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### 401<sup>st</sup> MEETING OF THE MACKENZIE DISTRICT COUNCIL

# TO THE MAYOR AND COUNCILLORS OF THE MACKENZIE DISTRICT COUNCIL

#### MEMBERSHIP OF THE COUNCIL

Claire Barlow (Mayor)

John BishopPeter MaxwellAnnette MoneyGraeme PageGraham SmithEvan Williams

Notice is given of the meeting of the Mackenzie District Council to be held on Tuesday 4 October 2011 at 9.30 am

**VENUE:** Council Chambers, Fairlie

**BUSINESS:** As per Agenda attached.

GLEN INNES
CHIEF EXECUTIVE OFFICER

**29 September 2011** 



#### AGENDA FOR TUESDAY 4 OCTOBER 2011 AT 9.30 AM

- I. OPENING
- II. APOLOGIES
- III. DECLARATIONS OF INTEREST
- IV. BEREAVEMENTS
- V. MAYORAL REPORT

#### VI. REPORTS REQUIRING COUNCIL DECISION

- 1. Ombudsmen Gudex Road
- 2. Lake Alexandrina Conservation Trust Request for Funding
- 3. Local Authorities Members' Interests Act
- 4. Mackenzie Tourism and Development Updating of Trust Deed
- 5. Dispute Ashwick Opuha Water Race Charge

#### VII. INFORMATION REPORTS

- 1. Chief Executive Officer's Activities
- 2. Common Seal
- 3. Civil Defence Minutes
- 4. Alps2Ocean Committee
- 5. Sport South Canterbury Annual Report
- 6. Staff Training 2010/11 Year

#### VIII. COMMUNITY BOARDS

#### IX. COMMITTEES

#### X. CONFIRMATION OF MINUTES

 Confirm and adopt the Minutes of the Mackenzie District Council Meeting held on 23 August 2011 including such parts as were taken with the Public Excluded.

#### **ACTION POINTS**

#### IX PUBLIC EXCLUDED:

That the public be excluded from the following part of the proceedings of this meeting namely:

- 1. Hayman Road Closure
- 2. Public Excluded Minutes of the Mackenzie District Council meetings held on 23 August and 30 August 2011.
- 3. Public Excluded Minutes of the Twizel Community Board meeting held on 12 September 2011
- 4. Public Excluded Minutes of the Projects and Strategies Committee meeting held on 27 September 2011

Reason for passing	Ground(s) under		
General subject	this resolution in	Section 48(1) for	
of each matter	relation to each	the passing of	
to be considered	matter	this resolution	
Hayman Road Closure	To protect information which is commercially sensitive	48(1)(a)(i)	
Public Excluded Minutes of the Council meetings held on 23 August and 30 August 2011		48(1)(a)(i)	
Public Excluded Minutes of Twizel Community Board 12 September 2011		48(1)(a)(i)	
Public Excluded Minutes of Projects and Strategies Committ 27 September 2011	ree	48(1)(a)(i)	

This resolution is made in reliance on Section 48(1)(a)(i) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section 6 or Section 7 of that Act, which would be prejudiced by the holding of the whole or the relevant part of the proceedings of the meeting in public are as follows: *Hayman Road Closure* section 7(2)(b)(ii)

#### X CONFIRMATION OF RESOLUTIONS TAKEN WITH THE PUBLIC EXCLUDED

#### XI VISITORS

2.00 pm Barbara Nicholas and Melanie Schauer, Canterbury Water Management Strategy

#### XIII ADJOURNMENTS

10.30 am	Morning Tea
12.30 pm	Lunch
3.00 pm	Afternoon Tea

## MACKENZIE DISTRICT COUNCIL

**REPORT TO:** MACKENZIE DISTRICT COUNCIL

**SUBJECT:** GENERAL ACTIVITIES REPORT

**MEETING DATE:** 4 OCTOBER 2011

**REF:** PAD 2/3 **FROM:** MAYOR

### **ACTIVITY REPORT**

### COUNCIL, COMMITTEE AND COMMUNITY BOARD MEETINGS ATTENDED

24 August	Forestry Board Meeting
	LTP Funding Workshop
29 August	LTP Workshop – Overheads & Cattlestops/Tourism
	rate and Twizel Rate discussions
30 August	CEO Review with Stewart Mitchell
6 September	LTP Committee meeting.
	Audit & Risk Committee.
12 September	Twizel & Tekapo Community Boards.
14 September	First meeting of new Trustees in the Mackenzie
	Medical Trust.
	Fairlie Community Board.
16 September	Mackenzie Tourism & Development Trust first
	meeting with new Board.
19 September	LTP Workshop – Sewer and Water Rating.
27 September	Committee Meetings.
28 September	Tourism Trust Meeting.
4 October	Council Meeting.
	Finance Committee.

#### **OTHER MEETINGS AND ACTIVITIES**

25 August	Met with Janie Annear in Timaru – re: Possibility of
_	Regional TV.
	Attended Aoraki Foundation Function & Launch of
	the Aoraki Foundation Endowment Gifting
	Programme in Timaru.
26 August	Met with Paul Leslie from Telecom to discuss Rural
_	Broadband initiative.
30 August	Conference Call with Jacqui Dean.
_	Meeting at Owen Hunter's to discuss financial
	reporting with CB members.
31 August	Twizel Clinic Day:
_	Met with Russell Armstrong.
	Rates discussion with Peter Bell and the CEO in

	Twizel.
	Met with Pat Shuker re: Drinking Water.
	Met with Mr Tane re: Water
1 September	Call with Port FM for radio slot.
1 Septemeer	Met with Trish Willis re: Business Development in
	Fairlie.
	Mackenzie Medical Trust stakeholders meeting with
	the CEO.
2 September	Attended the Bidwell Hospital redevelopment opening
	in Timaru.
7 September	Met with Bron Williams re: Solid Waste
8 September	Upper Waitaki Zone Committee Meeting.
9 September	Resource Centre Relocation Official Opening
13 September	Zone 5 meeting with CEO in Christchurch.
15 September	Met with Simon Williamson to discuss MMT and
1	MSFT.
	Attended Relay for Life launch in Twizel.
21 September	Ecan – Proposed Land & River Plan Consultation with
	Nathan Hole.
22 September	Met with Blue Kerr regarding a new defibrillator for
	Community Centre.
	Met with Evan Freshwater – Tourism Industry
	Association.
	Training with Information Leadership on Sharepoint
	file system.
23 September	Mackenzie Sustainable Futures Trust meeting at
	Waitaki DC.
26 September	SC Anniversary.
29 September	South Canterbury District Health Board meeting with
	3 SC mayors and CEO's in Timaru.
30 September	Twizel Clinic Day:
	Met with Richard Logan – regarding salmon farming.
	Met with Kim Menard regarding Twizel water.
	Met with Haikai Tane regarding water.
	Met with Jane Wigley at Glen Lyon Station.
3 October	LTP Committee Meeting.

## **RECOMMENDATION:**

1. That the report be received.

## C BARLOW MAYOR

#### MACKENZIE DISTRICT COUNCIL

**REPORT TO:** MACKENZIE DISTRICT COUNCIL

**SUBJECT:** LEGAL ACCESS OFF GUDEX ROAD

**MEETING DATE:** 4 OCTOBER 2011

**REF:** REG 2/7 WAS 2/6/8

**FROM:** CHIEF EXECUTIVE OFFICER

#### **PURPOSE OF REPORT:**

To consider the recommendations of the Ombudsman into the complaint of G B Stone against the Mackenzie District Council is respect of access to the Opuha River off Gudex Road.

#### **STAFF RECOMMENDATIONS:**

- 1. That the report be received.
- 2. That the Council accept the suggestion of the Ombudsman to exchange its present legal road for the deer lane across Raincliff Station.
- 3. That Council enter into negotiations with Mr David Morgan of Raincliff Station, to give effect to the Ombudsman's provisional recommendation.

GLEN INNES CHIEF EXECUTIVE OFFICER

#### **ATTACHMENTS:**

Letter and report from the Ombudsman David McGee dated 23 August 2011.

#### **BACKGROUND:**

The history of this matter goes back to 2003 and is well summarised to Mr McGee's report. It also has been covered in a number of reports to Council, the last one being in August 2010, when Council believed an easement or agreement to create an easement might be a satisfactory, pragmatic and cheap way of resolving what had become an intractable problem.

#### **POLICY STATUS:**

#### **SIGNIFICANCE OF DECISION:**

The significance of this decision does not in itself, trigger any need for wider public consultation. However, it may have some precedent in respect of how Council approaches other issues affecting paper roads in the District.

#### **ISSUES & OPTIONS:**

Basically the Council has a number of options:

- 1. It could accept Mr McGee's suggestion of an exchange of the unformed legal road for the deer lane between Gudex Road and the Opuha River.
- 2. It could reject that suggestion and pursue the easement option.
- 3. It could insist Mr Morgan reinstates the access to the unformed legal road.
- 4. It could do nothing.

#### **CONSIDERATIONS:**

#### Legal

There is no doubt that the Council erred in giving tacit permission to allow the legal access to be fenced in 2003. The relevant provisions of the Local Government Act 1974 were not followed.

The Ombudsmen's recommendations have been referred to our lawyer. His advice is that using Part 8 of the Public Works Act (with Mr Morgan's agreement) would be preferred over either a local bill or clauses in a reserves and Other Lands Disposal Bill.

Option 3 is within Council's powers but is quite inconsistent with earlier actions of the Council.

The 'do nothing' option has little appeal in that it is quite likely that parties aggrieved by Council's earlier stance could pursue remedies through the courts.

#### **Financial**

Murray Weakley suggests that legal costs to meet the Ombudsman's suggestion could be \$4,000 plus GST. Survey costs could be more significant ranging from \$5,000 plus GST up to \$7-9,000 plus GST depending on the amount of field work required. If we proceed down this track, we would get an estimate from a surveyor and enter into an agreement with Raincliff that ensures both parties remain committed to this course of action. Raincliff clearly will benefit from this proposal as that should be an important factor in determining any cost sharing arrangement.

No specific budgets have been set aside for this work.

#### **Other**

Raincliff also occupy significant piece of gravel reserve that runs down to the river. This fact can be used in negotiations.

Informal enquiry of Mr Morgan revealed he was not hostile to the contents of the Ombudsman's report. The reaction of the complainant is not known.

#### **ASSESSMENT OF OPTIONS:**

Although it is a little convoluted, the exchange of land is probably the best way of resolving this issue. Mr McGee clearly doesn't favour Council's easement option and the other two choices would only create further discontent.

Legalising the current situation solves the issue permanently and aligns best with our responsibilities under the law.

#### **CONCLUSION:**

Council should not accept the suggestion contained in the Ombudsman's provisional report and negotiate an exchange of land under Part 8 of the Public Works Act.

Our Ref: 281512

Contact: John Haynes

23 August 2011

Mr G B Stone 23 Cook Street Oceanview Timaru 7910

Mr Glenn Innes Chief Executive Mackenzie District Council PO Box 52 Fairlie 7949

Dear Mr Stone

OMBUDSMEN ACT COMPLAINT: GUDEX ROAD - ACCESS TO OPUHA RIVER

I **enclose** a provisional report I have prepared on the question of access to the Opuha River from Gudex Road. As you will see I am suggesting that a possible solution is to exchange the present legal road for the deer lane across Raincliff Station. I invite your comments on the suggestion.

I am also sending a copy of my provisional report to Mr Morgan and the other parties who have expressed an interest in this matter, the Canterbury Regional Council and the New Zealand Walking Access Commission.

Yours sincerely

David McGee Ombudsman

## OMBUDSMAN REPORT: DAVID MCGEE COMPLAINT OF GB STONE AGAINST MACKENZIE DISTRICT COUNCIL

#### Complaint

This is a complaint by Mr Stone that the Mackenzie District Council has failed to fulfil its obligations in respect of a legal road which has been fenced off and ploughed.

#### Ombudsman's role

The Ombudsmen investigate complaints relating to administrative decisions, recommendations, acts or omissions of public sector agencies, including local authorities. In this case the complaint relates to an alleged enforcement omission by the Mackenzie District Council. While the legal context in which an act or omission occurs is always an important consideration, the Ombudsmen are not judges making legal determinations. The Ombudsmen make findings about the administrative reasonableness of the matter of complaint. A definitive determination on the law can only be obtained from a Court.

This is the approach that I have taken in consideration of this complaint.

#### **Background circumstances**

The road is an unformed legal road off Gudex Road in the Mackenzie district. It was gazetted in two parts in 1917 and 1918. The public has used it to access the Opuha River below the Skipton Bridge. The point was made to me, which I accept, that in these circumstances the road, though it is still unformed, is more than a "paper" or nominal road.

In 2003 the owner of the land through which the road runs (Mr David Morgan) fenced it off and ploughed it. Following complaints to the Council and discussions with interested parties, Mr Morgan created an alternative accessway across his station from Gudex Road to the river a few hundred metres away. This accessway had been used for some time as a means of moving deer within the station (the "deer lane").

Given this development, the Council indicated that it did not wish to exercise its legal powers over the road. Rather, it supported a later suggestion of creating an easement over the deer lane to guarantee continued public access from Gudex Road to the river. The difficulty with that is that it does not address the issue raised in Mr Stone's complaint which is that the Council has not, in Mr Stone's view, acted reasonably in permitting an obstruction of the road. Pursuant to section 357(1) of the Local Government Act 2002 it is an offence for any person to encroach on a road by erecting a fence, or to dig up any road.

In rural areas, with the consent of a Council, a swing gate or cattle stop may be erected across public roads. A notice stating "public road" has to be fixed upon the gate to confirm the right of continuing public access. No notice appears to have been fixed upon any gate across the legal road, and indeed no gate has been erected across it. Rather there is a fence preventing access. A Council may be held liable for creating a nuisance or permitting an unnecessary obstruction of a road.

#### Site visit

I undertook a site visit to the area viewing the legal road and walking over the deer lane. I also held discussions with the Mayor and Chief Executive of the Council, Mr Stone, Mr Morgan and Mr Scarlett of Environment Canterbury.

To my, admittedly unpractised, eye access to the river via the deer lane looked satisfactory. The lane is some 10-11 metres wide and well fenced. I understand that the owner no longer holds deer in the lane, using it occasionally solely to move stock from one paddock to another, though there is a holding yard leading off it on first entering the lane. Vehicles from Environment Canterbury had obviously used the lane to access the river shortly before my arrival as they were carrying out work on the riverbank while I was there. In one small respect, the deer lane seemed a more advantageous means of access than the legal road in that access to the latter from an easterly direction involves a u-turn onto a vehicle track leading to the road, whereas access to the deer lane from either direction was immediately off Gudex Road.

#### Consideration

Public access from Gudex Road to the Opuha River along this section must continue to be secured. I also consider that it would be unconscionable for a public authority to acquiesce tacitly in the loss of public estate.

For this latter reason I do not consider that a solution that I was originally attracted to — an easement in favour of the Council over the deer lane — is adequate. The enduring nature of such protection has been questioned, but even if this could be secured I do not consider that it is satisfactory in principle. It would mean that part of the public estate (the unformed legal road) has been effectively lost and that public access to the river depends upon a private arrangement. I do not find these propositions attractive even if they might work in practice.

The unformed legal road has now effectively been absorbed into the station. It could presumably be detached by the exercise of the Council's statutory powers and be reinstated as an accessway. There would, however, be the possibility of legal dispute if this course were taken, particularly in regard to the costs of reinstatement. While it might be assumed that these would lie with the landowner, this is likely to depend to some extent on prior exchanges between the Council and the landowner leading up to the fencing off in 2003. I have not gone into these and I do not intend to do so. The Council emphasised to me that it is seeking a solution that minimises the likelihood of costs falling on the Mackenzie ratepayer. This is a reasonable and prudent stance to take and I think it can be achieved while securing public access to the Opuha River.

#### **Proposed solution**

My suggestion is therefore a different one to the easement – it is that an exchange of land takes place.

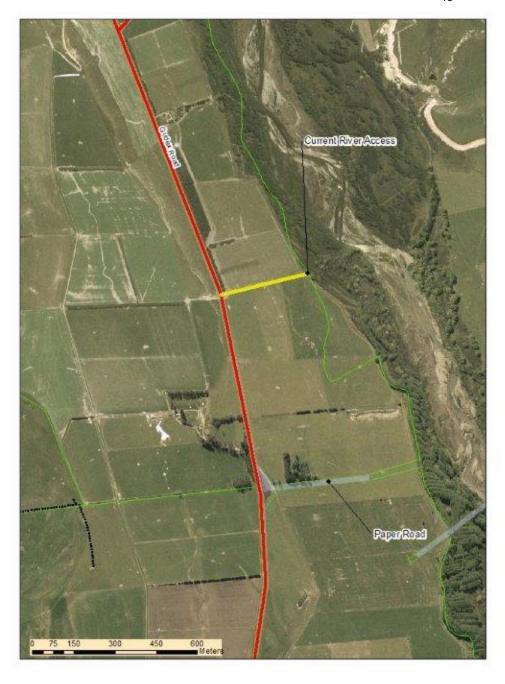
A perfectly good "road" – the deer lane – exists now. It is already gated, well fenced and in use. I see no reason why, if the parties agree, in exchange for legal title to the unformed road being transferred to Mr Morgan the deer lane should not be surrendered to the Council by him and be dedicated as a legal road itself. As a public road the landowner would have the right to move stock along it as he does at present but not to hold stock on it (the holding yard if it continues to exist should be on his own land and thus clearly severed from the existing deer lane).

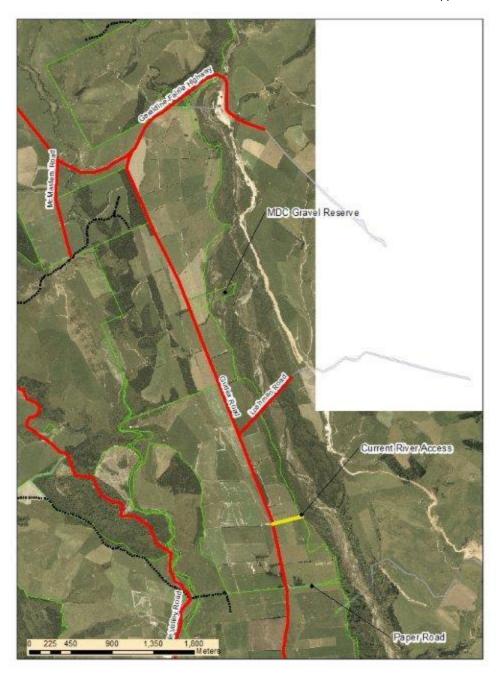
I note that Part 8 of the Public Works Act contemplates exchanges of land for roading purposes. The exchange that I have suggested could be effected by utilising the procedures for stopping and declaring roads set out in that Part of the Act. Alternatively, the exchange could be effected by special legislation in the form of a local bill or clauses in a Reserves and Other Lands Disposal Bill.

#### Suggestion

That the Council explore with Mr Morgan an exchange of the unformed legal road for the deer lane access between Gudex Road and the Opuha River.

David McGee Ombudsman August 2011





## MACKENZIE DISTRICT COUNCIL

**REPORT TO:** MACKENZIE DISTRICT COUNCIL

**SUBJECT:** LAKE ALEXANDRINA CONSERVATION TRUST

**MEETING DATE:** 4 OCTOBER 2011

**REF:** LAN 10/19

**FROM:** MANAGER – COMMUNITY FACILITIES

**ENDORSED BY:** CHIEF EXECUTIVE OFFICER

#### **PURPOSE OF REPORT:**

To consider a request for a grant from the Lake Alexandrina Conservation Trust.

#### **STAFF RECOMMENDATIONS:**

- 1. That the report be received
- 2. That Council marks a grant to the Lake Alexandrina Conservation Trust for \$10,400 GST inclusive

GARTH NIXON

MANACER COMMUNITY FACILITIES

CHIEF EYECUTIVE O

MANAGER – COMMUNITY FACILITIES CHIEF EXECUTIVE OFFICER

#### **ATTACHMENTS:**

Request from Lake Alexandrina Conservation Trust

#### **BACKGROUND:**

The Lake Alexandrina Conservation Trust attended Council's Annual Plan submission hearings and was advised to approach Council for support for their upcoming projects.

The Lake Alexandrina Conservation Trust was formed approximately 6 years ago and has been progressively undertaking environmental improvement works in the around the Lake which include weed and pest control. They are currently undertaking works in outlet creek.

#### **POLICY STATUS:**

Council policy relating to the use of rental income received from the two Lake Alexandrina settlements is:

- 1. That Council maintain a balance in the reserve equal to 15% of the accumulated income earned during the preceding three years as an emergency fund and be considered Priority 1.
- 2. That Council continues to fund Rural Township Reserve expenditure and be considered Priority 2.
- 3. That any projects of planned improvements to the Lake Alexandrina Reserve as consulted with the two Lake Alexandrina groups and included in Councils Long-Term Plan have call on the funds after satisfying recommendations 2 and 3 above.
- 4. That Council funds other community reserve expenditure for capital projects where the community concerned funds 50% of the cost from local sources.

Whilst the Lake Alexandrina Conservation Trust is not one of the two groups mentioned above they are primarily focused on doing environmental work at Lake Alexandrina.

#### SIGNIFICANCE OF DECISION REQUESTED:

Not a significant decision

#### **ISSUES AND OPTIONS:**

The options in this case are to fund, part fund or not fund

#### **CONSIDERATIONS:**

#### Legal Considerations:

N/A

#### **Financial Considerations:**

Under point 1 of the Policy the Council needs to retain approximately \$30,000.00 in the Reserve as an emergency fund. The current balance of the Lake Alexandrina reserve is \$210,000.00

#### **Other Considerations:**

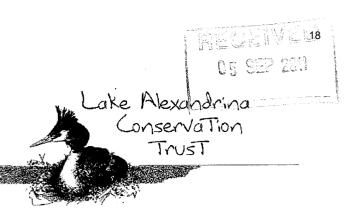
#### **ASSESSMENTS OF OPTIONS:**

There are funds available to support this project. The group has a history of doing great work in the Lake Alexandrina Reserve.

The work being undertaken not only benefits the environment and the hut holder but also improves the reserve for all users and visitors to this area.

#### **CONCLUSION:**

Council should fully support this request.



5 Oak Place Timaru

Phone (03) 6861690 Fax (03) 6861691 Email mary.wallace@xtra.co.nz

29 August 2011

Mackenzie District Council Main Street PO Box 52 Fairlie 7949 New Zealand

Community Facilities Manager: Garth Nixon

Dear Garth

Further to our telephone conversation and in accordance with your instructions this is our written request for funding for the Lake Alexandrina Conservation Trust. At a recent council meeting attended by our committee member, Lawrence Wallace, it was pleasing to hear that we have the support of the Council and that possible funding would be available for the Lake Alexandrina Conservation Trust works.

I have attached a budget of works for you to consider. These works are planned for the current financial year subject to funding support being available.

Our Trust has been operating for 6 years with projects completed thanks to the work of volunteers and \$152,000 of charity funding. The projects include wilding pine/briar control in the Lake Alexandrina Reserve around the 17.6 kilometres of the Lake using contractor and volunteer resources, with small pockets and the shoreline remaining to be treated. A programme of maintenance spraying by volunteers of regrowth will be on-going. We have also successfully undertaken spawning enhancement of the Outlet Creek with further minor works to be completed.

Future work associated with the above projects includes planting of native flora to complete the restoration works.



As a voluntary group the Trust relies on donation funding for all budget requirements therefore we look forward to your favourable consideration of our request for assistance.

Yours faithfully

Alister Clarke Chairman

cc: The Mayor, Claire Barlow

## 1/08/2011

Item	Description	Unit	No	Cost	Total
1	5 workdays per year,	each	5	300.00	1,500.00
2	Spray - Tordon spray, 20 litre container	each	1	900.00	900.00
	opray Forder spray, 20 mile comamor		<u> </u>	000.00	000:00
3	Outlet Creek - remove additional willows	LS			5,000.00
	and silt in vicinity of Lake MacGregor,				
	not completed in last financial year				
	because of flooding from high Lake level.		_		
	Have resource consent, only able to be				
	done in month of March.				
4	Plants and equipment to restore Outlet	LS			3,000.00
	Creek works completed in March 2011				

Total 10,400.00 (GST inclusive)

## MACKENZIE DISTRICT COUNCIL

**REPORT TO:** MACKENZIE DISTRICT COUNCIL

**SUBJECT:** REVIEW OF THE LOCAL AUTHORITIES (MEMBERS' INTERESTS)

ACT 1968

**MEETING DATE:** 4 OCTOBER 2011

**REF:** 

**FROM:** TONI MORRISON, SENIOR POLICY PLANNER

**ENDORSED BY:** CHIEF EXECUTIVE OFFICER

#### **PURPOSE OF REPORT:**

To advise the Council of the proposal to review the Local Authorities (Members' Interests) Act 1968 and seek any feedback.

