is now asking for a further guarantee for a potential overdraft.

Background to Councils relationship with MHRS;

- 2023 Annual Report. Council has given a \$750,000 guarantee to Westpac Banking Corporation Ltd on loan advances to the MHRS. The purpose of the loan advance was to fund the Society's restoration project. The Society funds loan repayments from Council grants. The Society's loan balance at 30 June was \$52,298. Disclosure is made in Council's annual report and it is anticipated that total repayment will be made by 30 June 2026.
- 2001 Council guaranteed \$401,000 to Westpac Banking Corporation on behalf of MHRS and this was later increased in 2003 to \$750,000. The society undertakes to maintain the harbour as a safe and healthy recreational environment.
- At its October 2003 meeting Council approved an increased guarantee. The minutes show that Council passed the following resolution:
*"That Council agrees to increase the loan guarantee to \$750,000 as requested by the Mangawhai Harbour Restoration Society; and
That the servicing of the loan continues to be based on the \$40 per property annual uniform charge; and
That the repayment period remains unchanged."*

Repayment is to be by 2026.

- Mangawhai Harbour Restoration Society requested increased Bank Loan Indebtedness. At its meeting held 28 September 2005, Council the following resolution was passed:

"That Council approves the request by the Mangawhai Harbour Restoration Society to a \$51,746 increase in their indebtedness to Westpac Banking Corporation, with no change to the Council guarantee of \$750,000."

Council did, however, wish to point out to the Society, in the event of any future proposal involving financial instruments/rates etc being submitted, that such proposal must give clear details of what the Society has undertaken by way of timely, current, community consultation on the matter.
- The current loan is due to repaid by June 2026, but MHRS now wish to apply to Westpac for a \$400,000 line of credit guaranteed by the Council.
- MHRS have had initial discussions with Westpac, and they are unlikely to give a credit line without some form of comfort from KDC, which is the source of MHRS's income to guarantee repayment of the loan, should it be drawn upon.
- The purpose of the guarantee of the credit line is the final part of a contingency fund. The MHRS plan to build a cash reserve of a similar amount giving it access to around \$800,000. Building the contingency fund has been impacted by the costs associated with sand mining. Examples of the funds use could be significant physical damage to the spit or harbour that needs immediate repair, or significant repair to the dredge. It would also play a major role in replacing the dredge, supplemented by community funding.

Discussion | Ngā kōrerorero

MRHS have disclosed the following.

The board of the Society have passed the motion below which covers the conditions relating to any use of the money.

"It is proposed that the MHRS put in place a \$400,000 line of credit by way of a bank overdraft facility. Such a facility is contingent on:

1. *Securing terms that are acceptable to the Mangawhai Harbour Restoration Society.*
2. *Securing bank approval.*
3. *Securing an unsupported guarantee from the Kaipara District Council.*

Once in place, use of all or part of this facility is subject to the following conditions.

1. *The funds are not to be used for normal operating expenses or operational shortfalls, including legal costs.*
2. *The funds maybe used for unplanned remedial work to secure the integrity of the harbour or spit following significant and irreversible damage from an adverse weather event or series of connected events.*
3. *The funds maybe used for significant capital expenditure, for example the replacement of the dredge. The replacement of tenders, the tractor or piping would not qualify.*
4. *Any use of the funds must be approved by way of a formal motion and vote by the full executive.*
5. *Any proposed use of the funds must be accompanied by a feasible repayment plan.*
6. *Any use of the funds requires the approval of the Kaipara District Council."*

The guarantee is included in Council's loan limit calculation. In the next 10 years, Council's lending will increase to the loan limit, however this is not a significant amount.

Options

Option 1

Approves to guarantee an overdraft of \$400,000 to the Mangawhai Harbour Restoration Society. Our Treasury Policy allows Council to approve guarantees to community groups. This is a group that supports Council objectives of maintaining access to the harbour.

The disadvantage is that the guarantee comes into our formula for lending and will reduce our capacity by \$400,000.

This is the recommended option.

Option 2

Not approve the new guarantee and advise the Westpac bank of no further guarantee to the Mangawhai Harbour Restoration Society once the current loan is repaid.

The effect of this would be that there will be \$400,000 that Council would be able to borrow, if needed. This option would also mean that the MHRS may not be able to fund an emergency or may come to Council for funding should it need more funds.

Policy and planning implications

The Treasury Policy states –

“Clause 4.5 Guarantees/contingent liabilities and other financial agreements

The Council may from time to time provide financial guarantees to third parties i.e., community organisations or clubs.

Management must ensure that the business plan of the guaranteed party furthers the strategic objectives of the Council and that financial statements are received on an annual basis. Should the guarantee be called up, the Council must take immediate action to recover the money. For any outstanding guarantees, Council ensures that sufficient financial capacity exists relative to LGFA lending covenants. Unless approved by Council, guarantees or financial arrangements given will not exceed any amount agreed by Council. Financial arrangements can include:

- Advances to community organisations;
- Council can approve loans to community organisations but must ensure that the principal is repaid with interest over a maximum of 30 years as per a table loan (at the average interest cost of funds) with one payment made at the end of the year for interest and principal;
- Council can guarantee community loans. Council will ensure that sufficient funds or lines of credit exist to meet amounts guaranteed;
- Guarantees given will not exceed NZ\$1 million in aggregate;
- Guarantees will not be attached to Council property; and
- Such advances/guarantees will be reported in the Annual Report each year. As set out in Section 62 of the Local Government Act, Council does not give any guarantee, indemnity or security in respect of the performance of any obligation by a Council Community Trading Organisation

MHRS is asking for a \$400,000 guarantee for a potential overdraft so this is within the \$1m policy. The guarantee must be for a purpose that meets strategic objectives and the objective is to assist in creating and maintaining a safe and navigable harbour entry to the Mangawhai harbour. This is a key objective and meets Council criteria for access to recreational areas.

For the past years the MHRS has the following cash assets at balance date 2023 - \$78,000,, and 2024 draft accounts show \$122,000.

Financial implications

Council would continue to disclose a guarantee in its accounts. This would limit Council taking up \$400,000 once Council has reached its lending limit. Council provides \$408,000 incl GST each year to the MHRS from the targeted rate collected. This increases each year because of growth in the targeted rate area.

Once MHRS reaches higher cash reserves, it has been suggested by staff to the MHRS that Council could reduce its current \$80 targeted rate.

Risks and mitigations

The risk is that Council will reach its financial debt cap within the next 10 years and approving this reduces the amount Council can borrow.

Significance and engagement | Hirahira me ngā whakapāpā

The decisions or matters of this report are considered to have a low degree of significance in accordance with Council's Significance and Engagement Policy. No feedback is required, and the public will be informed of Council's decision via the agenda and minutes publication of this meeting, on the website and through other channels if appropriate.

Next steps | E whaiake nei

Legal documentation signed confirming guarantee by Chief Executive.

Attachments | Ngā tapiritanga

	Title
A	MHRS Performance Report for the year ended 31 March 2023
B	Draft Performance Report for the year ended 31 March 2024