#### **STAFF RECOMMENDATIONS:**

- 1. That the report be received.
- 2. That the Council advise staff of any comments or feedback that they wish to be submitted to the DIA in response to the Discussion Document.

TONI MORRISON SENIOR POLICY PLANNER

#### **ATTACHMENTS:**

• Discussion Document Managing Conflicting Interests in Local Government: The Local Authorities (Members' Interests) Act 1968 and Associated Issues, Department of Internal Affairs, August 2011.

#### **BACKGROUND:**

#### **Local Authorities (Members Interests) Act 1968**

The Local Authorities (Members Interests) Act 1968 (LAMIA) is part of a framework manages matters of conflicts of interest and bias in public bodies.

There are provisions (in the form of statutory rules) in LAMIA which deal with contracts and pecuniary interests. These aim to ensure those who hold public office are free from bias and inappropriate considerations in the discharge of their functions.

#### LAMIA has two key components:

• The 'contracting rule', which prohibits a member of a local authority being involved in contracts with the authority where total payments exceed \$25,000 in any financial year.

Exemptions from this rule are possible with approval from the Auditor-General. The penalty for breaching the rule is automatic disqualification from membership of the local authority.

• The 'discussing and voting rule' which prohibits members of local authorities from voting or taking part in local authority business on any matter in which they have a pecuniary interest, unless their interest is 'in common with the public' or one of the other statutory exemptions applies.

Breaching this rule is a criminal offence, and a conviction results in vacation of office. LAMIA also requires a member to declare any pecuniary interest at relevant meetings and for the minutes to record the declaration.

LAMIA is unique in New Zealand in providing for criminal offences for breach of its rules, for an extensive enforcement (and exemption allowing) role for an independent party, and for prescribing a penalty for noncompliance.

#### **Initial Review**

The DIA is seeking ideas and suggestions as the first stage of a proposed review of LAMIA. The Act is intended to manage conflict of interest issues that may arise for Councillors in carrying out their duties, but the Act is considered to be outdated and no longer relevant in many instances in modern local government.

The first stage of the review by the DIA is to seek feedback from Councils such as ours, as to which general approach may be best suited to local government in the foreseeable future.

Submissions and feedback on the document close on 18 November 2011.

#### **Other Entities**

LAMIA applies not only to Councils and Community Boards, but also a range of other bodies including licensing and community trusts, various specific Trust Boards, and university and polytechnic councils. The entities covered by LAMIA are varied in their scope and roles, and have little in common.

The focus of the DIA's initial review is on possible high level approaches for local government, but comments relevant to the other bodies will also be received.

#### **POLICY STATUS:**

Not applicable.

#### **SIGNIFICANCE OF DECISION REQUESTED:**

The decision is not significant. The Council is simply asked to contribute any ideas or suggestions it may have in the initial stages of the review of LAMIA.

#### **ISSUES AND OPTIONS:**

#### **Problems with LAMIA**

The main problems with LAMIA are outlined in the attached paper. It is considered that the way LAMIA deals with issues and the drafting style are both out of date. As a result, the Office of the Auditor-General (OAG) has experienced difficulties administering the Act.

In the case of the contracting rule, the low monetary limits impose unnecessary compliance costs on the bodies subject to LAMIA in seeking exemptions. It also imposes significant costs for the OAG from the number of applications for exemptions that must be considered. The paper also notes that the financial limits may deter some candidates from seeking election to local government.

In the case of the discussing and voting rule, the OAG has observed that LAMIA is not well designed to meet the decision-making needs of modern local authorities, and has become increasingly difficult to operate in practice. There has been a steadily increasing number of applications for exemptions and complaints in recent years.

The OAG's 2009 investigation of complaints about Environment Canterbury councillors has highlighted difficulties with LAMIA. The DIA paper notes that that case, and wide discussion of its significance, have contributed to increased uncertainty within the local government sector about the application of the discussing and voting rule. In particular, that decision has highlighted the difficulty there can be in determining when a financial interest arises in the context of complex decision-making processes. It also highlights uncertainties in determining whether a member is able to participate on the grounds that their interest is 'in common with the public'.

The legislation that governs the way local government operates is very different from that which applied in 1968 when LAMIA was enacted. The Local Government Act 2002 requires Council's broad functions and powers to be exercised in ways that are open and transparent, and prescribes a hierarchy of principles and processes including approaches to managing issues of conflict of interest and bias. Councils are required to have standing orders, and to have a code of conduct for members, for example.

#### **CONSIDERATIONS:**

The DIA paper sets out contemporary approaches which apply to other organisations which may assist when considering alternatives to or the updating of LAMIA.

The approach taken in the Crown Entities Act is used as an example for discussion, in the paper. The paper advises that this Act contains a list of circumstances in which a person is deemed to be interested in a matter. It then imposes the following obligations:

- An obligation on any prospective appointee to disclose to the responsible Minister any interests in matters relating to the statutory entity;
- an obligation on any member to disclose any further interest as soon as they are aware of it, in both an interests register kept by the entity, and to the chairperson;
- an obligation to refrain from voting or discussing a matter in which the member has an interest;
- a requirement for the responsible Minister (who appoints and has power to dismiss members) to be notified of a failure to disclose an interest or of participation in voting or discussion of a matter in which a member has an interest;
- the power for the chairperson or Minister to grant an exemption from the voting/discussion rule if it is in the public interest to do so; and
- an obligation to publish details of all exceptions granted in the annual report.

The DIA paper then contains a range of questions on pages 13 - 17 which are designed to elicit feedback on the merits of different approaches and issues with any or each of them. These questions are not repeated in this paper, but Councillors are encouraged to review them as they provide a good summary of the issues and what is being considered.

#### ASSESSMENTS OF OPTIONS:

Not applicable.

#### **CONCLUSION:**

The DIA has put together the attached discussion paper on a review of the LAMIA. The Act is considered to be out of date, and is difficult to administer. Staff consider that Councillors, as those parties who are subject to its provisions, are the most likely to have valuable feedback. If Councillors have any comments to make at this stage of the review, staff will submit those to the DIA. The section of questions on pages 13 – 17 of the attachment is considered the most useful in framing specific responses to the matters raised in the paper.



## **Discussion Document**

Managing Conflicting Interests in Local Government: The Local Authorities (Members' Interests) Act 1968 and Associated Issues

Department of Internal Affairs

AUGUST 2011

## Managing Conflicting Interests in Local Government: The Local Authorities (Members' Interests) Act 1968 and Associated Issues

#### Foreword

I am pleased to release this discussion document, which signals the long-awaited start of a review of the Local Authorities (Members' Interests) Act 1968. I know the Act's out of date provisions have caused concern and confusion for some years.

Conflicts of interest are an important issue, especially in a small country like New Zealand, where 'management' rather than avoidance is the most fitting approach. Successful management of conflicts of interest is essential to maintaining transparent local government that citizens and ratepayers can trust.



This document aims to bring out your ideas about the Act and its strengths and weakness, as well as opportunities and innovations for dealing with conflict of interest provisions in the future.

As Minister of Local Government, I have focused this review on local government bodies, rather than the full range of bodies currently covered by the Act. Those other bodies and the relevant sectors will ultimately find the outcomes of the review useful.

Submissions can be emailed or posted to the Department of Internal Affairs at the addresses provided at the end of the document by 18 November 2011. I hope that you will take the opportunity to make a submission, and I look forward to seeing the variety of ideas that I'm sure you will provide.

Hon Rodney Hide

**Minister of Local Government** 

24 August 2011

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#### Introduction

This discussion document is the first stage of a review of the Local Authorities (Members' Interests) Act 1968 ('LAMIA'). The purpose of this document is to elicit ideas and suggestions for how conflicts of interest in public bodies should be managed, with a particular focus on local government.

Ideas and suggestions about other entities subject to LAMIA will also be welcome. However, as explained in the body of the document, further policy development and decisions on the approach to managing conflicts of interests for those entities are likely to be made separately from this review.

Specific questions are posed in the document to help focus feedback, but all comments and suggestions are welcomed.

#### The document outlines:

- the key features of LAMIA;
- the problems with LAMIA that have prompted the review;
- the scope of the review; and
- the context in which the review is being undertaken.

#### In particular, this context includes:

- the development of new approaches to managing conflict of interest issues in the governance of a range of public entities; and
- the evolution of new approaches to governance and accountability in the Local Government Act 2002 which covers city, district and regional councils, and community boards.

The document identifies and discusses potential approaches to the future management of conflict of interest issues.

It should be noted that, as the first stage of the review, this document is primarily concerned with which general approach may be best suited to local government in the foreseeable future. Detailed aspects of approaches and their implementation would be addressed once a general approach has been decided, and it is expected that further consultation or opportunities for input will occur at that time. However, discussion of different approaches cannot completely ignore how these could work or the extent to which advantages can be realised, and disadvantages avoided or managed, in practice.

## Local Authorities (Members' Interests) Act 1968 (LAMIA)

LAMIA was enacted in 1968 and replaced the Local Bodies (Members Contracts) Act 1954. Like its predecessor legislation, LAMIA has two key components:

- The 'contracting rule' (section 3) prohibits a member of a local authority being involved in contracts with the authority under which total payments exceed \$25,000 in any financial year. Exemptions from the rule are possible with approval from the Auditor-General. The penalty for breaching the rule is automatic disgualification from membership of the local authority.
- The 'discussing and voting rule' (section 6) prohibits members of local authorities from voting or taking part in local authority business on any matter in which they have a pecuniary interest, unless their interest is 'in common with the public' or one of the other statutory exemptions applies. Breaching the rule is a criminal offence, and a conviction results in vacation of office. LAMIA also requires a member to declare any pecuniary interest at relevant meetings and for the minutes to record the declaration.

The discussing and voting rule is a partial codification of the common law relating to bias in public body decision-making. The discussing and voting rule applies to financial interests only. Non-financial interests are governed by the common law.

The contracting rule is not strictly speaking part of the law about bias (because it is not connected to participating in decision-making). It does however reflect concerns about the potential for a member to profit from his or her public position.

LAMIA applies to a range of classes of public bodies and a variety of individual bodies, both of which are listed in Schedule 1. This has been amended many times since the legislation was enacted.

LAMIA is administered by the Department of Internal Affairs, but powers and duties relating to its implementation are exercised in the Office of the Auditor-General (OAG). The OAG has published several commentaries and guidance documents about the Act in recent years, including a discussion paper – *The Local Authority (Members' Interests) Act 1968: Issues and options for reform* – in June 2005.<sup>1</sup>

govt/2006-07/part12.htm. More recently the OAG has commented on difficulties administering the Act in its report to Parliament on the results of the 2008/09 audit of local governments. See Part 8 – "How the Local Authorities (Members' Interests) Act 1968 operates" - available at http://www.oag.govt.nz/local-govt/2008-09.

The Discussion Document is available on the OAG's website at: <a href="https://www.oag.govt.nz/2005/members/">www.oag.govt.nz/2005/members/</a>. There is also OAG comment on difficulties with the Act for candidates for election at <a href="http://www.oag.govt.nz/local-">http://www.oag.govt.nz/local-</a>

#### **Problems with LAMIA**

The main problems with LAMIA are that the way it deals with issues and the drafting style are both out of date. As a result, its provisions have proved difficult to understand and to apply in today's circumstances.

In addition, the bodies covered by LAMIA are varied, have little in common and are not linked by any obvious need or feature. The Appendix to this paper contains a list of bodies currently subject to LAMIA. The list in Schedule 1 to LAMIA is out of date and refers to many entities that no longer exist. Over time, the number and range of authorities has been reduced, either because they no longer exist or because they have been removed from coverage.

The OAG has experienced difficulties administering LAMIA – relating both to its obligations and to the perverse outcomes that its application can have for local bodies and individual members.

In the case of the contracting rule, the low monetary limits impose unnecessary compliance costs on the bodies subject to LAMIA in seeking exemptions and impose significant costs for the OAG from the number of applications for exemptions that must be considered. The limits may deter some candidates from seeking election to local government.

In the case of the discussing and voting rule, the OAG has observed that LAMIA is not well designed to meet the decision-making needs of modern local authorities and has become increasingly difficult to operate in practice. There has been a steadily increasing number of applications for exemptions and complaints in recent years. This may be in part due to a heightened awareness of, and sensitivity about, conflict of interest issues in the public sector generally rather than as a result of issues unique to the local government sector.

The OAG's 2009 investigation of complaints about Environment Canterbury councillors<sup>2</sup> has highlighted difficulties with LAMIA. In that case, a complaint to the Auditor-General alleged that a group of councillors had breached the Act by discussing and voting on a proposal for recovering the costs of managing water resources in Canterbury. After investigation, the Auditor-General concluded that some councillors had in fact breached LAMIA by participating in a decision in which they had a financial interest.

That case and wide discussion of its significance have contributed to increased uncertainty within the local government sector about the application of the discussing and voting rule. In particular, that decision has highlighted the difficulty there can be in determining when a financial interest arises in the context of complex decision-making processes. It also highlights uncertainties in determining whether a member is able to participate on the grounds that their interest is 'in common with the public'.

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<sup>&</sup>lt;sup>2</sup> Available at <a href="https://www.oag.govt.nz/2009/environment-canterbury">www.oag.govt.nz/2009/environment-canterbury</a>.

#### Focus of document

The discussion in this document focuses particularly on the application of LAMIA to local government institutions (i.e. city, district and regional councils, community boards and, in Auckland, local boards). These bodies account for the vast majority of members subject to LAMIA and, not surprisingly, generate the majority of inquiries, requests for assistance, complaints, and exemption applications to the OAG. Along with licensing trusts, these councils and associated boards are now the only bodies subject to LAMIA whose members are elected by the public, rather than appointed.

The discussion will have some relevance to consideration of conflicts of interest issues in relation to the other bodies currently subject to LAMIA, which are listed in the Appendix to this document. Policy development and decisions on the approach to conflicts of interest for each of these bodies will occur separately from this review. Those decisions may take into account the approach adopted for local government through this process, as well as current approaches taken by other public bodies (for example, the conflict of interest provisions in the Crown Entities Act 2004).

As well as concentrating on local government, the main focus of this consultation document is on the general approach that should be taken to conflict of interest issues for bodies that are structured for local democratic accountability. There is also a brief discussion of practical issues relating to how different approaches may be implemented.

#### **Context for review**

#### Conflicts of interest in Public Bodies

Much of the law relating to conflicts of interest in public office is common law that has evolved over time through various court cases both in New Zealand and in relevant overseas jurisdictions. These issues and the rules and principles established by the courts are helpfully discussed in the OAG publication *Managing conflicts of interest: Guidance for public entities*<sup>3</sup> as well as in the OAG's latest guidance about LAMIA<sup>4</sup>.

The provisions in LAMIA dealing with contracts and pecuniary interests are statutory rules governing specific issues within a wider concern to ensure public office-holders are free from bias and inappropriate considerations in the discharge of their functions. Most public bodies are constituted by legislation and have aspects of their operation governed it. In some cases that legislation applies LAMIA, or is complemented by LAMIA by virtue of the inclusion of the public bodies in the Schedule to LAMIA. LAMIA is, however, unique in New Zealand in providing for criminal offences for breach of its rules, for an extensive enforcement (and exemption allowing) role for an independent party, and for prescribing a penalty for noncompliance.

<sup>&</sup>lt;sup>3</sup> www.oag.govt.nz/2007/conflicts-public-entities.

<sup>4</sup> www.oag.govt.nz/2010/lamia.

The different approach taken in the Crown Entities Act 2004 consists of:

- a list of circumstances in which a person is deemed to be interested in a matter;
- an obligation on any prospective appointee to the entity's governing body etc. to disclose to the responsible Minister (who is making/recommending the appointment) any interests in matters relating to the statutory entity;
- an obligation on any member (of the entity's governing body etc) to disclose any further interest as soon as they are aware of it
  - o in an interests register kept by the entity; and
  - o to the chairperson (or the responsible Minister);
- an obligation to refrain from voting or discussing a matter in which the member has an interest;
- a requirement for the responsible Minister (who appoints and has power to dismiss members) to be notified of a failure to disclose an interest or of participation in voting or discussion of a matter in which a member has an interest;
- the power for the chairperson (or the responsible Minister) to grant an exemption from the voting/discussion rule if it is in the public interest to do so; and
- an obligation to publish details of all exceptions granted in the annual report.

As is the case with LAMIA, a breach of the voting and discussing rule under the Crown Entities Act does not in itself invalidate the decision taken. An application for judicial review of the decision-making process could be made and each case considered on its merits.

The Crown Entities Act approach does not deal separately with a member's involvement with or interest in contracts with the public body. While these would clearly be within the scope of the interests that would be required to be disclosed, and in respect of which a member could not participate in voting or discussion, there is no automatic disqualification from membership as there is under LAMIA.

#### Governance arrangements in local government

When LAMIA was enacted, the bodies to which it applied included a wide range of elected special purpose local authorities (such as pest destruction boards, land drainage boards, catchment boards, hospital boards, harbour boards, electric power boards etc). It also applied to the city, borough and county councils that were the forerunners of today's city and district councils. The legislation that governed these bodies was prescriptive, the range of matters coming before each of them was relatively narrow, and the degree of public scrutiny and interest in their operation was relatively low.

The context in which this review is taking place is very different. Almost all of the special purpose local authorities have disappeared, with many of their functions being undertaken by a much smaller number of city, district and regional councils. Others have been replaced by very different corporate bodies as a result of reforms

in the health, port and energy sectors, and may have their own conflict of interest codes or be subject to the rules in the Crown Entities Act.

The legislation that governs the way local government operates is very different from that which applied in 1968. Councils are subject to the Local Government Official Information and Meetings Act 1987 which requires:

- meetings to be open to the public, except in certain limited circumstances;
- agendas and reports for meetings to be publicly available in advance; and
- minutes to be published following each meeting.

More fundamentally, the Local Government Act 2002 contains an empowering approach under which councils have much broader and more flexible powers, but must exercise these in ways that are open and transparent, with both formal and informal participation by members of the public. The Local Government Act prescribes a hierarchy of principles and processes that govern how councils operate. Those most relevant to issues of conflict of interest and bias are:

#### 14 Principles relating to local authorities

- (1) In performing its role, a local authority must act in accordance with the following principles:
  - (a) a local authority should—
    - (i) conduct its business in an open, transparent, and democratically accountable manner; and
    - (ii) give effect to its identified priorities and desired outcomes in an efficient and effective manner: ...

#### 39 Governance principles

A local authority must act in accordance with the following principles in relation to its governance:

- (a) a local authority should ensure that the role of democratic governance of the community, and the expected conduct of elected members, is clear and understood by elected members and the community; and
- (b) a local authority should ensure that the governance structures and processes are effective, open, and transparent; and
- (c) a local authority should ensure that, so far as is practicable, responsibility and processes for decision-making in relation to regulatory responsibilities is separated from responsibility and processes for decision-making for non-regulatory responsibilities; and
- (d) a local authority should be a good employer; and
- (e) a local authority should ensure that the relationship between elected members and management of the local authority is effective and understood.

#### 40 Local governance statements

- (1) A local authority must prepare and make publicly available, following the triennial general election of members, a local governance statement that includes information on—
  - (e) members' roles and conduct (with specific reference to the applicable statutory requirements and code of conduct); and
  - (f) governance structures and processes, membership, and delegations; and
  - (g) meeting processes (with specific reference to the applicable provisions of the Local Government Official Information and Meetings Act 1987 and standing orders); and...
  - (j) the management structure and the relationship between management and elected members; and
  - (m) systems for public access to it and its elected members; and
  - (n) processes for requests for official information.
- (2) A local authority must comply with subsection (1) within 6 months after each triennial general election of members of the local authority.
- (3) A local authority must update its governance statement as it considers appropriate.

The Local Government Act also makes provision (In Schedule 7) for each council adopt:

- a code of conduct for members that sets out the understandings and expectations adopted by the local authority about the manner in which members may conduct themselves (in their capacity as members) including an explanation of all applicable laws; and
- a set of standing orders for the conduct of its meetings and those of its committees.

This framework, coupled with the scrutiny of council business by members of the public and the media, means that local government business is now conducted very differently, and is subject to very different expectations, than when LAMIA was enacted.

## **Objectives**

The LAMIA provisions can be seen as contributing to wider objectives relating to conflicts of interest and the exclusion of bias in public bodies. These objectives, at their simplest, can be seen as:

- ensuring that members of public bodies do not profit personally from their public position;
- ensuring that decisions are based on consideration of the interests and objectives that the body is established to promote, and of information and values properly relevant to those interests; and
- maintaining public confidence that decision-making processes are not distorted by personal interests or fixed views towards decisions that are different to what consideration of the public interest alone would lead to.

These objectives need to be considered in the particular circumstances of public bodies in New Zealand. The foreword to the OAG's guidance for public entities on managing conflicts of interest starts by noting:

"In a small country like ours, conflicts of interest in our working lives are natural and unavoidable. The existence of a conflict of interest does not necessarily mean that someone has done something wrong, and it need not cause problems. It just needs to be identified and managed carefully."

The limited number of candidates seeking public office in New Zealand emphasises the importance of ensuring that conflicts of interest are managed in ways that do not needlessly exclude individuals from public office or create barriers to their participation. This is recognised to some extent in the statutory exemptions and provisions for Auditor-General approvals under LAMIA.

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<sup>&</sup>lt;sup>5</sup> "Managing conflicts of interest: Guidance for public entities" OAG 2007.

### **Current LAMIA provisions**

The way in which the current LAMIA provisions address these objectives is based on some questionable assumptions.

#### The contracting rule

The rationale for the contracting rule is unclear. It appears to be based on the assumption that, unless the contract is sanctioned by an independent third party, a member who has an interest in a contract with the local authority valued at more than \$25,000 per annum has a conflict of interest that is so pervasive they should no longer be allowed to hold office.

That rationale does not appear particularly sound. Although being interested in a contract will certainly create a conflict for the member in relation to certain areas of the local authority's business (most obviously discussions on the contract itself) there is no reason why the member cannot be a valuable and impartial member in other areas.

The real concern with contracts is not so much the potential conflict of interest. It is more the potential for undue influence or preferential treatment. That concern arguably can be addressed just as effectively in other ways, for example, by ensuring the authority has, and is held accountable for, thorough, transparent and competitive contracting processes.

## The discussing and voting rule

As noted earlier in this document, the discussing and voting rule is a partial codification of the common law about bias in public body decision-making. The rule reflects the common law position that a financial interest gives rise to an automatic presumption of bias. It is therefore treated more strictly than a non-financial interest.

LAMIA's strict prohibition on discussing or voting on a matter in which there is a financial interest is balanced by provisions which enable the member concerned to apply to the Auditor-General for approval to participate if:

- the interest is remote or insignificant; or
- it is in the interests of the electorate to allow the member to participate; or
- it would impede the transaction of business by the local authority if the member could not participate.

The purpose of the rule (and the principles underlying it) remains sound and relevant. The ability to apply for approval to participate provides a local authority with a degree of certainty in relation to financial interests which would not otherwise exist (and which is not available in relation to non-financial interests). It is, however, debateable whether the rule in its current form is an appropriate mechanism for managing conflicts of interest in the context of present day local government decision-making.

#### Key issues include:

- whether the rule (which prohibits both discussion and voting) is flexible enough to manage conflicts of interest that arise in a variety of contexts and which have varying degrees of seriousness;
- whether the rule adequately addresses the risks faced by local authorities, given that it only addresses financial interests;
- whether it is appropriate for an independent third party to make final decisions on who can and cannot participate in decision-making by an elected body.

#### **Conclusion**

In summary, both rules may be inappropriately rigid and inflexible. They appear overly restrictive about interests and matters that are unlikely to significantly affect good decision-making or public confidence that good decision-making is occurring. At the same time, they do not affect other forms of interest or bias that might distort, or be seen to distort, decisions of members of local authorities.

Leaving responsibility for granting exemptions and for prosecuting breaches to an independent third party is also inconsistent with the reliance on local democratic accountability that characterises the rest of the local government framework.

Finally, the penalty of automatic dismissal from office appears inappropriately severe and inflexible to be applied in every case where a breach of these rules is established. Decisions whether to prosecute breaches represent further instances where considerable reliance is placed on the OAG to make subjective judgments that may need to recognise complex local factors and circumstances.

## Issues for consideration

The following issues arise in considering how best to deal with conflict of interest issues in the context of the local government sector. The discussion covers the contracting and participation issues raised in relation to LAMIA, the wider context of local government decision-making, and other issues raised by consideration of other approaches to conflict of interest.

## Declaration of Interests by Candidates

Local authority members are elected by, and are accountable to, members of the public. They are already required to provide information about themselves and their policies that is circulated to electors before each election.

Prospective appointees to Crown entities and to district health boards (DHBs) are required to disclose any potential conflicts of interest to the appointing Minister. Candidates<sup>6</sup> for elected positions on DHBs are required to identify any current or likely conflicts of interest in conjunction with the same candidate information requirements as apply to local government.

#### Questions

- 1. Is it desirable to require local government candidates to declare any known conflicts or likely conflicts of interest they would have if elected?
- 2. How practical would such a requirement be to implement and enforce?

## Declaration of Interests by Members

Whether or not conflicts of interest are identified by prospective members, additional unforeseen conflicts may arise during their period of office. The Crown Entities Act approach requires members to declare these as soon as they are identified and for a register of declared interests to be kept. By contrast, LAMIA only requires members to identify conflicts of interest when they arise during formal business, and that the declaration and the members' abstention from discussion/voting be noted in the records.

#### Questions

3. How desirable would it be to require members to declare conflicts of interest in advance, and for a register to be kept of these?

- 4. Would making these registers public contribute to public confidence and to the accountability of the member and the local authority?
- 5. What would be an appropriate balance between effective disclosure and protecting members' privacy?

It should be noted that an extensive definition of "conflicts of interest" applies to DHB candidates and members, and that there is an expectation that candidates will often include health professionals and employees of health service providers who are likely to have financial relationships with the DHB.

#### **Contracts**

LAMIA prohibits members having an interest in contracts with an annual value of \$25,000 or more (although prior and, in certain circumstances, subsequent exemptions for specific contracts can be granted by the Auditor-General). Apart from trustees of school boards (for whom the contract limit can be set by the Chief Executive of the Ministry of Education), members of other public bodies have no specific contract limit. Relevant contracts existing before appointment/election are covered by conflict of interest disclosure requirements while any prospective contracts should be declared as soon as the possibility arises.

An additional consideration may be a requirement for existing contracts to be declared at the time of candidacy (whether or not as part of a wider declaration of conflicts) to enable voters to decide the level of risk. The prohibition on participating in discussion and decisions affecting the contract (or any relevant new contract) would still apply.

#### Questions

- 6. Is retaining a rigid prohibition on members having an interest in contracts with the local authority over a certain value a better option than other ways of achieving the same objectives (e.g. audit oversight, transparency and public scrutiny)? Please give reasons for your answer.
- 7. If a rigid rule is the better option:
  - Should this apply to both existing contracts (at the time of election/appointment) and new contracts proposed during the term of office?
  - Should there be scope for exemptions from the prohibition, and who should grant these?
  - Should the value threshold be set, or be able to be varied by some other person, and if so, by whom?
- 8. Would a requirement for existing contracts to be declared at the time of candidacy provide appropriate safeguards and accountability?

## Managing conflicts of interest – rules or common law

The principal argument for having statutes about conflicts of interest, rather than relying on managing these under common law, is that clear rules are more effective in preventing breaches occurring and providing a more certain basis for decision-making. While reliance on common law may be effective in imposing sanctions where breaches have occurred, this will almost always need to be retrospective.

The case for statutory rules relies partly on the nature of the decisions and responsibilities exercised by local authorities and other public bodies and the view that certainty about the legality and probity of decisions is important and will be better provided by preventive rules. It can also be argued that these are statutory bodies and their objectives and procedures are already governed by legislative provisions.

Without statutory rules about conflicts of interest, those issues might be considered to be of less importance than or overruled by other statutory requirements.

#### Question

9. Are statutory rules for managing conflicts of interest in public bodies necessary or would reliance on the common law be preferable? What would the consequences be of reliance on common law?

## Managing conflicts of interest - scope of interests covered

The current LAMIA provisions are limited to "pecuniary interests", which are defined reasonably tightly, with a number of specific exceptions and scope for the Auditor-General to grant exemptions. The provisions apply to the interests of a member's "spouse or partner" but not to other relatives or associates.

While other regimes (e.g. for Crown entities and DHBs) have detailed definitions of what constitutes an interest or conflict, they also have catch-all provisions that appear to extend the scope beyond pecuniary or purely financial interests.

A number of potentially conflicting considerations apply here:

- some flexibility may be desirable to allow rules to apply in ways appropriate to the scale and circumstances of different local authorities;
- it is clear that inappropriate motives and prejudices can stem from a wider range of circumstances and interests than purely financial interests and gain;
- defining, identifying and regulating non-financial interests is much more difficult.

The questions that arise in respect of this are central to the whole review, and are therefore interdependent with the other issues discussed in this section. The issues are broadly summarised below.

#### Questions

- 10. What interests should be covered by whatever approach is taken to conflicts of interest? Should this be limited to pecuniary interests, or be extended to include non-financial interests?
- 11. Is it preferable for the scope of "interests" or "conflicts of interests" to be:
  - a. Tightly defined in legislation?
  - b. Tightly defined in legislation with scope for exemptions -
    - · authorised by the Auditor-General?; or
    - authorised by the local authority itself, or the presiding member?; or
    - authorised by someone else?
  - c. Loosely defined (i.e. in terms of principles/objectives) in the legislation with detailed rules set out in a policy adopted by each local authority?
  - d. Defined/prescribed some other way?
- 12. Should a member's interests be deemed to include the interests of relatives and associates beyond his/her spouse or partner? If so, whose interests and what type of interests should be included?

## Managing conflicts of interest – nature of rules

The management of conflicts of interests is an inherently complex area, in particular in the case of an elected body. There are legal, ethical and political dimensions to consider. Determining whether there is a conflict and, if so, how best to manage it requires detailed consideration of the specific context in which the interest arises and the exercise of careful judgement. It is not an area that lends itself easily to a prescriptive set of rules.

At the same time, members and officers of local authorities, and members of the public, will look for clarity about what the 'rules' are and when they apply, especially if there is to be greater reliance on self-regulation and local accountability to ensure compliance.

#### Questions

- 13. How prescriptive should (or can) the rules for managing conflicts be?
- 14. Are there benefits in having relatively 'black and white' rules (as is the case for financial interests under the LAMIA) or is a broader principles-based approach more appropriate?
- 15. Who should decide what the rules are? Should it be left entirely to the local authority to determine how best to manage a conflict? Or is there benefit in third party oversight?
- 16. Is third party oversight of an elected body appropriate?
- 17. If there is third party oversight, who should that party be?

## Consequences of breach

Under LAMIA, a person in breach of the contracting rule is automatically disqualified from becoming, or continuing to be, a member of the local authority. If he or she acts as a member while disqualified, he/she commits a criminal offence with a maximum penalty of \$200.

People who breach the discussing and voting rule commit a criminal offence with a maximum penalty of \$100 and, on conviction, must vacate their office.

LAMIA is unique in providing for a criminal offence for these breaches and is also unusual in its provision for automatic disqualification. Most other regimes require notification of any breach of conflict of interest provisions to an appointing Minister or other agency which has power to decline to appoint the person or, if already appointed, to remove them from office.

In the context of democratically elected members of local authorities, automatic removal from office might be considered both unduly harsh and as overriding basic democratic principles.

#### Questions

- 18. If candidates are required to disclose any interest in contracts with the local authority and other potential conflicts of interest, should it then be up to the voters whether to elect them or not?
- 19. Similarly, if local authorities are required to transparently adopt and implement their own rules for dealing with conflicts of interest (including decisions on exemptions), would normal political processes and feedback provide sufficient accountability on these issues?
- 20. Are there circumstances where criminal sanctions and/or automatic disqualification would still be required to protect communities from major decisions being captured by the private interests of elected members?
- 21. In what circumstances would these apply, and what sort of penalties would be appropriate?
- 22. Should prosecutions be initiated by the Auditor-General (as now), the Police, the local authority itself or someone else?

## **Implementation Implications**

The focus of discussion in this document is on conflict of interest issues in relation to bodies constituted under the Local Government Act 2002. Depending on the nature of the favoured approach to future legislation on these issues, it may make sense for any new provisions to be integrated into the Local Government Act alongside related provisions on governance issues and processes.

If that happens, this would influence consideration of whether LAMIA (or an updated version) should continue to deal with these issues in relation to some or all of the classes of bodies and individual entities that are currently subject to it.

Resolving these issues is likely to depend on both which approach is adopted for the local government sector as well as the extent to which other agencies and bodies face the same issues, and require the same solutions. Can a "one size fits all" approach work, or should the solution for some or all of the other bodies be different to that for local government bodies? Feedback on this document, and subsequent decisions on the preferred approach for the local government sector, is expected to clarify the options and issues for other agencies.

## Feedback sought

This document has been developed to elicit ideas and suggestions concerning future approaches to issues of conflict of interest, in the context of the current provisions and scope of LAMIA.

We hope that the merits of the different approaches, and issues that may be important to resolve within each of them, will be the focus of the feedback we receive on the document.

While the focus of the document is on possible high level approaches to these issues for the local government sector, feedback and discussion relevant to other bodies subject to LAMIA, as well as on practical details will also be gratefully received and considered

Any and all comments and suggestions will be gratefully received, and may be sent by post or electronically to the addresses below. The deadline for receipt of submissions is 18 November 2011.

**Email to** 

LAMIA feedback
Department of Internal Affairs
PO Box 805

**WELLINGTON 6040** 

Post to

lamiafeedback@dia.govt.nz

# Appendix: Existing organisations with members subject to LAMIA

Organisations	Relevant Act	Who administers the Act?	
Local government organisations			
City councils	Local Government Act 2002	Department of Internal Affairs	
District councils	Local Government Act 2002	Department of Internal Affairs	
Community boards	Local Government Act 2002	Department of Internal Affairs	
Local Boards	Local Government (Auckland Council) Act 2009 (section32B(3))	Department of Internal Affairs	
Regional councils	Local Government Act 2002	Department of Internal Affairs	
Chatham Islands Council	Chatham Islands Council Act 1995	Department of Internal Affairs	
Classes of organisations			
Administering bodies under the Reserves Act 1977	Reserves Act 1977	Department of Conservation	
Cemetery trustees	Burial and Cremation Act 1964	Ministry of Health	
College of Education councils	Education Act 1989	Ministry of Education /TAMU	
Licensing trusts/ community trusts	Sale of Liquor Act 1989	Ministry of Justice	
Polytechnic councils	Education Act 1989	Ministry of Education /TAMU	
Provincial patriotic councils	The Patriotic and Canteen Funds Act 1947	Ministry of Defence/NZ Defence Force (Veterans' Affairs unit)	
University councils	Education Act 1989	Ministry of Education/ TAMU	
Specific organisations			
Aotea Centre Board of Management	Auckland Aotea Centre Empowering Act 1985	(local Act)	
Auckland Museum Trust Board			
Canterbury Museum Trust Board	Canterbury Museum Trust Board Act 1993	(local Act)	
Carter Observatory Board	Carter Observatory Act 1938	Ministry of Science and Innovation	
Greytown District Trust Lands Trustees (only ss6 & 7 of LAMIA apply)	Greytown District Trust Lands Act 1979	(local Act)	
Masterton Trust Lands Trust	Masterton Trust Lands Act 2003	(local Act)	
Museum of Transport and Technology Board	Museum of Transport and Technology Act 2000	(private Act)	
New Zealand Council for Educational Research	New Zealand Council for Educational Research 1972	Ministry of Education	

New Zealand Horticultural Export Authority	New Zealand Horticultural Export Authority Act 1987	Ministry of Agriculture and Forestry
New Zealand Māori Arts and Crafts Institute	New Zealand Māori Arts and Crafts Institute Act 1963	Ministry of Tourism (part of Ministry of Economic Development)
Ngarimu V.C. and 28th (Māori ) Battalion Memorial Scholarship Fund Board	Ngarimu V.C. and 28th (Māori ) Battalion Memorial Scholarship Fund Act 1945	Ministry of Education
Otago Museum Trust Board	Otago Museum Trust Board act 1996	(local Act)
Pacific Islands Polynesian Education Foundation Board of Trustees	Pacific Islands Polynesian Education Foundation Act 1972	Ministry of Education
Plumbers Gasfitters and Drainlayers Board	Plumbers Gasfitters and Drainlayers Act 2006	Department of Building and Housing
Queen Elizabeth the Second National Trust Board of Directors	The QE2 National Trust Act 1977	Department of Conservation
Riccarton Bush Trustees	Riccarton Bush Act 1914	(local Act)
Taratahi Agricultural Training Centre (Wairarapa) Trust Board	Taratahi Agricultural Training Centre (Wairarapa) Act 1969	Ministry of Agriculture and Forestry
Winston Churchill Memorial Trust Board	Winston Churchill Memorial Trust Board Act 1965	Ministry of Justice

## MACKENZIE DISTRICT COUNCIL

**REPORT TO:** MACKENZIE DISTRICT COUNCIL

**FROM:** MANAGER – FINANCE AND ADMINISTRATION

SUBJECT: AMENDMENT TO MACKENZIE TOURISM AND

DEVELOPMENT TRUST DEED

**MEETING DATE:** 4 OCTOBER 2011

**REF:** LAN 7/1/1

#### **PURPOSE OF REPORT:**

To endorse the amendment of the Mackenzie Tourism and Development Trust Deed.

#### **RECOMMENDATIONS:**

- 1. That the report be received.
- 2. That the Council endorses the amendment of the Trust Deed of Mackenzie Tourism and Development Trust dated the 30<sup>th</sup> day of November 2007 in the manner as follows:
- Clause 9.4 of the Trust Deed is deleted and a new clause 9.4 is hereby substituted in place of the original clause 9.4 of the Trust Deed in the form as follows:
  - "9.4 The Trustees shall prepare a draft Statement of Intent by 1 March of each year. The Trustees shall consider any comments on the draft Statement of Intent that are made to it in writing by the Council by 1 May in each year and deliver the completed Statement of Intent to the Council on or before 30 June in each year."
- 2 Clause 9.7 of the Trust Deed is hereby deleted and a new clause 9.7 of the Trust Deed is hereby substituted in place of the original clause 9.7 of the Trust Deed in the form as follows:
  - "9.7 The financial records and the annual accounts shall be available to be inspected by the Trustees, the Council or any person specified for such purpose by the Council at all reasonable times."
- Clause 10.1 of the Trust Deed is hereby deleted and a new clause 10.1 of the Trust Deed is hereby substituted in place of the original clause 10.1 of the Trust Deed in the form as follows:
  - "10.1 The Trustees may from time to time appoint any committee and may delegate in writing any of their powers and duties to any such committee or to any person. The committee or person (as the case may be) may, without confirmation by the Trustees, exercise or perform the delegated powers or duties in like manner and with the same effect as the Trustees could have exercised or performed them until such time as the committee or the person (as the case may be) shall receive notice in writing of the revocation of any such power or duty."

- 4 Clause 10.3 of the Trust Deed is hereby deleted and a new clause 10.3 is hereby substituted in place of the original clause 10.3 of the Trust Deed in the form as follows:
  - "10.3 Every such delegation shall be revocable by resolution of the Trustees at will, and no such delegation shall prevent the exercise of any power or the performance of any duty by the Trustees. The revocation of every such delegation shall be given by notice in writing to the committee or the person to whom the powers and duties were originally delegated."
- 5 Clause 13.2 of the Trust Deed is amended by deleting the inverted commas from around the word "Trust" at the end of clause 13.2.
- 6 Clause 1.1 of Schedule 2 of the Trust Deed is hereby deleted and a new clause 1.1 of Schedule 2 is hereby substituted in place of the original clause 1.1 of Schedule 2 of the Trust Deed in the form as follows:
  - "1.1 The number of Trustees shall be not more than seven and not less than two."
- 7 Clause 1.3 of Schedule 2 of the Trust Deed is hereby deleted and a new clause 1.3 of Schedule 2 is hereby substituted in place of the original clause 1.3 of Schedule 2 of the Trust Deed in the form as follows:
  - "1.3 The Trustees shall not include more than two Council councillors (including for the purposes of this clause the Mayor) or employees of the Council at any one time."
- 8 Clause 2.1 of Schedule 2 of the Trust Deed is hereby deleted and a new clause 2.1 of Schedule 2 is hereby substituted in place of the original clause 2.1 of Schedule 2 of the Trust Deed in the form as follows:
  - "2.1 Subject to clause 2.3 of this Schedule 2, the term for which each Trustee shall be a Trustee of the Trust shall be three years from the date on which each Trustee takes up office as a Trustee or such lesser time as shall be specified in writing by the Council at the time of making any such appointment."
- 9 Clause 3.3 of Schedule 2 of the Trust Deed is hereby deleted and a new clause 3.3 of Schedule 2 is hereby substituted in place of the original clause 3.3 of Schedule 2 of the Trust Deed in the form as follows:
  - "3.3 A Trustee shall cease to be a Trustee from the date specified upon receipt of written notice from the Council terminating his or her appointment as a Trustee or if no date is specified then immediately upon receipt of any such written notice by a Trustee."
- 10 Clause 4.1 of Schedule 3 of the Trust Deed is hereby deleted and a new clause 4.1 of Schedule 3 is hereby substituted in place of the original clause 4.1 of Schedule 3 of the Trust Deed in the form as follows:
  - "4.1 The chairperson or any two Trustees (or where there are less than three Trustees, any one Trustee) may at any time summons a meeting."
- Clause 6 of Schedule 3 of the Trust Deed is hereby deleted and a new clause 6 of Schedule 3 is hereby substituted in place of the original clause 6 of Schedule 3 of the Trust Deed in the form as follows:
  - "6 Voting
  - All decisions of the Trustees shall be decided by consensus. However, where a consensus decision cannot be readily obtained on a question, unless otherwise specified in this Deed, it shall be put as a motion to be decided by a majority of votes."
- Clause 9.1 of Schedule 3 is hereby deleted and a new clause 9.1 of Schedule 3 is hereby substituted in place of the original clause 9.1 of Schedule 3 of the Trust Deed in the form as follows:

"9.1 If a quorum is not present within 20 minutes after the time appointed for any meeting, the chairperson of the meeting may adjourn the meeting to such date, time and place as the chairperson of the meeting may appoint."

PAUL MORRIS
MANAGER – FINANCE AND ADMINISTRATION

## **ATTACHEMENTS:**

Appendix 1 Amended Mackenzie Tourism and Development Trust Deed.

## **BACKGROUND:**

At the meeting of the Mackenzie Tourism and Development Trust held on 16 September 2011, the Trustees resolved to amend their Trust Deed. The attached copy tracks the changes which have been made to the original Deed.

Under the terms of the Trust Deed, the Council is required to approve any amendments to the Trust Deed.

APPENDIX 1

Deed of Trust (as varied)

## **DECLARATION OF TRUST**

MACKENZIE TOURISM AND DEVELOPMENT TRUST

**CONTENTS** Page No. NAME OF TRUST......2 INCOME AND CAPITAL ......4 ACCOUNTS, AUDIT AND REPORTING ......4 **SCHEDULE SCHEDULE SCHEDULE SCHEDULE** 

#### **PARTIES**

## **THE PERSONS LISTED IN SCHEDULE 1** ("the Initial Trustees")

#### **BACKGROUND**

- A The Initial Trustees wish to enter into this deed for the purpose of creating a charitable trust for the benefit of the present and future residents of the District.
- B The Initial Trustees wish to incorporate themselves as a trust board pursuant to the provisions of Part 2 of the Charitable Trusts Act 1957.
- C This deed declares and constitutes the Trust, specifying its objects and providing for its control, government and regulation.

#### **OPERATIVE PART**

#### 1 DEFINITIONS AND INTERPRETATION

- 1.1 In this deed the following terms shall have, unless the context otherwise requires, the following meanings:
  - (a) "Board" means the trust board which is incorporated pursuant to the provisions of clause 12 of this deed:
  - (b) "Council" means Mackenzie District Council;
  - (c) "District" means the area within the geographical boundaries of Mackenzie District Council;
  - (d) "Income" means the income earned by the Trust, including donations and grants;
  - (e) "Initial Trustees" means the first trustees of the Trust being the persons listed in Schedule 1:
  - (f) "Statement of Intent" means a statement of intent prepared in accordance with and for the purposes set out in the Local Government Act 2002;
  - (g) "Trust" means the charitable trust declared and constituted by this deed;
  - (h) "Trustees" means the trustees for the time being of the Trust;
  - (i) "Trust Fund" means any money, investments or other property paid or given to or acquired by the Trustees after this deed has been executed with the intention that it be held by the Trustees in accordance with the trusts and other provisions of this deed.
- 1.2 In this deed the following provisions shall apply:
  - (a) references to clauses are to clauses in the operative part of this deed except where otherwise stated;
  - (b) references to schedules are to schedules in this deed;
  - (c) references to this deed include its schedules;
  - (d) references to the provisions of any Act shall be construed as a reference to those provisions as modified, extended or replaced by any statute for the time being in force;
  - (e) words importing the singular include the plural and vice versa;
  - (f) words importing one gender include the others; and
  - (g) the contents page and the headings to clauses are for convenience only and are not part of the content of this deed.

#### 2 ACKNOWLEDGEMENT OF TRUST

2.1 The Trustees acknowledge that they hold the Trust Fund upon the trusts and with the powers set out in this deed.

#### 3 NAME OF TRUST

The name of the Trust is "MACKENZIE TOURISM AND DEVELOPMENT TRUST" or such other name as the Trustees with the approval of the Council may from time to time resolve.

#### 4 OBJECTS

- 4.1 The Trustees declare that the Trust is a trust for charitable purposes for the benefit of the present and future residents of the District and further declare and direct that the Trust Fund shall be applied and used exclusively by the Trustees for the objects set out in this clause.
- 4.2 The principal objects of the Trust are:
  - (a) to promote, develop and market the District to achieve economic benefit for the District; and
  - (b) to ensure visitors are well provided for with appropriate visitor information.
- 4.3 In addition to the principal objects, the Trust shall also have the following objects:
  - (a) to develop and promote the District as a year round destination;
  - (b) to facilitate economic opportunities to benefit the District;
  - (c) to market and promote the District in New Zealand and overseas as a visitor destination;
  - (d) to provide a comprehensive information service including the collection of publications and dissemination of information for visitors and others within the District;
  - (e) to foster strong working relationships with key stakeholders and relevant businesses for the benefit of the District:
  - (f) to endeavour to increase the number of visitor nights in the District;
  - (g) to maximise tourism opportunities by means of joint promotions with the private sector;
  - (h) to facilitate joint venture marketing campaigns with the private sector and publicly funded regional tourism;
  - (i) to provide tourist statistical information and monitor visitor numbers in order to provide future forecasts and visitor research information;
  - (j) to promote, support and bid for events and conventions that bring economic benefit to or increase the profile of the District; and
  - (k) to facilitate training opportunities in the tourism sector.
- 4.4 In pursuing the objects, the Trustees will have regard to:
  - (a) the existence of other strategic plans relating to the development or promotion of the District and the resources of the District;
  - (b) whether other services or funding or support are available for the promotion of the District including assistance provided through industry or regional development policies and programmes developed or funded by central government; and
  - (c) the objectives, roles and activities of any other organisations engaged in promotional or economic development activities in the District.
- 4.5 The objects of the Trust shall not include or extend to any matter which is or shall be held or determined to be non-charitable. Any private benefit which is conferred on any individual or individuals shall be incidental to the pursuit by the Trust of the objects of the Trust. The powers and purposes shall be restricted accordingly and limited to New Zealand.

#### 5 DONATIONS AND GRANTS

- 5.1 Subject to clause 5.2, the Trustees may accept any property donated to the Trust or any grant made to the Trust and any such donation or grant shall form part of the Trust Fund.
- 5.2 The Trustees shall not accept any property subject to any condition that is inconsistent with the achievement of the objects of the Trust.

#### 6 TRUSTEES

- 6.1 The Initial Trustees are the first Trustees of the Trust.
- 6.2 The provisions dealing with the number, appointment and cessation of office or removal from office of the Trustees are set out in Schedule 2.
- 6.3 The provisions relating to meetings of the Trustees are set out in Schedule 3.

#### 7 INCOME AND CAPITAL

- 7.1 The Trustees shall hold the Trust Fund on trust to pay, apply or appropriate the income or capital at such time or times as they think fit for or towards such one or more of the objects of the Trust in such manner as they in their absolute discretion shall decide.
- 7.2 The Trustees may accumulate all or part of the income generated by the Trust Fund in any income year.
- 7.3 Any income so accumulated shall be added to the capital of the Trust Fund and shall be held, together with the capital of the Trust Fund, on the same trusts and with the same powers by the Trustees who may utilise any such accumulated income and/or capital at any time in order to achieve the objects of the Trust.

#### 8 POWERS OF TRUSTEES

- 8.1 In addition to the powers, authorities and discretions vested in the Trustees by law or by this deed, but subject to any specific or general prohibition or restriction on investment or trustee powers contained in this deed, the Trustees may at all times and from time to time exercise the fullest possible powers and authorities as if they were the beneficial owners of the Trust Fund.
- 8.2 Without prejudice to the generality of clause 8.1, the Trustees have the powers set out in Schedule 4 and may in their discretion exercise any one or more of those powers in the administration of the Trust.

#### 9 ACCOUNTS, AUDIT AND REPORTING

- 9.1 The Trustees shall keep true and fair accounts of all money received and expended.
- 9.2 The balance date of the Trust shall be 30 June in each year.
- 9.3 The Trustees shall as soon as practicable after the end of every financial year of the Trust, cause the accounts of the Trust for that financial year to be audited by an accountant appointed by the Trust for that purpose in accordance with the terms of the Local Government Act 2002 and the Trust shall present the audited accounts to the annual general meeting of the Trust together with an estimate of income and expenditure for the current year.
- 9.4 The Trustees shall prepare a draft Statement of Intent by 1 March of each year. The Trustees shall consider any comments on the draft Statement of Intent that are made to it <u>in writing</u> by the Council by 1 May in each year and deliver the completed Statement of Intent to the Council on or before 30 June in each year.
- 9.5 The Trustees shall comply with the provisions of the Local Government Act 2002 in respect of all matters relating to the Statement of Intent for the Trust in each year.
- 9.6 The Trustees shall report quarterly to the Council in such form as may from time to time be agreed between the Trustees and the Council.
- 7.7 The financial records and annual accounts shall be available to be inspected by the Trustees, the Council or any person specified for such purpose by the Council at all reasonable times.
- 9.8 The annual report of the Trust will be available on request and copies will be placed in Council offices and public libraries in the District.

#### 10 POWER TO DELEGATE

- The Trustees may from time to time appoint any committee and may delegate in writing any of their powers and duties to any such committee or to any person, and. the The committee or person (as the case may be, may, without confirmation by the Trustees, exercise or perform the delegated powers or duties in like manner and with the same effect as the Trustees could have exercised or performed them until such time as the committee or the person (as the case may be) shall receive notice in writing of revocation of any such power or duty.
- 10.2 Any committee or person to whom the Trustees have delegated powers or duties shall be bound by the charitable terms of the Trust.
- 10.3 Every such delegation shall be revocable by resolution of the Trustees at will, and no such delegation shall prevent the exercise of any power or the performance of any duty by the Trustees.

  The revocation of every such delegation shall be given by notice in writing to the committee or the person to whom the powers and duties were originally delegated.

10.4 It shall not be necessary that any person who is appointed to be a member of any such committee, or to whom any such delegation is made, be a Trustee.

#### 11 LIABILITY OF TRUSTEES

- 11.1 The Trustees shall not be liable for:
  - (a) Any losses except losses arising from their own dishonesty, wilful default or wilful breach of trust:
  - (b) Any act or attempted act done in exercise of or pursuant to any trust, power or discretion vested in them by this deed; or
  - (c) Any omission or non-exercise in respect of any trust, power or discretion of the Trustees under this deed.
- 11.2 The Trustees shall be indemnified out of the Trust Fund against all liabilities and expenses incurred by them in the exercise or attempted exercise of the Trust powers and discretions. This indemnity shall extend to any payments made to any person whom the Trustees bona fide believe to be entitled though it may be subsequently found that the person was not in fact so entitled.
- 11.3 The liability of the Trustees in connection with this deed or at law shall at all times be limited to the Trust Fund.

#### 12 INCORPORATION

12.1 The Trustees will as soon as reasonably possible take all necessary steps to become incorporated under Part 2 of the Charitable Trusts Act 1957.

#### 13 PECUNIARY PROFIT AND BENEFITS AND ADVANTAGES

- 13.1 Subject to the terms of this clause 13, no private pecuniary profit shall be made by any person from the Trust.
- 13.2 The Trustees may receive (any may also pay to any person) reasonable and proper reimbursement for all costs, charges and expenses properly incurred in connection with the administration of the affairs of the "Trust".
- 13.3 The Trustees, with the prior approval of the Council, may receive (and may also pay to any person) reasonable and proper remuneration in return for services actually rendered to the Trust.
- 13.4 The Trustees must ensure that no person with some control over any business or undertaking administered or operated by or on behalf of the Trust is able to direct or divert to their own benefit or advantage any amount derived from any business or undertaking operated by the Trust.
- A person who, in the course of and as part of the carrying on of his or her profession, renders professional services to the Trust, shall not by reason only of his or her rendering such professional services to the Trust, be in breach of this clause 13 provided that such professional services are rendered in the ordinary course of business and are charged at no greater than current market rates.

#### 14 INTERESTED TRUSTEES

- 14.1 If a Trustee, whether directly or indirectly, has a material interest in any contract or proposed contract or arrangement or dealing with the Trust, the relevant Trustee shall disclose the nature of that interest at a meeting of the Trustees and such disclosure shall be recorded in the minutes of the meeting.
- 14.2 A Trustee required to disclose an interest by clause 14.1 may be counted in a quorum present at a meeting but shall not vote in respect of the matter in which the Trustee is interested (and if the Trustee does so the vote shall not be counted) provided that the Trustee may expressly be permitted to vote by a unanimous vote of the other Trustees present given after disclosure of the interest.
- 14.3 If any question shall arise at any meeting as to the materiality of a Trustee's interest or as to the entitlement of any Trustee to vote and such question is not resolved by the Trustee voluntarily agreeing to abstain from voting, such question shall be referred to the Chairperson of the meeting and his or her ruling in relation to any such Trustee shall be final and conclusive except in the case where the nature or extent of the interests of the Trustee concerned have not been fairly disclosed.

- 14.4 Without limiting the generality of clauses 14.1 and 14.3, no person shall be deemed for the purposes of this clause 14 to have a disqualifying interest in respect of any matter concerning the Trust merely by reason of that person being:
  - (a) A ratepayer in the District; or
  - (b) An owner of land within the District.

#### 15 EXECUTION OF DOCUMENTS

- 15.1 Whenever the Trustees need to sign or attest any deed, agreement or contract pursuant to a resolution of the Trustees, it will be sufficient for that deed, agreement or contract to be signed or attested by any two Trustees.
- 15.2 Upon incorporation of the Trust in accordance with clause 12, the Board shall procure a common seal for the Board and shall provide for its safe custody. Any documents required to be signed under the common seal shall be attested by any two Trustees.

#### 16 AMENDMENT OF TRUST DEED

16.1 Subject to any relevant legislation for the time being in force and only with the prior written consent of the Council, the Trustees have the power by deed to alter or add to the terms and provisions of this deed provided that no such alteration shall prevent the Trust from qualifying as a charitable trust under the provisions of the Income Tax Act 2004 or the Charities Act 2005 (or any legislation passed in substitution for those Acts.)

#### 17 WINDING UP OF THE TRUST

- 17.1 Subject to obtaining the prior written approval of the Council, the Trustees may at any time by resolution of the Trustees wind up the Trust.
- 17.2 On the winding up of the Trust, the Trustees will pay all costs, liabilities and expenses of the Trust (including the costs of winding up the Trust) and will pay or apply the balance forwards the furtherance of the objects set out in this deed, or for such other exclusively charitable purposes within the District as the Council may approve.

### 18 GOVERNING LAW

18.1 The Trust will be governed by and this deed will be construed in accordance with the laws of New Zealand.

**EXECUTED** as a deed.

	SIGNED by the said Denis Selwyn Callesen in the presence of:	) )	<u>"DS Callesen"</u>
	"JA Beck"		
	Witness Signature Name of Witness: <u>Jason Beck</u> Address: <u>15A Alloway Street, Fairlie</u> Occupation: <u>Finance Manager</u>		
1	SIGNED by the said Kieran Edward Walsh in the presence of:	)	<u>"KE Walsh"</u>
	"JA Beck"		
	Witness Signature Name of Witness: <u>Jason Beck</u> Address: <u>15A Alloway Street, Fairlie</u> Occupation: <u>Finance Manager</u>		
	SIGNED by the said Graeme Peter Foote in the presence of:	)	<u>"GP Foote"</u>
	"JA Beck"		
	Witness Signature Name of Witness: <u>Jason Beck</u> Address: <u>15A Alloway Street, Fairlie</u> Occupation: <u>Finance Manager</u>		
]	SIGNED by the said Graeme Douglas Murray in the presence of:	)	<u>"GD Murray"</u>
	"JA Beck"		
	Witness Signature Name of Witness: <u>Jason Beck</u> Address: <u>15A Alloway Street, Fairlie</u> Occupation: <u>Finance Manager</u>		
	SIGNED by the said Lesley Jean O'Hara in the presence of:	) )	<u>"LJ O'Hara"</u>
	"JA Beck"		
	Witness Signature		

 $Y: A genda \\ A gendas \\ 2011 \\ \ MDC \\ \ 4 \\ \ October \\ 2011 \\ \ in MDC \\ \ Amendment \\ \ to \\ \ MTDT \\ \ Trust \\ \ Deed. \\ doc$ 

Name of Witness: <u>Jason Beck</u> Address: 15A Alloway Street, Fairlie Occupation: Finance Manager **SIGNED** by the said John Angland O'Neill in the presence of: "JA O'Neill" "JA Beck" Witness Signature Name of Witness: <u>Jason Beck</u> Address: 15A Alloway Street, Fairlie Occupation: Finance Manager SIGNED by the said Leon Francis O'Sullivan "LF O'Sullivan" in the presence of: "JA Beck" Witness Signature Name of Witness: <u>Jason Beck</u> Address: 15A Alloway Street, Fairlie

Occupation: Finance Manager

#### THE INITIAL TRUSTEES

Denis Selwyn Callesen of Mount Cook, Hotel General Manager Kieran Edward Walsh of Twizel, General Manager Graeme Peter Foote of Fairlie, Skifield Operator Graeme Douglas Murray of Lake Tekapo, Managing Director Lesley Jean O'Hara of Albury, Consultant John Angland O'Neill of Albury, Farmer Leon Francis O'Sullivan of Lake Tekapo, Accommodation Owner

# PROVISIONS GOVERNING THE NUMBER, APPOINTMENT, CESSATION OF OFFICE OR REMOVAL FROM OFFICE OF THE TRUSTEES

## 1 Number and Appointment of Trustees

- 1.1 The number of Trustees shall be not more than seven and not less than <u>fivetwo</u>.
- 1.2 The Council:
  - (a) has the power at any time to appoint Trustees for such term of office (not exceeding three years) as it shall determine; and
  - (b) has the power to remove any Trustee at any time without the need to give any reason for such removal.
- 1.3 The Trustees shall not include more than two Council councillors (including for the purposes of this clause the Mayor) or employees of the Council at any one time.
- 1.4 In exercising its power to appoint and remove Trustees the Council shall have regard to the need for the Trust to have trustees with skills and experience in areas appropriate to the objectives of the Trust.

### 2 Term of Appointment

- 2.1 Subject to clause 2.3 of this Schedule 2, the term for which each Trustee shall be a Trustee of the Trust shall be three years from the date on which each Trustee takes up office as a Trustee or such lesser time as shall be specified in writing by the Council at the time of making any such appointment.
- 2.2 A Trustee may serve more than one term.
- 2.3 At the first meeting of the Initial Trustees, the Initial Trustees shall each draw by ballot the length of his or her term of office as a Trustee being either up to one, two or three year terms, the intent being that after the ballot process has been completed the Trustees will be divided as near equally as possible between one, two and three year terms, with trusteeship terms ending as at 30 June in each year with the one year term ending on 30 June 2008, the two year term ending on 30 June 2009 and the three year term ending on 30 June 2010.

## **3** Cessation of Trusteeship

- 3.1 A person shall cease to be a Trustee if the Trustee:
  - (a) Resigns or retires by written notice to the other Trustees and the Council;
  - (b) Dies;
  - (c) Refuses or is unable to act in his or her capacity as a Trustee;
  - (d) Is a bankrupt who has not obtained a final order of discharge or whose order of discharge has been suspended, not yet expired, or is subject to a condition not yet fulfilled, or to any order under section 111 of the Insolvency Act 1967;
  - (e) Is a person who has been convicted of any offence punishable by a term of imprisonment of two or more years;
  - (f) Is a person who is disqualified from being a director of a company under section 382 of the Companies Act 1993;
  - (g) Is a person in respect of whom an order has been made under section 383 of the Companies Act 1993;
  - (h) Is a person who is mentally disordered within the meaning of the Mental Health (Compulsory Assessment and Treatment) Act 1992;
  - (i) Is a person who is subject to a property order made under section 30 or section 31 of the Protection of Personal and Property Rights Act 1988.
- 3.2 A Trustee shall cease to be a Trustee upon expiration of the term for which he or she is appointed to hold office as a Trustee or if no term has been specified upon the third anniversary of 30 June during the current term of his or her holding office as a Trustee.

3.3	A Trustee shall cease to be a Trustee from the date specified upon receipt of written notice from the
	Council terminating his or her appointment as a Trustee or if no date is specified then immediately
	upon receipt of any such written notice.

#### PROVISIONS GOVERNING THE MEETINGS OF TRUSTEES

#### 1 Meetings

The Trustees shall meet at such times and places as the Trustees think fit.

#### 2 Officers

The Trustees shall appoint such persons as shall be necessary to carry out the business of the Trust.

#### 3 Chairperson

- 3.1 The Trustees shall elect a chairperson from amongst its members at their first meeting and at every subsequent annual general meeting.
- 3.2 The chairperson shall preside at all meetings of Trustees at which he or she is present. In the absence of the chairperson the Trustees present shall appoint one of their number to preside as chairperson at that meeting.
- 3.3 The chairperson shall not have a casting vote.

#### 4 Notice of meetings

- 4.1 The chairperson or any two Trustees (or where there are less than three Trustees, any one Trustee) may at any time summons a meeting.
- 4.2 Seven days' notice of any meeting (stating the place, day and time of the meeting) shall be communicated to each of the Trustees unless all of the Trustees agree to shorten or waive the notice period.
- 4.3 No notice will be necessary for the resumption of adjourned meetings except to Trustees not present at the meeting adjourned.

#### 5 Quorum

- 5.1 A guorum for meetings of Trustees shall be a majority of Trustees.
- 5.2 No business shall be transacted unless a quorum is present.

#### 6 Voting

All decisions of the Trustees shall be decided by consensus. However, where a consensus decision cannot be <u>reached readily obtained</u> on a question, unless otherwise specified in this Deed, it shall be put as a motion to be decided by a majority of votes.

#### 7 Audible communication

- 7.1 The contemporaneous linking together by telephone or any other means of audible communication of enough of the Trustees to constitute a quorum shall be deemed to constitute a meeting of the Trustees so long as the following conditions are met:
  - (a) Each of the Trustees must have received notice of the meeting (or have waived notice) under clause 4.2 of this Schedule 3;
  - (b) Each of the Trustees taking part in the meeting must be able to hear each of the other Trustees taking part at the commencement of the meeting and (subject to the terms on which a Trustee may leave the meeting under clause 7.2 of this Schedule 3) throughout the meeting;
  - (c) At the commencement of the meeting each of the Trustees must acknowledge his or her presence to all the other Trustees taking part in the meeting.
- 7.2 A Trustee may not leave the meeting (whether by departing or disconnecting his or her telephone or other means of communication) unless he or she has previously obtained the express consent of the chairperson of the meeting. A Trustee shall be conclusively presumed to have been present and to have formed part of the quorum at all times during the meeting unless he or she has previously obtained the express consent of the chairperson to leave the meeting.

#### 8 Minutes

- 8.1 The Trustees are to keep minutes of their meetings and of all of their decisions. The minutes shall be kept in a minute book maintained by a person appointed by the Trustees.
- 8.2 Any minute of a meeting of the Trustees (including their decisions) purporting to be signed by the chairperson of the meeting or of the next meeting shall be prima facie evidence of the matters referred to in such minute having been authorised done or passed by the Trustees. The decisions

recorded in the minutes will be read in conjunction with the Trust Deed and will be binding on all persons interested in the Trust.

#### 9 Adjournment

- 9.1 If a quorum is not present within 20 minutes after the time appointed for any meeting, the chairperson of the meeting may adjourn the meeting to another time such date, time and place as the chairperson of the meeting may appoint.
- 9.2 Any meeting may be adjourned if the Trustees present so resolve.

#### 10 Interested Trustees and Conflict Transactions

10.1 Clauses 14.1 to 14.4 of the operative part of the deed govern the instances and consequences of a Trustee for whom a conflict of interest exists. When there is such a conflict of interest, clauses 2 to 10 of this Schedule 3 shall be deemed to have been varied to the extent required by clauses 14.1 to 14.4 of the operative part of the deed.

#### 11 Annual general meeting

- 11.1 The annual general meeting of the Trust shall be held each year within three months of the end of the financial year at such place and time as the Trustees shall determine.
- 11.2 The annual general meeting shall carry out the following business:
  - (a) receive the minutes of the previous annual general meeting;
  - (b) receive the Trust's statement of accounts for the preceding year and an estimate of income and expenditure for the current year;
  - (c) receive reports from the Board and its committees; and
  - (d) consider and decide any other matter which may properly be brought before the meeting.

#### **POWERS OF TRUSTEES**

The powers which the Trustees may exercise in order to carry out the charitable objects are as follows:

- To use the funds of the Trust as the Trustees think necessary or proper in payment of the costs and expenses of the Trust, including the remuneration of Trustees in accordance with clause 13 and the employment of professional advisers, agents, officers and staff as appears necessary or expedient;
- To purchase, take on lease or in exchange or hire or otherwise acquire any land or personal property and any rights or privileges which the Trustees think necessary or expedient for the purpose of attaining the objects and purposes of the Trust, and to sell, exchange, bail or lease, with or without option of purchase, or in any manner dispose of any such property, rights or privileges as aforesaid;
- 3 To carry on any business or other undertaking;
- To invest surplus funds in any way permitted by law for the investment of trust funds and upon such terms as the Trustees think fit;
- To borrow or raise money from time to time with or without security and upon such terms as to priority and otherwise as the Trustees think fit and to give guarantees in support of any borrowing which the Trustees consider to be for the benefit of or in the interests of the Trust;
- To instruct agents and consultants to act in relation to Trust assets or assets intended to be acquired or sold by the Trust;
- To enter into any arrangements with any government, public body or authority to obtain any rights, authorities, concessions or clearances and to give any undertakings binding upon the Trustees either generally or on conditions that the Trustees think fit and to carry out, exercise and comply with any of the same:
- 8 To enter into, perform and enforce agreements;
- 9 To institute, prosecute, compromise and defend legal proceedings;
- To incorporate any company to purchase, establish and carry on any business or other commercial venture for the purposes of the Trust;
- To receive and make donations and seek sponsorship;
- To undertake all necessary steps and to pay all or any of the expenses incurred in connection with the incorporation and establishment of the Trust as a charitable trust board;
- To enter into funding agreements and other contracts which are necessary or desirable to assist the Trustees in attaining any of the objects or purposes of the Trust; and
- To do all acts, matters and things as may from time to time be necessary or desirable to enable the Trustees to give effect to and to attain any of the charitable objects or purposes of the Trust.

## MACKENZIE DISTRICT COUNCIL

**REPORT TO:** MACKENZIE DISTRICT COUNCIL

**SUBJECT:** DISPUTE ASHWICK-OPUHA WATER RACE CHARGE

**MEETING DATE:** 4 OCTOBER 2011

**REF:** WAS 16/3 25280 17012

**FROM:** CHIEF EXECUTIVE OFFICER

## **PURPOSE OF REPORT:**

To resolve a rating dispute in respect of the Ashwick-Opuha Water Race.

## **STAFF RECOMMENDATIONS:**

- 1. That the report be received.
- 2. That the Council agree to remit the water race charge of \$254.00 incl GST levied against Mr Graham McDermid for the 2011/12 year, subject to confirmation that his neighbour does not require access to the water race.
- 3. That Council consider whether or not it wishes to make a similar adjustment to rates for the 2010/11 year.

## GLEN INNES CHIEF EXECUTIVE OFFICER

#### **ATTACHMENTS:**

Relevant correspondence on this matter. Aerial photo of the area.

## **BACKGROUND:**

Mr McDermid of Three Bears Running is the owner of two blocks of land off Clayton Road which have been subdivided for rural lifestyle blocks and are principally serviced by Allandale water.

A water race used to flow along the main race when three titles were held in the same ownership. Mr McDermid's neighbour (Pekachu Developments) has also been subdivided similarly and Allandale Water supplied.

The likelihood of either owner requiring Ashwick water is small but we have not had confirmation of this from Pekachu Developments (whose owner is in Australia).

Mr McDermid's grievance arises not from an action of Council but from the farmer currently leasing his and other land. The farmer diverted the race away from Three Bears Running to suit his own convenience and without the knowledge and permission of either Council or McDermid.

He feels it is unfair that he pays for a service that he does not receive and is seeking a rating adjustment for both the current year and the previous one.

The only issue that arises is if his neighbour still requires the water race which is accessed through the McDermid land. Water races are a co-operative venture where upstream owners are required to ensure their downstream neighbours receive adequate flows. Several dairy farmers in the scheme are still liable for scheme rates even though they fence the race off to prevent stock access.

#### **CONSIDERATIONS:**

This is a simple issue that can be easily resolved. A person served by the race that no longer requires water can withdraw from the scheme as long as that does not penalise other scheme members.

The likelihood of Pekachu requiring water is slight.

I am less certain about backdating any rating adjustment to the 2010/11 year. It may be a question of trading off some revenue against loss of goodwill from a ratepayer who feels he hasn't been fairly treated.



## Mackenzie District Council

27 September 2011

Attention: Graham McDermid 3 Bears Running Ltd P O Box 2870 CHRISTCHURCH

#### Dear Graham

Thank you for coming into the office this week to discuss the outstanding issues regarding these rates. I appreciate you paying your rates instalment while we sort these issues out.

We have written to Pekachu Developments in Australia regarding their intentions with respect to use of the water race but will proceed on the presumption that they do not want to remain part of the scheme.

As stated, I will seek a ruling from Council on these matters at the meeting on 4<sup>th</sup> October 2011. I am prepared to recommend the connection to this year's rates but feel I should leave the question of backdating to the Council.

I note that any adjustment to the position of water tobies will be left in abeyance while we sort these.

I will write to you shortly after the Council meeting.

Yours faithfully

Glen Innes

Chief Executive Officer

REF: WAS 16/3 & 25280 17012



## **Mackenzie District Council**

8 September 2011

Attention: Graham McDermid 3 Bears Running Ltd P O Box 2870 CHRISTCHURCH

#### Dear Graham

Thank you for your letter of 29 August 2011 regarding the water race through your property. I also would be annoyed if I was being charged for a service I was not capable of receiving a benefit from.

Upon investigating the matter, I have discovered the following:

- The recent actions by the farmer in filling the race were not authorised by Council and in fact were against our engineer's specific instructions.
- The race through your property and both of your neighbours was originally one meeting the needs of the previous farmer who farmed all three titles as one.
- We were in error in not recording the race as a supply race in our Regional Council Consent Application I apologise for that.
- We are trying to confirm whether or not your neighbour Pekachu Developments requires water from the race. If they do not, and you do not either, the race can be eliminated from the scheme.
- If Pekachu Developments do require water, we need to keep the race open through your property regardless of whether you wish to draw from it or not. There are a number of instances in the scheme where the race traverses properties that do not take water from it.

To finalise matters, can you please sign the attached copy of this letter and return it to me. As soon as I hear from Pekachu Developments Ltd, I will arrange an appropriate rating adjustment to be made.

Yours faithfully

Glen Imnes

Chief Executive Officer

REIT: WAS 16/3 & <del>25280 17012 -</del>



# 3 BEARS RUNNING LTD

P.O. Box 2870 CHRISTCHURCH Cell 0274330086

Glen Innes MacKenzie District Council P.O. Box 52 Fairlie.

29th August 2011

Dear Mr Innes,

Please find attached a letter sent to John O'Conner regards the deletion of my water race.

You may have guessed by now that I am getting somewhat annoyed with your Council and the way they have handled water provision & costs. Further to my recent issues, which as far as I am concerned have not been settled, I find I am being charged for water I am not getting.

I supported (in writing with a submission to ECAN) the renewal of the water right after encouragement from the Council to do so. John O'Conner did not show my water race on the plan put to ECAN and therefore has deleted my water race from the water allocation when the ECAN resource Consent was agreed and renewed. Further to this when I approached John about the matter he confirmed I was paying rates for the water I was not getting. He suggested I put this in writing to him. (see attached letter). John suggested I request repayment of over charged rates which I did.

I again rang John to find out what was happening. He advised that the rates could not be refunded and asked if I did or did not want the water in the race and that he was talking to the farmer who leases the land and said the farmer told him he did not want the water.

Needless to say I was furious to hear that the Council had missed off my water race in the application and have been charging me for some time for water I was not receiving and that the overcharging would not be refunded. Needless to say I was furious to the point I had to terminate the phone conversation.

Now to my amazement and with out any consultation, the farmer has filled in the water race, and I can only assume under instructions or conversation with John O'Conner. I have not been phoned consulted or written to about this action. To add to this insult I received my rates demand today to find the Council is still charging me for water in my no longer existing water race. Does this Councils disregard for my rights and lack of moral fiscal justice have any bounds?

I expect to get a full explanation for these actions and I expect an outcome. My approach to these matters from here on will be determined by your response.

Graham McDermid P.O. Box 2870 Christchurch.

Yours truly,

Graham McDermid

Graham & Janet McDermid 1045 Clayton Rd.

# 3 BEARS RUNNING LTD

P.O. Box 2870 CHRISTCHURCH Cell 0274330086

John O'Connor MacKenzie District Council PO Box 52 Fairlie

21st July 2011

Dear John,

Thank you for taking the time to discuss the ECAN extension of the resources consent to the water race system at Ashwick flat.

You confirmed an extension to the water right had been granted and confirmed that you had not included my water race in the extension. In its self this is not particularly problematic but the fact that I am paying rates for water I am not receiving is. Would you please take this issue up with the rating department and arrange a refund for water rates paid for water not received.

Thank you in advance for your assistance in this matter.

Thanks.

Graham McDermid

Graham McDermid

## MACKENZIE DISTRICT COUNCIL

**REPORT TO:** MACKENZIE DISTRICT COUNCIL

**SUBJECT:** GENERAL ACTIVITIES REPORT

**MEETING DATE:** 4 OCTOBER 2011

**REF:** PAD 2/3

FROM: CHIEF EXECUTIVE OFFICER

## **ACTIVITY REPORT**

## **COUNCIL, COMMITTEE AND BOARD MEETINGS**

24 August	LTP Funding Workshop	
29 August	LTP Workshop – Overheads & Cattlestops/Tourism	
	rate and Twizel Rate discussions	
30 August	CEO Review with Stewart Mitchell	
6 September	LTP Committee meeting.	
_	Audit & Risk Committee.	
12 September	Twizel & Tekapo Community Boards.	
14 September	Fairlie Community Board.	
	First meeting of new Trustees in the Mackenzie	
	Medical Trust.	
16 September	Mackenzie Tourism & Development Trust first	
	meeting with new Board.	
19 September	LTP Workshop – Sewer and Water Rating.	
27 September	Committee Meetings.	
28 September	Tourism Trust Meeting.	
4 October	Council Meeting.	
	Finance Committee.	

## OTHER MEETINGS AND ACTIVITIES

24 August	Met with Bernie Haar	
25 August	DISC Analysis with Management Team and Julie &	
	Catherine.	
	Attended Aoraki Foundation Function & Launch of	
	the Aoraki Foundation Endowment Gifting	
	Programme in Timaru with the Mayor.	
26 August	DISC Analysis with Management Team and Julie &	
	Catherine.	
29 August	Met with Management Team to discuss LTP Timeline.	
31 August	Rates discussion with Peter Bell and the Mayor in	
	Twizel.	
	Spoke with JRA Best Workplaces survey	
	representative.	
1 September	Management Meeting.  Mackenzie Medical Trust stakeholders meeting with	
	the Mayor.	

2 September	Met with Robin Rawson from Progress Seminars in	
	Christchurch.	
5 September	Annual Leave.	
7 September	Bernie Haar fortnightly catchup.	
8 September	Nathan Hole fortnightly catchup.	
9 September	Met with Tony Alden for a catchup.	
	Staff Meeting.	
	Attended Fairlie Resource Centre Relocation.	
12 September	Management Meeting	
13 September	Zone 5 meeting with Mayor in Christchurch.	
14 September	Paul Morris fortnightly catchup.	
15 September		
	Attended Relay for Life in Twizel with the Mayor.	
16 September	Met with Barbara Nicholas from Ecan regard	
	Opihi/Orari/Paeroa Zone Committee.	
20 September	Management Meeting.	
	Bernie Haar fortnightly catchup.	
21 September	Met with Chrissie from Information Leadership.	
22 September	Training with Information Leadership.	
26 September	SC Anniversary.	
28 September	Paul Morris fortnightly catchup.	
29 September	Alps 2 Ocean Meeting.	
	Garth Nixon fortnightly catchup.	
	South Canterbury District Health Board meeting with	
	3 SC Mayors and CEO's in Timaru.	
30 September	Met with Andrew Simpson and Nathan Hole.	
3 October	Management Meeting.	
	LTP Committee Meeting.	

#### **RECOMMENDATION:**

- 1. That the report be received.
- 2. That the Council note that Nathan Hole will be acting as CEO during Glen Innes' leave between 17 October and 22 November.
- 3. That Council note the Long-Term Plan preparation is running behind schedule at this stage and that additional effort will be needed to make up lost ground.
- 4. That a meeting of the Audit & Risk Committee be convened to be briefed on progress with the annual audit.
- 5. That Council consider revised policies for adoption at its meeting on 15 November 2011.
- 6. That Council approve in principle changes to the rating boundaries and rating system in Twizel to better reflect growth and development in the area and that formal consideration and public consultation on these issues be part of the Long-Term Plan process.

## GLEN INNES CHIEF EXECUTIVE OFFICER

#### Leave

I will be away on leave overseas from 18 October until 22 November exploring both Central and South America by sea and land. My last day of work will be Friday 14 October 2011. During my absence, Nathan Hole will act as CEO.

#### Long-Term Plan

Work is proceeding with the Long-Term Plan but I am concerned about skippage that has already taken place. Additional effort will be needed to make up lost ground. We have reviewed the new requirements of the legislation that was amended recently to assess the implications for us.

#### **Annual Report**

The auditors have commenced their work on the audit of the annual report. A significant amount of effort was needed to get the required work done beforehand but the Finance Manager is confident all is on track. The Audit and Risk Committee will need to be briefed on progress.

#### Policy Review

I had intended to have a range of revised policies ready for adoption this meeting. Other tasks have taken precedence and these will now be presented at the next Council meeting on 15<sup>th</sup> November 2011.

#### **Tourism Trust**

The Tourism Trust has met twice since the last meeting with the new Trustees getting to grips with the challenges they face. Jim Scott is the new Chair. Fortnightly meetings have been planned to progress new strategies and approaches.

#### Mackenzie Medical Trust

The new Trust has held one meeting where Annette Money was elected Chair. The trustees are:

Annette Money Margaret Munro Marian Palmer Jim Scott.

#### **Twizel Rating**

The Community Board has achieved a general consensus on how they wish to expand their urban rating base progressively as the town expands. They also propose a flat charge contribution towards community services for these rural properties that have houses on them.

These ideas are workable and can fit the requirements of the Local Government (Rating) Act 2002.

The Board envisages the town boundary for rating purposes being examined yearly and adjusted if required. The formal adoption of the proposals will need more detailed work but the ideas can be agreed to in principle at this stage.

#### MACKENZIE DISTRICT COUNCIL

**REPORT TO:** MACKENZIE DISTRICT COUNCIL

**SUBJECT:** COMMON SEAL AND AUTHORISED SIGNATURES

**MEETING DATE:** 4 OCTOBER 2011

**REF:** PAD 15/7

**FROM:** COMMITTEE CLERK

**ENDORSED BY:** CHIEF EXECUTIVE OFFICER

#### **PURPOSE OF REPORT:**

To advise of the documents signed under the Common Seal from 18 August 2011 to 29 September 2011.

#### **STAFF RECOMMENDATIONS:**

- 1. That the report be received.
- 2. That the affixing of the Common Seal to document numbers 720 and 721 be endorsed.

## ROSEMARY MORAN COMMITTEE CLERK

Number	Detail of Document	Date Signed & Sealed	
720	Deed of Lease – Mackenzie District Council (Lessor Twizel Early Learning Centre (Lessee)	) and 25 August 20	)11
721	Forestry Allocation Plan – Application for Allocation NZ Units under the Emissions Trading Scheme for p Plantings.	•	011

## CANTERBURY CIVIL DEFENCE EMERGENCY MANAGEMENT GROUP JOINT COMMITTEE

## MINUTES OF THE MEETING HELD IN THE COUNCIL CHAMBER, SELWYN DISTRICT COUNCIL, NORMAN KIRK DRIVE, ROLLESTON ON MONDAY, 22 AUGUST 2011 COMMENCING AT 11.07 AM

#### **PRESENT**

#### **Joint Committee:**

Ashburton District Council Mayor Angus McKay Cr Helen Broughton Christchurch City Council **Environment Canterbury** Commissioner Donald Couch Hurunui District Council Mayor Winton Dalley Mayor Winston Grav Kaikoura District Council Mackenzie District Council Mayor Claire Barlow Mayor Kelvin Coe Selwyn District Council Timaru District Council Mayor Janie Annear Cr Roger Blair Waimakariri District Council Mayor John Coles Waimate District Council

#### **CEG Members**

Christchurch City Council Jane Parfitt & Murray Sinclair CDEM Controller designate Neville Reilly Bill Bayfield (Chair - CEG) **Environment Canterbury** Mackenzie District Council Glen Innes Peter Cameron & Alan Walker Ministry of Civil Defence & Emergency Management Selwyn District Council Paul Davev Waimakariri District Council Jim Palmer Waimate District Council Tony Alden

#### **IN ATTENDANCE**

Dame Margaret Bazley Environment Canterbury
Cr Chrissie Williams Christchurch City Council

Canterbury Emergency Management Office Jon Mitchell Environment Canterbury Wayne Holto

vironment Canterbury Wayne Holton-Jeffreys
Louise McDonald

#### 1. WELCOME AND APOLOGIES

Bill Bayfield, Chair of the Co-ordination Executive Group (CEG), welcomed everyone to the meeting and confirmed that there would be an election to appoint the Committee Chair and Deputy Chair. He welcomed Cr Helen Broughton to her first meeting of the Joint Committee.

An apology was received from Cr Darryl Nelson. Mayor Angus McKay advised that he would probably attend these meetings as they followed the Mayoral Forum.

#### 2. ELECTION OF CHAIRPERSON AND DEPUTY CHAIRPERSON

Bill Bayfield called for nominations for the chairperson of the Joint Committee.

Being nominated by Mayor Kelvin Coe, seconded by Mayor Claire Barlow, Mayor Janie Annear was elected as chair of the Canterbury Civil Defence Emergency Management Group Joint Committee.

Being nominated by Mayor Angus McKay, seconded by Commissioner Donald Couch, Mayor Kelvin Coe was elected as deputy chair of the Canterbury Civil Defence Emergency Management Group Joint Committee.

Mayor Janie Annear thanked the committee and assumed the chair.

#### 3. MINUTES OF PREVIOUS MEETING

#### Resolved

That the minutes of the previous meeting held on 13 December 2010, as circulated, be received and adopted.

Mayor Kelvin Coe/Cr Roger Blair

The unconfirmed minutes from the meeting of the CDEM Co-ordination Executive Group (CEG) held on Friday 19 August 2011 were tabled. The Joint Committee were advised that some of the recommendations from the CEG differed from those in the Joint Committee agenda, which was circulated prior to the CEG meeting.

#### 4. MATTERS ARISING

There were no matters arising from the minutes.

#### **MATTERS FOR DECISION**

#### 5. APPOINTMENT OF GROUP CONTROLLER

Dame Margaret Bazley reported that she had been requested by the Mayoral Forum to lead a working party to facilitate the recruitment process for the CDEM Group Controller position following the retirement of Bob Upton. The recruitment process attracted several high calibre applicants and the panel was pleased to recommend the appointment of Neville Reilly.

A correction to the report was noted, Paul Davey was not a member of the interview panel.

Dame Margaret explained the proposed reporting structure which had the Group Controller directly accountable to the Joint Committee.

With the appointment of the chair and deputy chair to the Joint Committee, Dame Margaret advised that her role with the Joint Committee has been completed, but she would be available to provide support or assistance if required.

#### Resolved

That the CDEM Group Joint Committee:

- (a) Approve the revised Civil Defence Emergency Management Group Controller role and reporting lines; and
- (b) Appoint Neville Reilly as the Civil Defence Emergency Management Group Controller, and
- (c) Approve the media release in relation to the appointment.

Mayor Kelvin Coe/Mayor Claire Barlow

Mayor Janie Annear welcomed Neville Reilly to the role, noting that the events of the last year have shown how important the work of the CDEM Group is. She thanked Dame Margaret for her leadership on this matter.

#### 6. REGIONAL EMERGENCY MANAGEMENT OFFICE REPORT

Bill Bayfield presented this report. He reported that at the CEG meeting held 19 August 2011, CEG had agreed to develop some key messages and scope to assist all CDEM Group members and partner organisations for when they were making presentations on the earthquake response.

CEG had discussed the recommendation that a review of knowledge, arrangements and capabilities pertinent to the earthquake risk in Canterbury be initiated. It was recommended that a review not be initiated at this time as many other reviews are being undertaken. In the meantime CEG will look at the capability report and the role of CEG and the Joint Committee.

Alan Walker advised that two overarching reviews were being undertaken. The Office of the Minister of the Prime Minister and Cabinet are reviewing the operation of government agencies and how they worked together. The Director Civil Defence Emergency Management is leading a review of the response in the operational sense up to the recovery phase.

#### Resolved

- (a) That the Regional Emergency Management Office report be received.
- (b) That it be noted that Civil Defence Emergency Management reviews are taking place and that the Co-ordination Executive Group will discuss the role of CEG and the Group.

Mayor Janie Annear/Mayor Kelvin Coe

#### 7. CDEM CAPABILITY ASSESSMENT REPORT

Bill Bayfield introduced this report that included a summary of recommendations with suggested priorities.

#### Resolved

That the CDEM Group Joint Committee:

- (a) Receive the Capability Assessment Report;
- (b) Adopt the suggested actions and priorities as the basis for a new CDEM Group work programme;
- (c) Thank the Ministry for Civil Defence Emergency Management for the Capability Assessment Report; and
- (d) Advise the Ministry that the recommendations contained in the report will be used to inform a comprehensive work programme for the CDEM Group and in the review of the CDEM Group Plan.

Commissioner Donald Couch/Mayor John Coles

#### 8. SEPTEMBER RESPONSE REVIEW

Bill Bayfield introduced this report and advised that CEG members had advised that there were errors of facts, omissions and recommendations that could not be supported in the report commissioned by the Director of CDEM "Independent Review of the Response to the Canterbury Earthquake, 4 September 2010".

CEG were concerned that the report did not make it clear that the September report was not complete. While acknowledging that the September report would not be reviewed, as a second report was now being commissioned following the February earthquake, it was considered important to provide feedback to the Ministry. CEG would co-ordinate the response and provide a copy to Joint Committee members.

#### Resolved

That the CDEM Group Joint Committee:

- (a) Receives the Independent Review of the Response to the Canterbury Earthquake, 4 September 2010,
- (b) Thank the Director of Civil Defence Emergency Management for the Independent Review of the Response to the Canterbury Earthquake, 4 September 2010; and
- (c) That Selwyn District Council, Waimakariri District Council, Christchurch City Council and the CEG Chair identify the errors of fact and areas of concern within the report and provide this information to the Director of Civil Defence and Emergency Management as a counter point to the report.

Mayor Angus McKay/Cr Helen Broughton

#### **MATTERS FOR INFORMATION**

#### 9. ENGINEERING LIFELINES

Attached to the agenda was a report from the Canterbury Lifelines Utilities Group.

Resolved

That the report from the Canterbury Lifelines Utilities Group be received.

Mayor Janie Annear/Mayor Kelvin Coe

#### **GENERAL BUSINESS**

#### **CO-ORDINATION EXECUTIVE GROUP CHAIR**

Noting that Warwick Isaacs had taken up a new role with the Canterbury Earthquake Recovery Authority (CERA) Mayor Janie Annear expressed thanks and appreciation to Warwick for his leadership of CEG.

#### Resolved

That the Civil Defence Emergency Management Group Joint Committee thank Warwick Isaacs for his leadership of the Co-ordinating Executive Group.

Mayor Angus McKay/Mayor Claire Barlow

#### **NEXT MEETING**

The next scheduled meeting was 21 November 2011, but it was noted that with the number of reviews being undertaken, it may be necessary to meeting before then.

The meeting closed at 11.46 a.m.

	CONFIRMED	
)ate		Chairnerson

#### Alps 2 Ocean Joint Committee

A joint committee of Mackenzie & Waitaki District Councils

Minutes

Alps 2 Ocean Joint Committee

Wednesday 17<sup>th</sup> August

10AM Otematata Community Centre – the old ECNZ Building

- 1. Present: Mike Neilson, Denis Callesen ,Rob Young ,Annette Money, Craig Dawson
- 2. In Attendance: Michael Ross, Thunes Cloete, Phil Brownie, Glen Innes Coralie Reid Minute secretary, Chris Eden PM
- 3. Apologies: Hugh Packer, Michael Ross

Meeting opened at 10am - Welcomed by Mike Neilson

4. Confirmation of Minutes of meeting held 13<sup>th</sup> June 2011

Moved: Craig Second: Annette

**Updated from Minutes:** 

PB – Lane Neave following up still – expected end of August.

#### 5. General Business:

5.1 Governance Structure -

Thunes – tabled motion from Waitaki Council meeting 24<sup>th</sup> May 2011. Reference Appendix 1.

Action – Shareholders Agreement to be written up Michael/Glen on behalf of Joint Committee to present back to Councils.

#### 5.2 Business Plan

MN -Existing grant NZCT cannot be used currently to fund/progress BIZ Plan for A2O ltd. John Dunn approached.

Waitaki Development Board has 100k in existing budget unused that can be approached (identified by Stephen Halliwell.)

Funding the Business plan is fundamental to progress.

Externalities accrue benefits – costs borne by A2O ltd, how do we internalize the externalities costs/benefits?

Waitaki/Mackenzie Councils – funding source?

GI – Proposal needed from A2O Joint Committee to be put to Councils to be incorporated into Long Term Plans.

Waitaki by end September as currently in Draft LTP stages and Tourism Levy being reviewed.

Seed \$ sought(20k) from MED to fund Stephen Halliwel to progress Biz Plan as concept/Template to other trails, this can then be basis for further funding sought from Waitaki/Mackenzie Councils.

CN- Argument for Biz plan seed money, practicalities of running a trail, seed capital for directors, blue print for other trails. Could be as loan to be repaid.

RY – Allow Grant to have 1% converted to allow spending on Business Plan – make contingency smaller.

#### Motion:

Chairman to approach John Dunn/MED/John Key for seed funding (up to 20k) of business plan to then allow co funding support from Mackenzie and Waitaki Councils.

Moved: Mike Neilson Second: Craig Dawson

General discussion over concept page – BIZ Plan created by Denis Callesen.

DC -At a minimum Maintenance to be covered so no cost.

www to be user friendly, support all different product providers (earn commission)

Set up cost 25k to make functional (reservations off AMCAVL model)

but ranges up to 300k if own model set up.

DOC Concession = Roxburgh model, A2O ltd is single concessionaire and can have licensed operators.

Tasman Crossing = clip ticket. Revenue Source.

RY – why not sell of A2O ltd as a package, issues around maintenance and relationships to Councils.

#### Progress further:

Thunes – catch up with Hugh (re Waitaki Development Board)
Mike – contact MED for seed Money 20k/explanation letter. – Proposal to Waitaki/Mackenzie Councils.

#### 5.3 Directors'

General discussion around shortlist of candidates chosen based on EOI and follow up received. Mike received calls/ follow up after from:

Andrew Hocken Sara Leadbetter Tom Pryde.

#### Motion:

That Andrew Hocken, Sara Leadbetter, Tom Pryde be added to shortlist of Directors to make a total of 9.

Adair Craik, Bryan Prestidge, Cindy Douglas, Darren Burden, David Compton, Tristan Leov, Andrew Hocken, Sara Leadbetter, Tom Pryde.

Moved: Craig Dawson Second: Annette Money.

Discussion around need for candidates to attend a Workshop run by facilitator, overview/maps/communities etc and feedback onto Business Plan. Strategic vision along the lines of water zone committee style.

Action: Mike/Coralie update candidates of current status. BIZ plan etc. Tom Pryde CV required.

#### 5.4 This season I Product

PB – Commercial property transactions, 3 are on hold pending status of trail. 1 Oamaru, 2 Twizel. Interest is out there, 90 day lead in time for bike wholesale into NZ.

TC – Ngai Tahu have 3 properties in area, keen to develop along lines of Kaikoura Development.

#### 5.5 Tasman River Crossing

DC to revert short report on 8 proposals for Crossing.

Motion: Funds saved from Mount Cook to Airport (now under DOC) to be allocated towards Tasman River Crossing options.

Moved: Denis Second: Annette

#### 5.6 Denis Contract signed off/ extension of contract.

Deferred.

Valid until 0<sup>th</sup> September 2011

#### 5.7 Policy for Tenders

General discussion – follow MED guidelines given to trails.

If over 50k Clear, robust & competitive. Over 1 k invoice must be produced to NZCT monthly. 10K & Over competitive quotes needed.

Practical application.

PM – Consultants work has been spread around various consultants.

Action: PM to send out Expression of interest to all main Contractors. Competitive quotes then to come from this list.

#### 5.8 John Dunn visit 18th August

Focus on lower Waitaki with Chris and Denis.

6.

#### Reports tabled:

- Waitaki Committee Thunes
- NZCT July
- Financial Milestone & July summary. Approved.
- A2O ltd Biz plan concept Denis Callesen
- Project Managers Report.- Chris Eden

#### Waitaki

5 Owners have gone to Lawyers for easements.

Easements from Duntroon to Oamaru categorized as A B C, focus is on A B.

Diverting route accordingly.

CE – advised the concern over 4m can be reduced to 2.5m with 1.5m being track and .5 either side as long as access turn around for equipment is available.

Easements in perpetuity, can add arbitration clause (Schedule 2) – terms negotiated.

- Any exceptions Project Team to see.

Easements are being signed by Waitaki Council on behalf of A2O.

Holcim meeting this week. Waitaki Council funding from Holcim to Oamaru.

CD – Bog Roy, Tenure review submission withdrawn by Waitaki as Landowner now more sympathetic to trail.

GIS Mapping (updating our trail into maps) Waitaki Council ok to take on in-house.

#### Mackenzie

Road show update – Appendix 2.

Additional held at Glentanner.

Twizel = 3 ways out of town to Glen Lyon Road

1. Nuns Veil 2. North West Arch. 3. Mackenzie Drive

#### **Project Managers Report.**

Chris spoke to report, tabled summary of costings anticipated now until December. Appendix 3.

#### Joint Committee endorsed

- 1. Starting point is Aoraki Mount Cook Village.
- 2. Promotion of trail for signage along trail Otago trail model 4 sided signs (Alps2Ocean Trail)
- 3. Promotional signage already approved for Pukaki (salmon farms) Mount Cook and Duntroon.
- 4. Tasman River section built as grade 2 trail, once logging operations ceased circa November/December 2011.

Tasman River Crossing (costing schedule attached as reference Appendix 4) Helicopter Crossing still cost effective and price point appealing to trail users. \$135 (4 -10pax) includes \$20 levy \$10 commission.

- 5. Trail built to TAG (technical advisory group John Kennett) spend funds to highest track obtainable
- 2.3 Report Twizel to Lake Ohau

Along Glen Lyon Road. Most is 80km but section of 100km Consensus –

Denis write to MDC to consider reducing section to 80km – new signage – speed & cyclists.)

#### 2.5 Report Kurow to Duntroon

Joint Committee endorsed highway for routing.

#### 3.4 Report Pukaki Moraine

Joint Committee endorsed limited notification option. Gus and trail connected / finished within next 8 weeks

#### 3.6 Report Ohau Moraine

Joint Committee endorsed limited notification option.

General discussion around how A2O has indicated Aoraki Mount Cook to Ohau Lodge by November 2011 being open.

Now refined as:

Aoraki Mount Cook to Lake Ohau Weir by November 2011 being open to Lake Ohau Lodge January 2012.

#### 3.14 Project Office Twizel

Action – Glen to see if space available within Twizel Council Offices.

#### 3.15 Iwi Familiarisation Trip

Joint Committee endorsed

#### 7. General Business

AM – Picnic areas with tables every 15km are these been considered. DC- on going cost savings in sections being identified /updated monthly.

8. Meeting close: 1.45pm

9. Next Meeting: Thursday 28<sup>th</sup> September. 10AM. Council Chambers TWIZEL

#### Appendix 1:

Agenda item taken from Waitaki Council 24<sup>th</sup> May 2011 extra ordinary Council meeting

1. Alps2Ocean

Waitaki and Mackenzie District Councils have been working on putting in place a robust governance structure for the operation of the Alps2Ocean Cycle trail. This structure is designed to take best advantage of the community input that has gone into the project to date, to recognize the partnership between councils, to manage risk of liability and costs to the councils and to maximize revenue opportunities so that the trail is self supporting without regular ratepayer contributions.

**RESOLVED** 

WDC11/107 Crs Dawson/Stead

"That Council resolves that:

- 1. Having considered the submissions on the statement of proposal for Alps 2 Ocean Cycle Trail ltd, the Alps2Ocean Joint Committee is instructed to constitute Alps2 Ocean Cycle Trail Ltd and deal with all matters in accordance with the Committee's term of reference.
- 2. The Alps 2 Ocean Joint Committee is instructed to prepare and recommend to the Councils a Shareholder's Agreement for their approval.

CARRIED.

Appendix 2

#### Alps 2 Ocean Cycle Trail Community Update

At the end of June Community updates were held in Omarama, Twizel, Kurow and Oamaru.

The following are notes taken from the speakers.

Craig Wilson – Member of Ministry of Economic Development Technical Advisory Group for National Cycle Trails - Nga Haerenga

- 18 new cycle trails opening 8 easy/8mid range/2 hard
- 20,000km Cycle Trails throughout New Zealand
- NZ is on World's Top 10 Cycle trails
- Alps 2 Ocean has the potential to be the Best in the World
- What can we expect?

Low volume initially

Seasonality

Competition – we need a point of difference

'Cherry picking' - choosing points of the trail rather than the whole trail

Profitability 3-5 years

Phil Brownie – General Manager of Destination Mt Cook Mackenzie

- History of Alps 2 Ocean 2009 working party formed
- Long term Goal: Sustainable product for Council
- Hire local consultants and builders
- 2<sup>nd</sup> week in November 2011 Aoraki Mt Cook to Ohau open
- Late 2012 remainder of Alps 2 Ocean Cycle trail open
- Opus feasibility study is available contact Phil Brownie

• Otago Rail Trail information

Predominantly New Zealander's followed by Australians

3-4 days - 150km trail

Viable long weekend holiday option

Beginnings in the back packer market

In the past six years all accommodation has been up graded – all on suited

Hotels every 20km

Seasonal - mid- February to mid-April

Statistics

12,500 per annum on the Rail Trail (official)

20,000 per annum 'cherry pick' (casual uses)

45-70 age group, mainly women

Guided - 7-11%

Supported independent 40-50%

New Zealand Do it yourself 40-50%

Female 55% Male 45%

Often cycling in groups

Alps 2 Ocean – 6 day cycling – 1 day travel each side

#### General Questions & Answers:

- 1. **Is the trail going to be fenced?** Yes the trail will be fenced off from stock; there are transit guidelines to follow.
- 2. What legal ramifications are there of keeping the name Alps 2 Ocean? There is no legal protection on the name.
- 3. What about the costs of the trail? Waitaki District Council and Mackenzie Council will underwrite the building of the trail.
- 4. **How is the trail going to be financially sustained?** We are open to ideas; rates to use the trail, booking fees etc
- 5. What is the levy on the Otago Rail Trail? There are concessions, no levies.
- 6. What about cyclist's safety on bridges? Government have rules and requirements and options are being looked at, lighting etc
- 7. **Does the cycle trail have to be continuous?** Yes, Point A to B.
- 8. Where does the trail stop and start? Cyclists determine where they go themselves.
- 9. **What is the timeline?** Depends on engineering/roading etc and changes that are made to the trail from community feedback.
- 10. What about altering the trail? There has to be consultation with land owners where the land is privately owned, mutual agreement must be reached in these cases.
- 11. How can we feedback to the Alps 2 Ocean Committee? Best to come to your Community Boards, they will then interface with the committee.
- 12. **How will the trail be coordinated?** Alps 2 Ocean will be a company with Directors including representatives from Destination Mt Cook Mackenzie and Tourism Waitaki.
- 13. What are the dimensions of the trail? The trail will be 4 meters wide.

#### Alps 2 Ocean Project

#### **Current commitments August 2011**

(Does not include project management and internal costs).

Name	Purpose	Approx Duration	Approx Cost
Glen Davis Consulting	Resource Consents	June-Nov	\$10,000
Glenn Davis Consulting	LINZ easements	July – Aug	\$1,000
Berry & Co	LINZ easement docs	Aug	\$2,000
Blakely Wallace	Landscape assessments	July – Nov	\$7,000
Blakely Wallace	Facilities design	Aug - Oct	\$2,000
Primecorp Consultants	Tech specs – Waitaki	Aug – Nov	\$20,000
Opus	Tech Specs – Mackenzie/Omarama	May – Nov	\$30,000
Kiriana Glason Wilson Contractors Project Office Iwi field trip Approx Total  Anticipated for Sep-Oct Sign supply Toilets Ohau trail contract Elephant Rock contract AP20 stockpiles	Graphic design – signs  Construction- Pukaki  Visible presence Twizel  Develop relationship with Runanga	Aug – Sept Sept – Nov Aug-Sept Sept Oct-Dec Oct-Dec Nov-Dec Nov-Dec Sept-Oct	\$5,000 \$130,000 \$3,000 \$4,000 \$214,000 \$20,000 \$40,000 \$100,000 \$100,000 \$80,000
Approx total			\$340,000





SBS Events Centre
Aorangi Park
Morgans Road
PO Box 634
Timaru
Telephone 03 686 0751
Fax 03 686 0752
www.sportsouthcanterbury.org.nz

9 September 2011

Mr. Garth Nixon Facilities Manager Mackenzie District Council Main St

Dear Garth,

Attached is a report on the services we provided in the Mackenzie District during the 12 months from 1 July 2010 – 30 June 2011.

Please contact me if you require any further information.

Yours faithfully

Verna Parker Regional Manager Sport South Canterbury





### **SPORT SOUTH CANTERBURY**

# ANNUAL REPORT TO MACKENZIE DISTRICT COUNCIL

1 July 2010 - 30 June 2011

Prepared by Verna Parker Regional Manager Sport South Canterbury

- Databases: The Sport South Canterbury (SSC) databases are currently under review. Our databases for the Mackenzie District contain information about sports organisations (24records), schools (7 records), activity providers (10 records) and community contacts (56 records)
- People with Disabilities: The Sport Opportunity Advisor works with schools, sports clubs and regional sport organisations to ensure that they can cater for the sporting needs of disabled people especially children. Sport South Canterbury provides the links, creating opportunities for people with disabilities, and assistance for families through applications for Halberg Trust funding.

Two young people from Fairlie have received funding from the Halberg Trust for one on one lessons to improve their sports skills

- ➤ Lucy Fraser \$200 for swimming lessons
- Samuel Tait \$250 for skiing lessons

#### 3 Networks to support Physical Activity (PA):

SSC worked with the following groups to support PA in the Mackenzie District: Schools, GP practices, Exercise Providers, Sports Clubs Mackenzie District workplaces, Fairlie Heartlands Resource Centre, and Twizel Information Centre. SSC also works with many network groups to enhance health and wellbeing through PA in the Mackenzie District.

#### Wellness and Vitality in Education (WAVE)

SSC is a key member of the WAVE health promotion framework that focuses on health education across early childhood, primary, secondary and tertiary settings.

SSC represented at all levels.

- o Governance steering group: 4 bimonthly meetings attended.
- Working Group: 5 bimonthly meetings attended.
- Operational group: focuses on delivery of PA in primary schools 12 monthly meetings attended
- Funding allocation group: responsible for allocation of funding to education settings for projects and professional development -\$3100 of WAVE funding has been distributed to Mackenzie College (\$2000) and Twizel Area School (\$1100) schools in the last 12 months.
- Healthy Living South Canterbury: a new group that is a combination of the Healthy Active Living Team (HALT) and Healthy Eating Healthy Action Steering Group (HEHA). It provides communication and support of health promotion information for PA and nutrition.
  - Attended 3 quarterly meetings and provided PA information for 3
     HEHA newsletters distributed to Mackenzie District stakeholders.
- SCDHB Health Promotion Steering Group: sharing health promotion plans / business plans and information on funding and planning to avoid duplication. Implemented a SC Health Promotion Matrix. Attended 3 quarterly meetings.

- South Canterbury District Health Board (SCDHB): provides support to deliver GRx Be Active Programmes, SOYF Falls Prevention programmes, Sea 2 Sea PA Challenge and a Non Participating Youth Projects.
- Member of the **Bikewise Network Group:** joint lead agency involved in planning Bikewise month 2011 in South Canterbury.
- Community Cycle Trailer: SSC administers the hire of this community cycle trailer which is available for hire by the community. The trailer has been hired out by 8 groups over 32 days in the last 12 months.

#### 4 Liaison with Health and Physical Activity Providers:

#### Green Prescription Partnerships (GRx):

Partnerships have been developed with the following groups: GP's and Practice Nurses from High Country Health, & Fairlie Medical Centre, PA providers for Pilates, Gentle Exercise, Zumba, Line Dancing, Yoga, Tai Chi & Twizel Gym.

#### Stay On Your Feet Partnerships ( SOYF):

Partnerships have been developed with following groups: GP's and Practice Nurses from High Country Health & Fairlie Medical Centre, and Shirley from Fairlie Gentle Exercise Group.

#### 5 Advisory Group Meetings

No advisory Group meetings have been held in the last 12 months in the Mackenzie District

6 MDC staff support: No requests have been made for support within the last reporting period.

#### **OBJECTIVE B:**

## MAINTAIN THE LEVEL OF PHYSICAL ACTIVITY (INCLUDING SPORT) WITHIN THE MACKENZIE DISTRICT

#### 1 Communication:

- A presentation was made to the Mackenzie District Council at their council meeting in March 2011, by the CEO of the Canterbury West Coast Sports Trust, and the Regional Manager of Sport South Canterbury. The purpose of the presentation was to inform the council of the change in strategic focus of the trust and to identify possible opportunities to develop the partnership between the 2 organisations further.
- Information was sent to all sports clubs, and schools about training courses being run either in the Mackenzie area or in Timaru.
- ➤ Visits were made to the Fairlie Heartlands Centre to discuss opportunities to deliver GRx and SOYF programmes within the areas.
- Visits have been made to workplaces in Fairlie, Tekapo and Twizel to promote Sea 2 Sea.
- Practices and providers were sent quarterly GRx newsletters

#### 2 0800 Active Line:

The 0800 ACTIVE line is promoted and managed as a means of providing information to the community about physical activity and sport.

#### 3 Support Regular Push Play Activities:

#### Sea 2 Sea Physical Activity Challenge:

- > Twizel/ Mt Cook 54 participants from 4 workplaces including 2 workplaces, 1 school and 1 GP practice
- ➤ Fairlie 40 participants from 4 workplaces including 2 workplaces, 1 school and 1 Early Childhood Centre

#### **Bikewise Month Mayoral Challenge:**

> 61 people participated in the Mayoral Bikewise Challenge in Fairlie

#### 5 Holiday Programmes:

> Two 2 day, mornings only programmes, were held in Fairlie in October 2010, with 36 children participating, and in April 2011, with 34 children participating.

#### **6** Green Prescription and Stay On Your Feet Programmes

- ➤ 13 GRx referrals have been received from the Mackenzie district in the last twelve months – 9 from High Country Health, 1 from Fairlie Medical Centre and 3 from other health professionals
- > 3 referrals have been received from Fairlie for the SOYF programmes.
- > 1 volunteer attended the Exercise Provider training
- > 1 volunteer attended the SOYF ACC training programme
- > A trained physiotherapist has been contracted by SSC to deliver the SOYF home based programme in Fairlie

#### **OBJECTIVE C:**

#### SUPPORT AND DEVELOP CAPABLE AND EFFECTIVE ORGANISATIONS:

#### 1 Working Relationships with Sports

An approach from Mark Adams requesting support for sport in the Fairlie district resulted in SSC facilitating an initial meeting with 17 people from 12 sports in April 2011. The aim of the meeting was to set up a sports club partnership to support the sports organisations Outcomes from the meeting that the group would like to see happen were as follows:

- More people participating
- More coaches and volunteers involved in sports
- > More parent involvement
- > Senior competitions and social sport thriving netball, golf & rugby only 3 competitive sports happening in Fairlie
- Sports clubs functioning well
- > A review of swimming pool charges and usage
- > A multi purpose astro turf surface

Representatives at the meeting were asked to contact Mark if they were interested in being involved in a Sports Club partnership to represent the sports and allow them to work as a collective to address these outcomes. There was no interest from those attending to be involved in developing the partnership. As a result the project has

not progressed. Sport South Canterbury is not in a position to advance the concept if there is no support from the community.

#### 2 2010 SC Sports Awards

- Two elite sports people from the Mackenzie District were nominated for the SC Canterbury Sports Awards. Michael Gilchrist (Football) in Outstanding Coach category) and Annabelle Gilchrist (Football) in Outstanding Sportsperson;
- > The Mayor and her husband attended the event on behalf of the Mackenzie District.

#### 3 Active Schools in Primary Schools:

- The Young Persons Advisor has been working with three Schools from the Mackenzie District on the Active Schools Programme for the last 2 years. They were Fairlie Primary, St Josephs Fairlie, and Albury. The 2 year contract finished in December 2011. The aim of the programme was to support the schools to develop and implement activities that will provide an ongoing physical activity and sport culture for the school, both through the curriculum and outside the curriculum. The following results have been achieved.
- Sport SC was represented by the Young Persons Advisor on the Mackenzie schools cluster group and the Mackenzie principals cluster group.
- Mackenzie Jump Jam Extravaganza:: 8 teams from 3 Fairlie schools involving 137 children participated in the Mackenzie Jump Jam extravaganza which was an aerobics competition for kids held in August 2010. The 3 schools participating were Albury, Fairlie Primary, and St Josephs Fairlie. Tekapo School is keen to be involved in 2011. Lee King the Young Persons Advisor worked with the schools to train the teachers and children and support the event. 3 parent coaches and 12 students from Fairlie Primary attended Jump Jam training prior to the event.
- A PALS (Physical activity Leaders) Workshop was held in October with 1 teacher and 6 students attending from each of Albury and Fairlie Primary schools. Both have the programme operating in their schools.
- Run Jump Throw training was held in October in Fairlie 7 teachers & 1 student leader attended from Albury, Fairlie and Tekapo schools
- Fundamental Movement Skills (FMS) STEPS training was held in July 10. One teacher from Fairlie primary attended. Fairlie Primary is one of 10 SC schools currently taking part in the FMS STEPS programme delivered by Athletics NZ.
- Multi Skills Training 1 teacher from Fairlie Primary attended training in May
- A draft Kiwisport coordinator project was compiled and sent to the Mackenzie District principals to set up a schools cluster sports programme- to date this has not been actioned

#### MACKENZIE DISTRICT COUNCIL

**REPORT TO:** MACKENZIE DISTRICT COUNCIL

**SUBJECT:** STAFF TRAINING FOR LAST FINANCIAL YEAR

**MEETING DATE:** 4 OCTOBER 2011

**REF:** 

**FROM:** CHIEF EXECUTIVE OFFICER

#### **PURPOSE OF REPORT:**

To provide to the Council a summary of all Council staff training that took place between July  $1^{\rm st}$  2010 and June  $30^{\rm th}$  2011.

#### **STAFF RECOMMENDATIONS:**

1. That the report be received and the information noted.

GLEN INNES CHIEF EXECUTIVE OFFICER

#### **INFORMATION:**

Good progress has been made during the year in taking a more systematic approach to staff training and development.

A set of priorities were established focussing on NCS Computer Training, Geographic Information Systems, Records Management, Project Management, Qualification Completion and General Management Training.

A recent independent staff survey showed only fair results in the area of training and development, revealing scope for improvement here.

The recently completed staff performance appraisals required the completion of a training programme to be agreed between supervisor and staff member.

In the last year, a total of \$44,803 was spent in staff training and development compared with a budget of \$36,980. Unspent monies from staff appointments were transferred to cover the shortfall which arose out of the training needs of new staff or those assigned new duties.

The investment in training and development goes further than merely giving people the tools to do their jobs efficiently and well – it also can prevent stagnation due to professional isolation.

Benefits can arise in many ways – for example: attendance at the ALGIM annual conference led directly to an upgrade of the Councils email archiving system at a fraction of the cost originally being contemplated and was the catalyst for a shared GIS project across Canterbury.

Details of courses and training attended is given in the attached schedule.

Human Resources & General Shared Services Conference	Glen Innes
Sharad Sarvicae Contaranca	Cilen Innec
=	Stephen Barlow
	Bernie Haar, Paul Morris
1 7	Julie Hadfield, Dennis Di
± •	Subscription
	Glen Innes
$\mathcal{E}$	Glen Innes
Power Reading (	General staff
Finance	
Rating seminars (2)	Pauline Jackson
Taxation Course I	Paul Morris, Dennis Di
Payroll Training J	Julie Hadfield
NCS Training Assets Module	Dennis Di
Asset Management	
National Asset Management System I	Bernie Haar
	Bernie Haar
Water NZ Conference J	John O'Connor
Road Inspection Course	Nick Froude
Planning & Regulatory	
	Anastasia Blignaut
	Casey Pridham, Heather Kirk
Building	•
Building Consent Vetting I	Heather Kirk
=	Dick Marryatt
<u> </u>	Steve McLellan
trusses	Dick Marryatt
	Dick Marryatt, Steve McLellan
	Dick Marryatt
	Dick Marryatt
Information Technology	· · · · · · · · · · · · · · · · · · ·
	Stephen Barlow, Keri-Ann Little
=	General Staff
	Stephen Barlow
	Stephen Barlow
	Nick Froude, Stephen Barlow
Other	
	Dennis Di
$\varepsilon$	Stephen Barlow
<b>Note:</b> Course fees accounted for 74% of the tr	
taking up 11% and 10% respectively.	6

#### MACKENZIE DISTRICT COUNCIL

**REPORT TO:** MACKENZIE DISTRICT COUNCIL

**FROM:** CHIEF EXECUTIVE OFFICER

**SUBJECT:** COMMUNITY BOARD RECOMMENDATIONS

**MEETING DATE:** 4 OCTOBER 2011

**REF:** PAD 5

#### **PURPOSE OF REPORT:**

To consider recommendations made by the Community Boards.

#### **RECOMMENDATIONS:**

1. That the report be received.

#### TEKAPO COMMUNITY BOARD:

#### 2. Request from Lake Tekapo Lions Club:

That the Council notes that the Lake Tekapo Lions Club's request for land to be made available for amenity planting in the Lake Tekapo Township was approved in principle and that the Chairman, Peter Munro and the Community Facilities Manager are to liaise with the Lions Club regarding suitable sites and tree species and report back to the Community Board.

#### 3. **Sundial Project**

That the Council approves the granting of up to \$7,000 to the sundial project for the completion of landscaping and signage.

#### 4. Trees Shading Aorangi Crescent:

That Council notes that the shading of Aorangi Crescent is to be reduced by trimming and/or removing some of the trees adjacent to the road and that the corner is to be tidied up and beautified.

#### 5. <u>Lake Tekapo Minor Improvements Budget:</u>

That the Council notes that costings are to be obtained for both chip seal and concrete for the Lakeside Drive safety footpath as the first priority project for the Minor Improvements fund.

Peter Munro/Peter Maxwell

#### TWIZEL COMMUNITY BOARD

#### 6. Alps2Ocean Cycle Trail:

That the Council notes that the Twizel Community Board has responded to the letter from the Alps2Ocean Joint Committee as follows:

#### a) Access/Exit Routes:

That the recommended entry points in to Twizel are to be Glen Lyon Road, Ruataniwha Road and Ostler Road and that the exit points are to be Nunsveil Road and Northwest Arch.

#### b) Speed Limit:

That the request to reduce the speed limit on Glen Lyon Road was declined.

#### c) Car Parks

That the car park in front of the Musterer's Hut was the preferred car parking area for day tripper cyclists setting out from Twizel.

#### 7. <u>Car Parks in Twizel Which Could Either be Resealed or Turned into Grassed Areas:</u>

That the Council notes the following decisions:

#### a) Events Centre

The car parking area near the Twizel Events Centre is to be retained and the boundary defined and the area resurfaced with shingle and grass.

#### b) Wairepo Road:

That a report is to be developed for consideration at the next Community Board meeting on what could be done with the car park on the Wairepo Road area.

#### c) Glenbrook Terrace:

That the car park in Glenbrook Terrace is to be returned to a grassed or similar surface to fit in with the surrounding area.

#### d) Golf Club Lease:

That the car parking area is to be inspected to ascertain its condition and retained in the meantime.

#### e) Ohau Road, and Old Vet Clinic Site:

That the car parking areas on Ohau Road and at the old Vet Clinic site are to be grassed.

#### f) Access Road Down Past the Whitestone Depot:

That sealed accessway down past the Whitestone Depot is to be retained but not maintained in the meantime, that the residents using the accessway are to be informed it is not legal access and that copies of the advice to the residents are to be included on the relevant property files.

#### **8 Horse Trekking Proposal**

That the Council notes that the Twizel Community Board supported the use of Lake Ruataniwha Reserve by Mackenzie Alpine Horse Trekking and that the Community Facilities Manager, in consultation with Phil Rive, was asked to provide further information and recommendations regarding conditions that would be appropriate to accompany resource consent for the activity.

#### 10 Ruataniwha Reserve:

- a) That the Council notes that the reserve land adjoining Lake Ruataniwha Camp Ground is no longer to be leased to the camp ground because commercial activity on land zoned REC-P is a non-complying activity, and
- b) That a post and wire boundary fence is to be erected between the Ruataniwha Camping Ground and the adjacent reserve land.

#### 11 <u>Twizel Rating Boundary Proposal:</u>

That the Council adopts the purple line on the map accompanying the Twizel Community Board Minutes as Appendix A as the new Twizel rating boundary

#### GLEN INNES CHIEF EXECUTIVE OFFICER

#### **ATTACHMENTS:**

The minutes of the meetings of the Twizel Community Boards and Tekapo Community Board held on 12 September 2011.

#### **BACKGROUND:**

The Community Boards have made a number of recommendations for the Council to consider.

#### **POLICY STATUS:**

N/A

#### **SIGNIFICANCE OF DECISIONS REQUESTED:**

No significant decisions are required.

#### **CONSIDERATIONS:**

The Council delegated a range of authorities to staff and other organisations on 14 June 2005 when it also confirmed that it did not need to make any specific delegations to Community Boards to have them better perform their role.

This policy was amended on 29 January 2008 when the Council resolved to delegate to the Fairlie, Tekapo and Twizel Community Boards, the following responsibilities:

- The ability to consider requests from local organizations for financial assistance in the form of grants, where budget exists for such matters and subject to no one grant exceeding \$1,000.
- The ability to appoint local representatives to organizations within the community board area and other organizations where local representation is requested.
- The ability to authorize, within approved budgets, board members' attendance at relevant conferences and/or training courses.
- The ability to provide or withhold affected persons approval for planning applications on land adjoining Council owned land within the community board area.
- The ability to approve routine changes in policy affecting locally funded facilities within the community board area.

In the absence of delegated authority to the Community Boards on other matters, the Council has the opportunity to note and consider the issues raised and matters promoted on behalf of the Townships by their Boards and to endorse them where appropriate.

#### MACKENZIE DISTRICT COUNCIL

#### MINUTES OF THE MEETING OF THE TWIZEL COMMUNITY BOARD HELD IN THE SERVICE CENTRE TWIZEL ON MONDAY12 SEPTEMBER 2011 AT 4.00 PM

#### PRESENT:

Peter Bell (Chairman) Cr John Bishop Elaine Curin Kieran Walsh Phil Rive

#### IN ATTENDANCE:

Claire Barlow (Mayor)
Glen Innes (Chief Executive Officer)
Nathan Hole (Manager – Planning and Regulations)
Garth Nixon (Community Facilities Manager)
Bernie Haar (Asset Manager)
Suzy Ratahi (Manager – Roading)
Rosemary Moran (Committee Clerk)

#### II <u>DECLARATIONS OF INTEREST:</u>

There were no Declarations of Interest.

#### **III MINUTES:**

Resolved that the Minutes of the meeting of the Twizel Community Board held on 12 August 2011, including such parts as were taken with the Public Excluded, be confirmed and adopted as the correct record of the meeting.

John Bishop/Phil Rive

#### MATTERS ARISING

## 1. Request to Fill Low Lying Area in the Green Area at the Southern Entrance to Twizel:

The Community Facilities Manager undertook to ask the contractors to refrain from dumping concrete in the area.

#### 2. Plan Change 15:

The Manager – Planning and Regulations advised the appeal period had ended and there had been no appeals to Plan Change 15.

#### 3. Twizel Community Board Page on Website

The Chairman undertook to contact the Council's IT officer with regard to establishing a Twizel Community Board Page on the Council's website.

#### 4. Traffic Issues

The Asset Manager advised that the aerial photos were available and he undertook to convene a meeting of the Working Party to consider the traffic issues.

#### **IV REPORTS:**

#### 1. *ALPS2OCEAN* CYCLE TRAIL:

This letter from Denis Callesen of the *Alps2Ocean* Joint Committee sought recommendations on preferred routes in to and out of Twizel and signage promotion as part of the greater *Alps2Ocean* Cycle trail from Aoraki/Mount Cook to Oamaru.

#### 1. Access/Exit Routes:

Resolved that the Twizel Community Board recommends that the entry points in to Twizel be Glen Lyon Road, Ruataniwha Road and Ostler Road and that the exit points be Nunsveil Road and Northwest Arch.

John Bishop/Phil Rive

#### 2. Speed Limit:

<u>Resolved</u> that the request to reduce the speed limit on Glen Lyon Road be declined.

John Bishop/Elaine Curin

It was noted that the speed limit could be reviewed in the future if required.

#### 3. Type of Signage

While it was agreed that Option 3, (small discreet double sided *Alps2 Ocean* branded trail signs on key intersections), be the preferred signage, it was requested that research be done on the signage used by other cycle trails in an effort to maintain some national consistency for cycle trail signage.

#### 4. Car Parks

<u>Resolved</u> that the car park in front of the Musterer's Hut be recommended as the preferred car parking area for day tripper cyclists setting out from Twizel.

John Bishop/Elaine Curin

## 3. <u>CAR PARKS IN TWIZEL WHICH COULD EITHER BE RESEALED OR</u> TURNED INTO GRASSED AREAS:

This report from the Community Facilities Manager sought decisions on areas which should be retired from sealing. It was accompanied by an aerial photograph identifying areas where the existing seal was deteriorating.

Resolved that the report be received.

#### Phil Rive/Elaine Curin

#### 1. Events Centre

<u>Resolved</u> that the car parking area near the Twizel Events Centre be retained and that the boundary be defined and the area resurfaced with shingle and grass.

Peter Bell/John Bishop

#### 2 Wairepo Road:

<u>Resolved</u> that a report be developed for consideration at the next Community Board meeting on what could be done with the car park on Wairepo Road area.

Peter Bell/Kieran Walsh

#### 3. Glenbrook Terrace:

<u>Resolved</u> that the car park in Glenbrook Terrace be returned to a grass or similar surface to fit in with the surround area.

**Phil Rive/Peter Bell** 

#### 4. Golf Club Lease:

The Chairman advised that the car parking area on land leased by the Golf Club was near the proposed site for the new medical centre.

<u>Resolved</u> that the car parking area be inspected to ascertain its condition and retained in the meantime.

Peter Bell/Kieran Walsh

#### 5. Ohau Road, and

#### 6. Old Vet Clinic Site:

<u>Resolved</u> that the car parking areas on Ohau Road and at the old Vet Clinic site be grassed.

**Peter Bell/Phil Rive** 

#### 7. Access Road Down Past the Whitestone Depot:

Resolved:

- 1. That the sealed accessway down past the Whitestone Depot be retained but not maintained in the meantime.
- 2. That the residents using the accessway be informed it is not legal access.
- 3. That copies of the advice to the residents be included on the relevant property files.

**Peter Bell/Phil Rive** 

#### 2 HORSE TREKKING PROPOSAL

This report from the Community Facilities Manager was accompanied by a request from Mackenzie Alpine Horse Trekking to establish a horse trekking operation in Twizel.

#### Resolved:

- 1. That the report be received.
- 2. The Twizel Community Board supports the use of Lake Ruataniwha Reserve by Mackenzie Alpine Horse Trekking.
- 3. That the Community Facilities Manager, in consultation with Phil Rive, provides further information and recommendations regarding conditions that would be appropriate to accompany resource consent for the activity.

Peter Bell/John Bishop

#### 4. WARD MEMBERS REPORT:

Cr Bishop advised that:

- the Council had discussed proposed new rating boundaries for Twizel and was awaiting a recommendation from the Community Board;
- the Council had held a number of workshops on a variety of subjects including cattle stops and deprecation;
- five new trustees had been appointed to the Mackenzie Tourism and Development Trust, and
- High Country Health Ltd had repaid the debenture owing to the Council.

The Asset Manager advised that delivery of the new wheelie bins would roll out across the District during the week.

## 6 REPORTS FROM MEMBERS WHO REPRESENT THE BOARD ON OTHER COMMITTEES:

Elaine Curin reported that a community vehicle had been purchased and a Trust formed to provide a service following the termination of the Regional Council's public transport service.

#### V GENERAL:

#### 1. RATING BOUNDARY PROPOSAL:

The Chief Executive Officer referred to the two maps which had been circulated with the Agenda which showed the existing Twizel rating boundary and the proposed rating boundary developed by the subcommittee. He said that the new

boundary had tried to capture both existing developments and developments anticipated in the near future.

He noted that ratepayers within the new rating boundary would pay the Twizel Works and Services Rate rather than Rural Works and Services Rate; the Twizel Works and Services rate was three times that of the Rural Works and Services Rate.

The Chief Executive Officer said that it had also been proposed that the ratepayers within the greater Twizel community boundary should pay a community facilities charge if they had dwellings on their sections.

Resolved that the purple line on the map accompanying this record as Appendix A be recommended to the Council as the new Twizel rating boundary

John Bishop/Phil Rive

#### VI PUBLIC EXCLUDED:

<u>Resolved</u> that the public be excluded from the following part of the proceedings of this meeting namely:

Twizel Events Centre - Employment Matters

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under Section 48(1) for the passing of this resolution
Twizel Events Centre - Employment Matters	To protect the Privacy of Persons	48(1)(a)(i)

This resolution is made in reliance on Section 48(1)(a)(i) of the Local Government Official Information and Meetings Act 1987 and the particular interests protected by Section 6 or Section 7 of that Act, which would be prejudiced by the holding of the whole or the relevant part of the proceedings of the meeting in public, are as follows: *Employment Matters*, section 7(2)(1)(a).

Peter Bell/John Bishop

The Community Board continued in Open Meeting.

#### III <u>MINUTES</u> - MATTERS ARISING (Continued):

#### RUATANIWHA RESERVE:

This report from the Manager – Planning and Regulations addressed the planning implications of leasing land zoned REC-P (Passive Recreation) to the Lake Ruataniwha Camp Ground to be used as an extension of the camp ground.

Resolved that the report be received.

#### Phil Rive/Kieran Walsh

The Community Facilities Manager advised that outstanding rental for the use of the reserve had been paid however the operator had not signed a Licence to Occupy.

The Board members discussed the following issues:

- Even though commercial camping activity was not permitted under the new REC-P zoning, it could continue by virtue of existing use rights.
- Support of the on-going use of the reserve for camping would be contrary to the Board's and the community's support of the new RECP-P zoning rules in Plan Change 15.
- The operator had been consulted as part of the Plan Change 15 process but had not responded.
- Resource consent to use the area for a commercial camping activity would be difficult to obtain and any application would have to be publicly notified.
- The current \$1,000 annual fee for the use of the reserve was inadequate.
- The need to fence the camping ground area (costs would be shared between Council and camp ground operator).

Resolved that a post and wire boundary fence be erected between the Ruataniwha Camping Ground and the adjacent reserve land.

John Bishop/Peter Bell

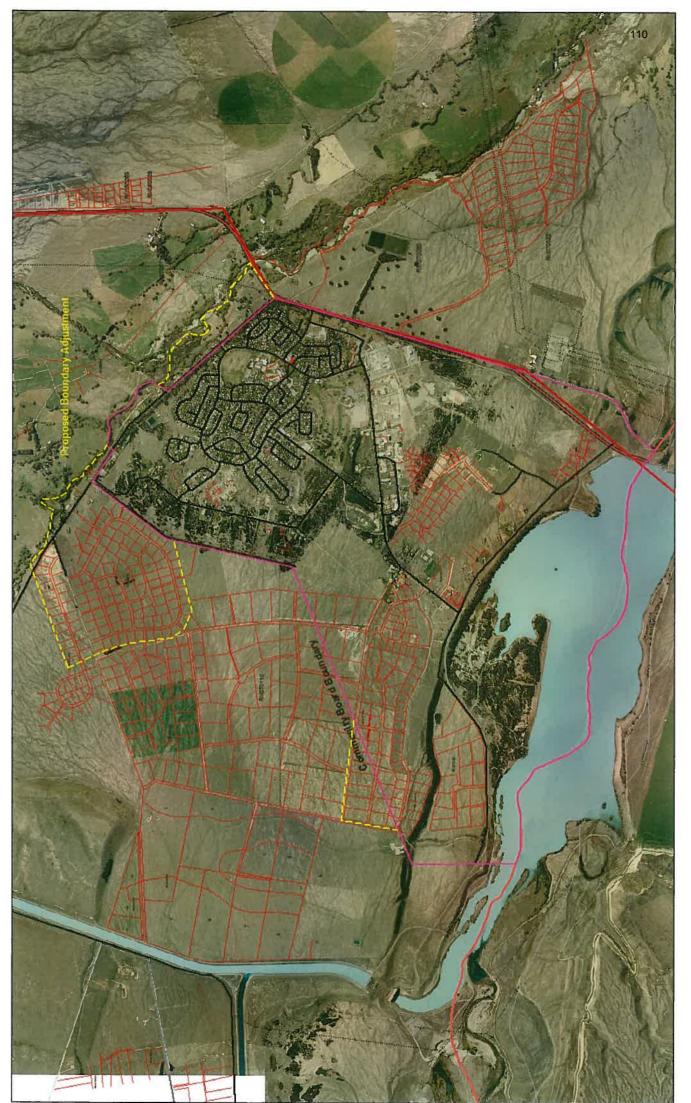
Resolved that the reserve land adjoining Lake Ruataniwha Camp Ground no longer be leased to the camp ground because commercial activity on land zoned REC-P is a non-complying activity.

Peter Bell/Kieran Walsh.

## THERE BEING NO FURTHER BUSINESS THE CHAIRMAN DECLARED THE MEETING CLOSED AT 6.07 PM

<b>CHAIRMAN:</b>	
DATE:	





Cristing Rating bounday. - pink

# MACKENZIE DISTRICT COUNCIL

# MINUTES OF THE MEETING OF THE TEKAPO COMMUNITY BOARD HELD IN THE LAKE TEKAPO COMMUNITY HALL ON MONDAY 12 SEPTEMBER 2011 AT 7.30 PM

#### PRESENT:

Murray Cox (Chairman) Alan Hayman Cr Peter Maxwell Peter Munro Ian Radford

#### IN ATTENDANCE:

Claire Barlow (Mayor) Glen Innes (Chief Executive Officer) Bernie Haar (Asset Manager) Suzy Ratahi (Manager – Roading) Rosemary Moran (Committee Clerk)

# II DECLARATIONS OF INTEREST:

There were no Declarations of Interest.

# III MINUTES:

<u>Resolved</u> that the Minutes of the meeting of the Tekapo Community Board held on 8 August 2011 be confirmed and adopted as the correct record of the meeting.

Peter Maxwell/Ian Radford

# **MATTERS UNDER ACTION**

# Lakeside Drive Walkway

Cr Maxwell said he had been liaising with Barry Green about the lighting of the Lakeside Drive walkway. He undertook to keep the Asset Manager informed.

# IV <u>REPORTS:</u>

#### 1. REQUEST FROM LAKE TEKAPO LIONS CLUB:

This report from the Community Facilities Manager asked the Tekapo Community Board to consider a request from the Lake Tekapo Lions Club to make land available for amenity planting in the Lake Tekapo Township.

Resolved that the report be received.

Ian Radford/ Alan Hayman/

The Chairman said the Lions Club had approached the Environment Canterbury for permission to plant giant redwoods trees at the Regional Park.

#### Resolved:

- 1. That the Lake Tekapo Lions Club's request for land to be made available for amenity planting in the Lake Tekapo Township be approved in principle.
- 2. That the Chairman, Peter Munro and the Community Facilities Manager liaise with the Lions Club regarding suitable sites and tree species and report back to the Community Board.

Peter Maxwell/Alan Hayman

# 2. WARD MEMBER'S REPORT:

Cr Maxwell reported that five new trustees had been appointed to the Mackenzie Tourism and Development Trust following the resignation/removal of the previous trustees. He said the Tekapo Property Development project was proceeding positively and that Boffa Miskell and Robin Hughes Developments had a reached the point they would be initiating discussions with the main players.

# 3. <u>REPORTS FROM MEMBERS WHO REPRESENT THE BOARD ON OTHER</u> COMMITTEES:

Peter Munro reported that:

- The Mackenzie Alpine Trust which operated the McCauley Hut and the Camp Stream Hut intended to upgrade/rebuild the South Opuha Hut. The Trust's AGM was coming up.
- The **Tekapo White Water Trust** had had its AGM and was considering a \$100,000 upgrade over the next two or three years including work on the riverbed which had been scoured out. He said the old toilet shed from Pines Beach was to be refurbished as a changing shed and sited at the top of the course. The release schedule for the year had been published; the first release was scheduled for 11 October 2011. The Trust would like to erect a noticeboard advising the release dates. It had also asked Genesis to upgrade the signage.
- **The Lake Tekapo Promotions Group** was to have its AGM on 22 September 2011.
- The **Lake Tekapo Footbridge Committee** was planning a major fundraising fashion show to be held on 19 November 2011.

Murray Cox advised that working bees were again being held at the **regional** park.

# V **GENERAL**:

### 1. GENESIS UPDATE:

The Chairman reported on a meeting between Community Board members, local farmers and Genesis officials at which information had been provided regarding the history of the canal and some of the current problems associated with it and the Maryburn cutting. He said that Genesis intended starting work on the collapsed culvert under the canal in the summer of 2012/13 and had undertaken to

keep the Community Board informed about what was being done and when, and the impact the work could have on lake levels and access.

The Chairman suggested that when the lake levels were low, the opportunity could be taken to upgrade the boat launching ramps.

# 2. <u>NEW ZEALAND MOTOR CARAVAN ASSOCIATION – PROPOSED PARK</u> OVER AREA AT THE REGIONAL PARK:

The Chairman said the siting of an entranceway had been discussed with Council staff and he was awaiting a visit from the relevant Environment Canterbury manager. He said he had emailed the NZMCA about the proposal but had yet to receive a response.

Ian Radford advised that John Simpson of Mt Hay had expressed concerns to him about the proposed camping area but had been more comfortable when it was explained that it would be for the sole use of NZMCA members.

The Chairman said that he had yet to meet with the Mt Hay Trustees.

Mr Radford said concerns had also been expressed that the camping area might be visible from the Township or the road. He suggested the Board make a public statement to allay the concerns.

The Chairman said it seemed that resource consent would be required for the activity. The Camping Ground Act required provision to be made for laundries, showers etc; however it was likely an exemption could be applied for.

# 3. COMMNITY FACILITIES UPDATE:

The Chairman reported on the positive feedback he had received about the proposed renovations for the community hall. He said George Epsom had asked if provision could be made for displaying historic local photographs in the building and it was agreed that should be incorporated in to the planning.

Peter Maxwell advised that his neighbour Kelvin Campbell was keen to be involved in the project and had offered his expertise in designing kitchens.

With regard to the Community Board's contributions to the Tekapo recreational projects, viz the footbridge, playground and sundial, it was noted the relevant committees needed to submit invoices to enable the grants to be paid out.

Peter Munro noted that the grant of \$7,000 for the sundial had been approved subject to it not being funded by Meridian. He said Meridian had contributed to the project but that grant had not included the funding of interpretation panels which would be an essential aspect of the project.

<u>Resolved</u> that funding of up to \$7,000 be granted to the sundial project for the completion of landscaping and signage.

Peter Munro/Ian Radford.

### 4. JEUNE STREET AND MURRAY PLACE:

The Manager – Roading advised that she had requested the contractor to pick up the loose chip on the roads and that the repair of the seal would commence when weather conditions permitted. She said the reason for the failure of the seal was being investigated.

The Chairman asked that the contractor be reminded not to seal over the tobies at property boundaries.

# 5. TREES SHADING AORANGI CRESCENT:

Peter Munro referred to trees shading the steep portion of the road at the bottom of Aorangi Crescent which made driving conditions dangerous in frosty and snowy weather.

<u>Resolved</u> that the shading of Aorangi Crescent be reduced by trimming and/or removing some of the trees adjacent to the road and that the corner be tidied up and beautified.

Peter Munro/Alan Hayman

#### 6. LAKE TEKAPO MINOR IMPROVEMENTS BUDGET:

The Manager – Roading sought guidance on how the \$10,000 Minor Improvements fund should be used.

<u>Resolved</u> that costings be obtained for both chip seal and concrete for the Lakeside Drive safety footpath as the first priority project for the Minor Improvements fund.

Peter Munro/Peter Maxwell

The Manager – Roading was asked to obtain costings for the application of wearing course on Andrew Don Drive which could be carried out using the unsealed road maintenance budget.

THERE BEING N	O FURTHER BU	ISINESS T	THE
CHAIRMAN DECLARED	THE MEETING	<b>CLOSED</b>	<b>AT 8.35 PM</b>

CHAIRMAN: _	
DATE:	

# MACKENZIE DISTRICT COUNCIL

# MINUTES OF A MEETING OF THE FINANCE COMMITTEE HELD IN THE SERVICE CENTRE, TWIZEL, ON TUESDAY 23 AUGUST 2011 AT 1.00 PM

# **PRESENT:**

Graham Smith (Chairman)

Claire Barlow (Mayor)

John Bishop

Peter Maxwell

Annette Money

Graeme Page

**Evan Williams** 

# IN ATTENDANCE:

Glen Innes (Chief Executive Officer)

Paul Morris (Manager – Finance and Administration)

Bernie Haar (Asset Manager) for part of the meeting

Suzy Ratahi (Manager – Roading) for part of the meeting

Rosemary Moran (Committee Clerk)

# III MINUTES:

Resolved that the minutes of the meeting of the Finance Committee held on Tuesday 5 July 2011, including such parts as were taken with the Public Excluded, be confirmed and adopted as the correct record of the meeting.

**Graeme Page/Annette Money** 

# V <u>REPORTS:</u>

#### 1. FINANCIAL REPORT – APRIL 2011:

This report from the Manager – Finance and Administration was accompanied by the financial reports for the period to June 2011.

Resolved that the report be received.

**Annette Money/Evan Williams** 

# **Governance Activity**

<u>Resolved</u> that the total amount of the payment to correct an error on a s224 certificate issued in 2006 be charged to the Regulatory Activity rather than Governance.

Graeme Page /John Bishop

# 2 BANCORP QUARTERLY REPORT:

This report from the Manager – Finance and Administration was accompanied by the quarterly report form Bancorp Treasury Services to 30 June 2011.

2

Resolved that the report be received.

**Annette Money/Claire Barlow** 

THE	CHAIRN	IAN DECL	ARED THE	MEETING CI	OSED A	T 2 22 PM
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<b>CHAIRMAN:</b>	
<b>DATE:</b>	

# MACKENZIE DISTRICT COUNCIL

# MINUTES OF A MEETING OF THE PROJECTS AND STRATEGIES COMMITTEE HELD IN THE SERVICE CENTRE, TWIZEL, ON TUESDAY 23 AUGUST 2011 AT 2.10 PM

# **PRESENT:**

Graeme Page (Chairman)

Claire Barlow (Mayor)

Crs John Bishop

Peter Maxwell

Annette Money

**Graham Smith** 

**Evan Williams** 

# **IN ATTENDANCE:**

Glen Innes (Chief Executive Officer)

Bernie Haar (Asset Manager)

Suzy Ratahi (Manager – Roading) for part of the meeting

Carl Mackay (Solid Waste Manager) for part of the meeting

# I APOLOGIES:

There were no apologies.

# II <u>DECLARATIONS OF INTEREST:</u>

There were no Declarations of Interest.

The Chairman welcomed the new Manager – Roading, Suzy Ratahi, to the meeting.

# III MINUTES:

<u>Resolved</u> that the Minutes of the meeting of the Projects and Strategies Committee held on 5 July 2011 be confirmed and adopted as the correct record of the meeting.

**Graham Smith/Evan Williams** 

Resolved that the Minutes of the meetings of the Solid Waste Subcommittee held on 12 and 26 July 2011 be received

**Graham Smith/Evan Williams** 

# **MATTERS UNDER ACTION:**

# 1. Bridges that Service One Ratepayer:

The list of such bridges to be provided at the next Committee meeting.

# 2. Twizel Water Supply

The Mayor suggested that once the Twizel water supply had been temporarily disinfected, an un-chlorinated water source be made available for consumers to use at their own risk.

# **IV REPORTS:**

# 1. ASSET MANAGER'S MONTHLY REPORT:

This report from the Asset Manager referred to the Technical Officers' Group Meeting which he had attended in Rangiora, Project Progress, Roading, Sewerage, Water Supplies, Stormwater, Solid Waste, Transition to New Solid Waste Proposal, Roading, Essential Services and Solid Waste.

#### **Sewerage – Twizel Land Purchase**

In response to concerns expressed about the length of time being taken to conclude the matter, the Asset Manager provided an update on the issues around the purchase of land from John Lyons for a future disposal field.

He advised that he had been writing regularly to Mr Lyons over the previous 12 months to keep him informed; however Mr Lyons had indicated that he had no desire to progress any sale and purchase agreement with the Council until the mediation associated with an appeal of conditions associated with his resource consent for land use had been completed.

The Asset Manager said although Mr Lyons had been repeatedly advised that Resource Management Act Consent and land purchase processes had to be dealt with totally separately, he had continued to tie the two issues together, and refused to conclude the land purchase.

The Asset Manager said that once the consent issue had been resolved, discussions would be resumed with Mr Lyons. He explained that his was currently coordinating role; however when Mr Lyons was ready to discuss the land purchase, the Chief Executive Officer and others would become involved.

Resolved that the report be received.

**Annette Money/Graham Smith** 

# **ADJOURNMENT AND CITIZENSHIP CEREMONY:**

The meeting was adjourned for afternoon tea at 3.00 pm.

The Mayor then welcomed citizenship candidate Chin-Mei Kelly, her husband, son and their guests.

Mrs Kelly read her affirmation of allegiance and was congratulated by the Mayor as new New Zealand citizen. The Mayor presented Mrs Kelly with her Certificate of Citizenship and a gift and read a message from the Minister of Internal Affairs.

Mrs and Mrs Kelly and their guests joined the Council for afternoon tea.

The meeting was reconvened at 3.40 pm

# **IV REPORTS:**

# 1. ASSET MANAGER'S MONTHLY REPORT (Continued):

The Solid Waste Manager spoke to his section in the report.

#### Resolved:

- 1. That the charge for a voluntary domestic wheelie bin service for the period October 2001 to June 2012 inclusive, be set at \$115 incl GST.
- 2. That the charges for the commercial wheelie bin service, for the period October 2011 to June 2012 incl be set at:

**Option 1** (1 x 240 for Refuse /1 x 240 for Recycling and 1 x Glass Crate) \$262.50 incl GST.

**Option 2** (1 x 360 for Refuse/1 x 360 for Recycling and 2 x Glass Crates) \$352.25 incl GST.

#### **Annette Money/Graham Smith**

It was requested that the issues associated with the wheelie bin service for residents in the Eversley Reserve be the subject of a report to the Solid Waste Sub Committee.

# 2. ROADING - ANNUAL ACHIEVEMENT REPORT:

This report from the Asset Manager provided information on all the roading achievements that had been completed by Whitestone Ltd under the maintenance contract during the previous year.

Resolved that the report be received.

### **Annette Money/Claire Barlow**

The high cost of maintenance for the Lilybank and Braemar Roads was discussed. It was suggested that consideration could be given to ways of relieving ratepayers of some of the costs.

# 3. PUKAKI INFORMATION CENTRE:

This report from the Manager – Finance and Administration was accompanied by copies of the Council's Licence to Occupy land at Lake Pukaki Dam site and the Mackenzie Tourism and Development Trust's Resource Consent to construct and operate the information centre at Lake Pukaki.

Resolved that the report be received.

#### **Annette Money/Evan Williams**

#### Resolved:

- 1. That discussion be held with Meridian Energy Ltd about the terms of the Licence to Occupy land at the Lake Pukaki Dam site.
- 2. That advice be sought from Council's planners on the potential of amending the conditions of the Resource Consent held by the Mackenzie Tourism and

Development Board for the regional information centre at the Mt Cook Lookout at Lake Pukaki with the view to enabling expanded retail opportunities.

**Annette Money Graham Smith** 

	EING NO FURTHER LARED THE MEETI	BUSINESS NG CLOSED AT 4.28 PM
-	CHAIRMAN	_
	DATE	

# MACKENZIE DISTRICT COUNCIL

# MINUTES OF A MEETING OF THE PROJECTS AND STRATEGIES COMMITTEE HELD IN THE SERVICE CENTRE, TWIZEL, ON TUESDAY 28 SEPTEMBER 2011 AT 10.50 AM

# **PRESENT:**

Graeme Page (Chairman)
Claire Barlow (Mayor)
Crs John Bishop
Peter Maxwell
Annette Money
Graham Smith

**Evan Williams** 

# IN ATTENDANCE:

Glen Innes (Chief Executive Officer)
Bernie Haar (Asset Manager)
Suzy Ratahi (Manager – Roading)
John O'Connor (Assets Supervisor) for part of the meeting.

# I APOLOGIES:

There were no apologies.

# II <u>DECLARATIONS OF INTEREST:</u>

There were no Declarations of Interest.

# III MINUTES:

<u>Resolved</u> that the Minutes of the meeting of the Projects and Strategies Committee held on 23 August 2011 be confirmed and adopted as the correct record of the meeting.

**Annette Money/Evan Williams** 

# **IV REPORTS:**

### 1. ASSET MANAGER'S MONTHLY REPORT:

This report from the Asset Manager referred Project Progress - Council Priority – List (Roading, Sewerage, Water Supplies, Stormwater and Solid Waste), Roading, Essential Services and Solid Waste.

Resolved that the report be received.

**Claire Barlow/Annette Money** 

<u>Resolved</u> that 450 m of Cricklewood Road be sealed as part of the minor improvement programme subject to the receipt of an acceptable tender price.

Evan Williams/John Bishop

<u>Resolved</u> that the work of the Solid Waste Subcommittee be endorsed and that the 10 year contract for Solid Waste Services with Envirowaste Services Ltd in the amount of \$4,755.743.60 be executed.

John Bishop Evan Williams

Cr Money requested that a **hazardous waste collection service** be instituted as soon as possible.

It was agreed that a workshop be held to consider the **repayment of the debt in the Solid Waste cost centre**. It was noted that the issues of an on-going **solid waste education programme** and **the disposal of organic waste** also needed to be resolved.

The maintenance of **Lilybank Road** was discussed. It was agreed that opportunities of gaining subsidy funding from users be investigated with other local authorities.

The meeting was adjourned at 12.35 pm for lunch and reconvened at 1.10 pm.

# 2. <u>CONTRACT 1188 – SEALING 2010/11</u>

This report from the Asset Manager advised Council of an over-payment for works completed by Blacktop Construction Ltd last sealing season, what had been done to recover the funds and the changed systems put in place to eliminate the possibility of the error recurring.

Resolved that the report be received.

**Annette Money/Claire Barlow** 

#### Resolved:

- 1. That the Council notes that an invoice has been sent to Blacktop Construction Ltd requiring the overpayment to be repaid.
- 2. That the Council be notified when the repayment has been received.

**Graham Smith /John Bishop** 

<u>Resolved</u> that the Council requires management to take all steps needed to institute a robust regime for contract payments with immiediate effect.

**Annette Money/Claire Barlow** 

# V PUBLIC EXCLUDED

<u>Resolved</u> that the public be excluded from the following part of the proceedings of this meeting namely:

1. Minor Improvements 2011/2012 – Clayton Road Seal Widening Stage 2

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under Section 48(1) for the passing of this resolution
Minor Improvements 2011/2012 Clayton Road Seal Widening Stage 2	Commercial Sensitivity	48(1)(a)(i)

3

This resolution is made in reliance on Section 48(1)(a)(i) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section 6 or Section 7 of that Act, which would be prejudiced by the holding of the whole or the relevant part of the proceedings of the meeting in public are as follows: *Minor Improvements* 2011/2012 – Clayton Road Seal Widening Stage 2 section 7(2)(b)(ii).

**Graeme Page Graham Smith** 

# MINOR IMPROVEMENTS 2011/12, CLAYTON ROAD SEAL WIDENING STAGE 2

Resolved that the following resolution taken with the Public Excluded be confirmed:

That the tender of SICON Ltd for the sum of \$110,068 for minor improvements 2011/12, Clayton Road Seal Widening Stage 2 be accepted.

**Evan Williams/Graham Smith** 

# **GENERAL BUSINESS:**

#### FUNDING OF WATER SUPPLIES – LONG TERM PLAN:

Cr Money referred to the workshop on funding of water supplies and some further options which she suggested could be considered when developing policy for the Long Term Plan.

She said that a fair and equitable system was needed which didn't necessarily include contributions from the three communities' ratepayers.

Cr Bishop suggested a project account could be created to ensure that sufficient funding was available to communities which needed to undertake significant capital expenditure on infrastructure such as water supplies. He suggested 50% of the interest on Council's investments be contributed to such a fund – the contribution to be phased in over several years. This could soften the impact on rates subsidised by the interest. He suggested the Forestry Board's dividend payments to Council could also be directed to the fund.

It was agreed that the concept was similar to what had been discussed at the workshop, ie that Council was prepared to subsidise some activities that would otherwise present a heavy burden on certain groups of ratepayers, from a general source rather than having all the community water supplies funded from one account.

Cr Maxwell suggested that a levy based on the total deprecation of assets over the townships, divided by the number of ratepayers, could also contribute to the fund.

# ALLANDALE ROAD – SPEED LIMIT

The Chairman referred to representations which had been made to NZTA to reduce the speed limit from 100 kph to 60 kph or 70 kph through the commercial area on Allandale Road.

The Asset Manager said he had raised the matter three years previously on behalf of Council and the Fairlie Community Board. NZTA had asked for evidence that there was a safety issue on the road. This evidence relating to 'near misses' had been collected by Whitestone Roading Ltd and passed on to the NZTA; however no action had been forthcoming.

The Asset Manager said the Fairlie Community Board was seriously considering upgrading the Allandale Road entrance to Fairlie and the speed limit was one of the concerns which had been raised as part of that process. He undertook to resubmit the request to NZTA in writing in an effort to expedite the matter.

THERE BEING NO FURTHER BUSINES THE CHAIRMAN DECLARED THE MEETING CLOSE	-
CHAIRMAN	
DATE	

# MACKENZIE DISTRICT COUNCIL

# MINUTES OF A MEETING OF THE PLANNING COMMITTEE HELD IN THE COUNCIL CHAMBERS, FAIRLIE, ON TUESDAY 27 SEPTEMBER 2011 AT 9.40 AM

### **PRESENT:**

John Bishop (Chairman)

Claire Barlow (Mayor)

Annette Money

Peter Maxwell

Graeme Page

**Graham Smith** 

**Evan Williams** 

# **IN ATTENDANCE:**

Nathan Hole (Manager – Planning and Regulations)

Toni Morrison (Senior Policy Planner)

Rosemary Moran (Committee Clerk)

# I APOLOGIES:

There were no apologies.

# II DECLARATIONS OF INTEREST:

There were no Declarations of Interest.

# **III MINUTES**:

Resolved that the Minutes of the meetings of the Planning Committee held on 5 and 28 July 2011 be confirmed and adopted as the correct records of the meetings

**Annette Money/Graham Smith** 

# IV <u>REPORTS:</u>

# 1. <u>MACKENZIE SUSTAINABLE FUTURES TRUST AND WORKING</u> PARTY:

This report from the Senior Policy Planner provided an update on the process of the Upper Waitaki Shared Vision Working Party.

Resolved that the report be received.

Claire Barlow/John Bishop

# 2. PLAN CHANGE 15 – TWIZEL:

This report from the Senior Policy Planner sought formal approval of Plan Change 15 the public notification and agreement to publicly notify the date on which the Plan Change will become operative.

# Resolved:

- 1. That the report be received.
- 2. That the Committee notes the correspondence with Meridian Energy Limited in relation to the Plan Change.
- 3. That the Committee approves Proposed Plan Change 15 (Twizel) in accordance with clause 17 of Schedule 1 to the Resource Management Act 1991 and affix Council's seal.
- 4. That the Committee agrees that Plan Change 15 become operative on Monday 17<sup>th</sup> October 2011.

**Graeme Page/Graham Smith** 

# 3. <u>OBJECTION TO RESOURCE CONSENT DECISION – GRIZZLY</u> HOLDINGS LTD:

This report from the Manager – Planning and Regulations sought a decision on an objection to a resource consent decision relating to the calculation of the reserves contribution.

#### Resolved:

- 1. That the report be received.
- 2. That the objection to RM110035 Grizzly Holdings Ltd be upheld and the reserves contribution be calculated as if the land was zoned rural, that is 5% of the average value of 1500m<sup>2</sup> of each lot assessed s a site for a residential unit.

**Annette Money/Graham Smith** 

# 4, <u>EARTHQUAKE PRONE BUILDINGS</u>

This report from the Manager – Planning and Regulations referred to the review of the Council's Earthquake Prone Buildings Policy.

Cr Page declared his interest in the Three Springs Historic Woolshed.

# Resolved:

1. That the report be received.

2. That the Committee approves the adoption of the existing earthquake prone building policy for a further two years.

# Claire Barlow/Evan Williams

# 5. <u>RETAIL OPPORTUNITIES - LAKE PUKAKI:</u>

This report from the Manager – Planning and Regulations provided planning rules in relation to the undertaking of activities at Lake Pukaki.

Resolved that the report be received.

Peter Maxwell/Evan Williams

# THERE BEING NO FURTHER BUSINESS THE CHAIRMAN DECLARED THE MEETING CLOSED AT 10.20 AM

<b>CHAIRMAN:</b>	
<b>DATE:</b>	

# MACKENZIE DISTRICT COUNCIL

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# MINUTES OF A MEETING OF THE MACKENZIE DISTRICT COUNCIL HELD IN THE SERVICE CENTRE, TWIZEL, ON TUESDAY 23 AUGUST 2011 AT 9.37 AM

#### **PRESENT:**

Claire Barlow (Mayor)

Crs John Bishop

Peter Maxwell

Annette Money

Graeme Page

**Graham Smith** 

**Evan Williams** 

# **IN ATTENDANCE:**

Glen Innes (Chief Executive Officer) Rosemary Moran Committee Clerk)

# I **OPENING:**

The Mayor welcomed everyone to the meeting.

# IV <u>BEREAVEMENTS:</u>

The Mayor referred to the recent deaths of Martyn Pickard, Dorothy Simmers, Andrew Adie and Terry Brougham. A motion of sympathy was passed and the Chief Executive Officer was directed to pass this on to those concerned.

# V <u>MAYORAL REPORT</u>:

This was the report of Mayoral activities for the previous six weeks.

Resolved that the report be received.

**Annette Money/John Bishop** 

# VI REPORTS REQUIRING COUNCIL DECISION:

# 1. AUDIT AND RISK SUBCOMMITTEE – TERMS OF REFERENCE:

This report from the Manager – Finance and Administration was accompanied by amended terms of reference for the Audit and Risk Subcommittee.

#### Resolved:

- 1. That the report be received.
- 2. That the Audit and Risk Subcommittee Terms of Reference as follows be adopted:

#### TERMS OF REFERENCE FOR THE AUDIT AND RISK SUBCOMMITTEE

# **Voting Membership**

The Audit and Risk Management Subcommittee will have three Councillors.

# Quorum

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#### Chair

The Chair will be elected by Council.

# **Frequency of Meetings**

The Audit and Risk Management Subcommittee will meet on a quarterly basis or as required.

# **Parent Body**

The Subcommittee reports to the Finance Committee.

#### **Objectives of the Subcommittee**

The objectives of the Audit and Risk Management Subcommittee are to assist the Council to discharge its responsibilities for:

- a) The robustness of the internal control framework and financial management practices;
- b) The integrity and appropriateness of internal and external reporting and accountability Arrangements;
- c) The robustness of risk management systems, processes and practices;
- d) The independence and adequacy of external audit functions;
- e) Compliance with applicable laws, regulations, standard and best practice guidelines; and
- f) The establishment and maintenance of controls to safeguard the Council's financial and non-financial assets.

In fulfilling their role on the Audit and Risk Management Subcommittee, members shall be impartial and independent at all times.

#### **Terms of Reference**

The Subcommittee will have responsibility and authority to:

- 1 Internal Control Framework
- 1.1.1 review whether management's approach to maintaining an effective internal control framework is sound and effective;
- 1.1.2 review whether management has taken steps to embed a culture that is committed to probity and ethical behaviour;
- 1.1.3 review whether there are appropriate systems, processes and controls in place prevent, detect and effectively investigate fraud;
- 2 Internal reporting
- 2.1.1 consider the processes for ensuring the completeness and quality of financial and operational information being provided to the Council;
- 2.2 seek advice periodically from external auditors regarding the completeness and quality of financial and operational information that is provided to the Council;
- 3 External Reporting and Accountability
- agree the appropriateness of the Council's existing accounting policies and principles and any proposed change;

- 3.2 enquire of external auditors for any information that affects the quality and clarity of the Council's financial statements and statements of service performance, and assess whether appropriate action has been taken by management in response to the above;
- 3.3 satisfy itself that the financial statements and statements of service performance are supported by appropriate management signoff on the statements and on the adequacy of the systems of internal control (ie letters of representation), and recommend signing of the financial statements by the Chief Executive/Mayor and adoption of the Annual report.

#### 4 Risk Management

- 4.1.1 review whether management has in place a current and comprehensive risk management framework and associated procedures for effective identification and management of the Council's significant risks;
- 4.1.2 consider whether appropriate action is being taken by Management to mitigate Council's significant risks.

#### 5 External Audit

- 5.1.1 at the start of each audit, confirm the terms of engagement, including the nature and scope of the audit, timetable and fees, with the external auditor;
- 5.1.2 receive the external audit report(s) and review action to be taken by management on significant issues and audit recommendations raised within;
- 5.1.3 conduct a members only session (ie without any management present) with external audit to discuss any matters that the auditors wish to bring to the Subcommittee's attention and/or any issues of independence.
- 6 Compliance with legislation, Standards and Best Practice Guidelines
- 6.1.1 review the effectiveness of the system for monitoring the Council's compliance with laws (including governance legislation, regulations and associated government policies), with Council's own standards, and Best Practice Guidelines as applicable.

#### **Delegated Authority**

Due to the Sub-committee not being a Council Committee of the whole, the Sub-committee will not have any decision-making powers but will make its recommendations to Council's Finance Committee.

Graham Smith/Evan Williams

Resolved that Peter Maxwell be appointed Chairman of the Audit and Risk Committee.

Graeme Page/Evan Williams

# 3. SERVICE PERFORMANCE MEASURES REPORTING REGIME:

This report from the Manager – Finance and Administration sought the adoption of a formal, regular Council-wide reporting regime of all of Council's service performance measures.

Resolved that the report be received.

**Graeme Page/Annette Money** 

# Resolved:

- 1. That Council adopts a six-monthly reporting regime for all of Council's service performance measures.
- 2. That these measures be presented to Council before 1 March and 30 September each year commencing with the half-year ended 31 December 2011.

**Graeme Smith/Annette Money** 

Cr Page voted against the motion.

# VII <u>INFORMATION REPORTS:</u>

# 1. <u>CHIEF EXECUTIVE OFFICER – GENERAL ACTIVITIES REPORT:</u>

This report from the Chief Executive Officer referred to Council, Committee and Board Meetings, Other Meetings and Activities, Annual Plan 2011/12, End of Year Outcome, High Country Health, Tourism Trust, Roading Achievements, Long-Term Plan Steering Group, Policy Review, Staffing Issues and Other Items.

The Chief Executive Officer noted that he had not met with Ashley Parris on 17 August 2011 and that on 19 August he had attended the meeting of the Coordinating Executive Group (the Officers' part of the Emergency Management organisation) in Christchurch.

Resolved that the report be received

**Evan William/Peter Maxwell** 

#### 2. COMMON SEAL

This report from the Committee Clerk advised of documents signed under the Common Seal from 15 July 2011 to 18 August 2011.

#### Resolved:

- 1. That the report be received.
- 2. That the affixing of the Common Seal to document numbers 716 to 719 be endorsed.

**Annette Money/Graham Smith** 

# XI ADJOURNMENT:

The meeting was adjourned at 10.32 am for morning tea and reconvened at 10.45 am.

# VIII COMMUNITY BOARD RECOMMENDATIONS:

This report from the Chief Executive officer was accompanied by the minutes of the meetings of the Twizel Community Board and Tekapo Community Board held on 8 August 2011 and the Fairlie Community Board held on 3 August 2011.

#### Resolved:

1. That the report be received.

#### TWIZEL COMMUNITY BOARD

# 2. **Relay For Life**:

That the Council notes that approval has been given to the Cancer Society to hold a launch party for the *Relay for Life* to be held on the grassed area in the Twizel Market Place on 15 September 2011 and that the event organisers will requested to ensure all litter was removed following the event.

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# 3 Kaiapoi Brass Band

That the Council notes that approval has been given for the Kaiapoi Brass Band to play in Market Place on Sunday 21 August 2011.

# 4. Liquor Licence for Market Place:

That the Council notes that the Twizel Community Board has supported the TPDA's application for a special liquor licence for an event in Market Place to be held on the Hard Labour Weekend.

#### 5. Ruataniwha Reserve:

That the Council notes the outstanding amount of \$1,000 plus GST owed for the Licence to Occupy land for camping at the Ruataniwha Reserve is to be pursued and that the subject is to be included on the Agenda for the next Community Board meeting.

#### 6. **Twizel Cemetery:**

That the Council notes that provisions for the establishment of a car parking area behind the Twizel cemetery are to be investigated and included in the draft budgets for 2012/13.

#### 7. **Car Parks:**

That the Council notes:

- 1. That a plan is to be made available to Board members showing the car parks in Twizel which could either be resealed or turned into grassed areas.
- 2. That, following an inspection of the car parks, decisions are to be made on which should be resealed and which should be grassed.
- **3.** That provision is to be made for the work in the 2012/2013 budgets.

#### TEKAPO COMMUNITY BOARD:

#### 8 Community Hall Renovations:

That the Council notes:

- 1. That a 'ball park' price is to be obtained for the renovations including a covered entrance way and amended men's WC design.
- 2. That, subject to the 'ball park' price being acceptable, working drawings are to be commissioned.
- 3. That the plans are to be posted on the Tekapo Community Board website and on the township notice board and that comment is to be sought from the public.

# 9. NZMCA – Parking Place/Pines Beach Camping Ground

That the Council notes that the Tekapo\_Community Board supports the creation of a park for NZMCA members in conjunction with the Tekapo Regional Park.

# FAIRLIE COMMUNITY BOARD:

# 10. Grant Request from the Fairlie Ice Skating Club:

- a) That the Council approves that that a grant be made to cover the excess water charges incurred by the Fairlie Ice Skating Cub subject to the Club making alternative provision to either supply water to the skating rink site or making the pond watertight by April 2012.
- b) That the Council notes that the Ice Skating Club is to be advised:
  - that the level of excess water charges that would be covered in this instance was \$2,650.00,
  - that any further excess water charges would be a cost to the Club
  - that no further grants would be made, and
  - that if future excess water charges were not paid the town water supply to the site would be disconnected.

# 11 Appointment to the Mackenzie Community Enhancement Board:

That the Council notes that the Fairlie Community Board has endorsed Julia Bremner's appointment as the Community Board's representative on the Mackenzie Community Enhancement Board.

**Graham Smith /John Bishop** 

# **X** CONFIRMATION OF MINUTES:

#### Resolved:

1. That the Minutes of the Mackenzie District Council Meeting held on 19 July 2011 with the following correction to *Section X, Confirmation of Minutes,* to read:

Resolved:

That the minutes of the meeting of the Mackenzie District Council held on 31 May 2011, 14 June 2011 and 28 June 2011, excluding such parts of the meetings as were taken with the Public Excluded

be confirmed and adopted as the correct record of the meeting.

2. That the Minutes of the Mackenzie District Council Meetings held on 5 August and 18 August 2011, including such parts as were taken with the Public Excluded, be confirmed and adopted as the correct record of the meeting.

**Annette Money/Evan Williams** 

### **Code of Conduct - Cr Page:**

The Mayor referred to the comments by Cr Page which had been published in the Timaru Herald following the Council meeting held on 5 August 2011. She said that in spite of the Council agreeing that comment on the decisions made at the meeting should come only from the Mayor, Cr Page had spoken to the media. She said objection had also been taken to inaccurate figures provided by Cr Page.

The Mayor referred to the Code of Conduct which had been adopted by the Council and in particular the provisions of the section relating to contact with the media, viz:

*Elected members, in their dealings with the media:* 

- will recognise the Mayor's role as the primary Council spokesperson and key media contact
- may express a personal view on any matter, without implying that that is the official Council view and without attempting to publicly relitigate any matter that has already been debated and decided upon.

She said that regardless of councillors' personal views, it was important that a united front be expressed publicly about sensitive issues. She reiterated that the Council had specifically agreed that the Mayor would provide a press release in that instance; the impression that Cr Page was the Council's spokesperson had been upsetting for some people.

Cr Money expressed concern that the information which had been discussed in the newspaper had been considered with the Public Excluded.

Cr Page said he had been contacted on the telephone by the Timaru Herald Reporter who had asked him questions which he had considered he was entitled to answer. He maintained that his statement had been factual and that the figures he had quoted could have been inclusive or exclusive of GST.

Cr Smith said that regardless of what Cr Page felt entitled to do, it had been against the express wish of the Council and he was disappointed that a senior Councillor had shown such disrespect.

Cr Page said he had been around long enough to know the rules and he always said to reporters that it was "Graeme Page commenting".

The standard of accuracy in newspaper articles was discussed. The Mayor said it was her practice to ask for her comments to be repeated to her to ensure that the reporting was correct.

#### MATTERS UNDER ACTION:

#### **Alps2Ocean Cycleway:**

Cr Smith requested that copies of the final documentation with regard to Alps2Ocean Cycle Trail Ltd and the Shareholders' Agreement, be circulated to Councillors.

### **Purchase of Land for Twizel Sewerage Purposes:**

In response to concerns expressed about the length of time the land purchase was taking, the Chief Executive Officer explained the difficulties which had been encountered. He said that Mr Lyons wanted to link his subdivisional developments with Council's desire to buy some of his land for sewerage purposes – this was not possible.

The Mayor asked if negotiations could be more accommodating as the matter needed to be progressed.

The Chief Executive Officer reiterated that Mr Lyons had been reluctant to conclude the land negotiations and staff had not been holding the process up.

Cr Smith agreed that it was important to resolve the issues, but not at any cost.

# XII <u>VISITORS</u>:

The Mayor welcomed Geoff Matthews, Chief Executive Officer of Mt Cook Alpine Salmon, Dr Terry Bradley, Professor of Aquaculture at Rhode Island University and Rick Ramsay, Manager - Mt Cook Alpine Salmon.

The Mayor explained that Mr Matthews had recently taken her on a tour of the company's salmon farms and apprised her of plans for future developments.

Councillors were invited to sample the company's premier product - tequila cured gravalax.

# IX PUBLIC EXCLUDED:

<u>Resolved</u> that the public be excluded from the following part of the proceedings of this meeting namely:

1. Mt Cook Alpine Salmon.

Reason for passing General subject of each matter to be considered	Ground(s) under this resolution in relation to each matter	Section 48(1) for the passing of this resolution
Mt Cook Alpine Salmon	Commercial Sensitivity	48(1)(a)(i)
Public Excluded Minutes of Council meeting of 19 July 2011 - Corrections		48(1)(a)(i)

This resolution is made in reliance on Section 48(1)(a)(i) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section 6 or Section 7 of that Act, which would be prejudiced by the holding of the whole or the relevant part of the proceedings of the meeting in public are as follows: *Mt Cook Alpine Salmon*, section 7(2)(b)(ii).

**Graeme Page/Evan Williams** 

THERE BEING	NO FURTHER I	BUSINESS,	
THE MAYOR DECLARED	THE MEETING	CLOSED AT	12,34 PM

<b>MAYOR:</b>	
DATE:	