



Notice is given that the inaugural meeting of the Tasman District Council will be held on:

Date: Thursday 24 October 2013
Time: 11.00 am
Meeting Room: Tasman Council Chamber
Venue: 189 Queen Street
Richmond

Inaugural Council

AGENDA

MEMBERSHIP

Mayor

Mayor R G Kempthorne

Deputy Mayor

to be elected

Councillors

Cr M L Bouillir

Cr J L Inglis

Cr S G Bryant

Cr M Greening

Cr B F Dowler

Cr Z S Mirfin

Cr J L Edgar

Cr T E Norriss

Cr B W Ensor

Cr P F Sangster

Cr P Canton

Cr M Higgins

Cr T King

(Quorum 7 members)

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Note: The reports contained within this agenda are for consideration and should not be construed as Council policy unless and until adopted.

AGENDA

The business that must be conducted at the first meeting of Council after the elections is set out in the Local Government Act 2002, , Clause 21, Schedule 7. This agenda includes all of that business as well as reports recommending that Standing Orders and a Code of Conduct be adopted. Ordinary business is seldom conducted at Inaugural meetings.

The business that must be conducted includes

- making and attesting the declarations by members
- an explanation of the laws affecting members and meetings
- fixing of the date and time for the first meeting of Council
- electing a Deputy Mayor

The order of business is not specified in the Local Government Act. This order paper is arranged so that the decisions that are necessary precursors to the electing a Deputy Mayor can to be taken.

Members and their guests are requested to sit in the public gallery at the commencement of the meeting.

- 1 MIHI – KAUMATUA ANDY JOSEPH**
- 2 INTRODUCTION BY CHIEF EXECUTIVE**
- 3 APOLOGIES**

Recommendation

THAT apologies be accepted.

- 4 DECLARATION BY MAYOR**
- 5 DECLARATION BY COUNCILLORS**
- 6 ADDRESS BY MAYOR**
- 7 REPORTS**

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7 REPORTS

7.1 STANDING ORDERS FOR COUNCIL MEETINGS

Decision Required

Report To:	Full Council
Meeting Date:	24 October 2013
Report Author:	Pamela White, Executive Assistant to CEO/Mayor
Report Number:	RCN13-10-01

1 Summary

- 1.1 Clause 27, Schedule 7 of the Local Government Act 2002, requires all local authorities to adopt a set of Standing Orders for the conduct of its meetings and those of its committees.
- 1.2 Standing Orders is a set of rules that provide formal guidance about the way that Council conducts its meetings.
- 1.3 They also outline the Council's agreed principles of behaviour within meetings.
- 1.4 Elected members must abide by the Standing Orders adopted by the Council unless the Standing Orders are suspended.
- 1.5 The proposed Standing Orders 2013 include some modifications from the previous version which are detailed within this report.

2 Draft Resolution

That the Full Council:

- 1) **receives the Standing Orders for Council Meetings Report RCN13-10-01; and**
- 2) **adopts Tasman District Council's Standing Orders 2013.**

3 Purpose of the Report

- 3.1 To consider adopting Tasman District Council's Standing Orders (Appendix 1) as required under Clause 27, Schedule 7 of the Local Government Act 2002. (LGA)

4 Background and Discussion

- 4.1 Clause 27, Schedule 7 of the Local Government Act 2002 requires local authorities to adopt a set of Standing Orders for the conduct of its meetings.
- 4.2 Standing Orders is a set of rules that provide a formal framework for the way Council conducts its meetings. They outline Council's agreed principles of behaviour within meetings.
- 4.3 Standing Orders also ensure that Council meets the requirements of the Local Government Act 2002 (and its subsequent amendments); and the Local Government Official Information & Meetings Act 1987, among other legislation.
- 4.4 Any amendment to Standing Orders, or the adoption of new Standing Orders, requires a vote of not less than 75% of members present and voting.
- 4.5 Council adopted the last version of Standing Orders in 2010. These Standing Orders were nearly identical to the New Zealand Standard Model Standing Orders for Meetings of Local Authorities and Community Boards NZS 9202:2003. The Standing Orders 2010 included some amendments, which generally arose from changes in legislation.
- 4.6 The Standing Orders have now been revised by staff. These changes from the previous version are in response to a recent Amendment to the Local Government Act, and to reflect the guidance that Councillors gave to staff during an End of Triennium debrief workshop held in August 2013. These substantive changes are detailed below. Any other variations from the Model Standing Orders or previous Council Standing Orders 2010 are minor in nature and include wording changes or changes to the order of the document.

5 Substantive Changes

5.1 Quorum of Committee

The Local Government Act 2002 (LGA) states

"The quorum at a meeting of –

(a) [...](b) a committee –

(i) is not fewer than two members of the committee (as determined by the local authority or committee that appoints the committee); and

(ii) in the case of a committee other than a subcommittee, must include at least 1 member of a local authority."

[cl.23(3), Schedule 7, LGA]

Given that the Mayor and all Councillors are members of standing committees, bringing the total membership to 14, a quorum of two seems inadequate. Staff have changed clause 2.4.4 of Standing Orders to read:

The quorum at a meeting of committee or subcommittee shall be:

half of the members if the number of members (including vacancies) is even; or

a majority of members if the number of members (including vacancies) is odd.

Similar wording has also been included in the “Definition of a Quorum for Committee Meetings” under 3.4.

It is worth noting that under Section 54(2) of the LGA a Community Board is deemed to be local authority for the purposes of setting a quorum, so clause 3.4.3 of the Standing Orders covers a Community Board quorum.

5.2 Election of Deputy Mayor

The Standing Orders have been amended in regard to the election of the Deputy Mayor in clause 2.2 and 2.3.2. The provisions of section 41A(3)(a) of the LGA now allow for the Mayor to appoint the Deputy Mayor and Standing Orders now reflect that change.

5.3 Membership of committees or subcommittees

A paragraph has been added to note that the provisions of Standing Orders 2.10.1 – 2.10.5 (membership of committees or subcommittees) may not apply to a Regional Transport Committee or a District Licensing Committee or any other committee where the legislation establishing and governing those committees overrides these Standing Orders.

The Regional Transport Committee is established by the Land Transport Management Act 2003, while the District Licensing Committee is established by the Sale and Supply of Alcohol Act 2012.

5.4 Chairperson’s Report

Section 3.7.4 has been amended to allow for members’ questions to be taken as part of the consideration of the Chairperson’s report.

5.5 Time limits on speakers

Section 3.8.6(a) has been amended. Previously members speaking at local authority meetings, who were the mover of a motion and speaking to the motion were allowed a maximum of 10 minutes to speak. This has been amended to 5 minutes, and brings it in line with (b) and (c) of that section which relate to the time allowed for the mover of a motion to exercise their right of reply; and other members to speak.

5.6 Deputations and Presentations – now Public Participation

The previous Appendix F to the Standing Orders **Public Forum** has been moved into this section. This means the previously informative appendix is now a binding part of the Standing Orders.

In addition a clause has been added. The total time allocated at meetings for public participation, including deputations, is 30 minutes, unless the Chairperson agrees to extend this time.

A statement has been added for clarification that, during public forum, members may ask questions of the presenter, for the purposes of clarification, but may not engage in debate with the presenter.

5.7 Officer’s Role

Section 3.21.2 has been added to clarify the Officer’s role in presenting an item on the agenda.

5.8 Amendment Schedule

The Amendment Schedule has been removed from the document. The rationale is that the Council is not adopting an amended set of Standing Orders, but a set of Standing Orders as they are published at the time of the resolution. Any prior amendments are therefore irrelevant.

The following is the Amendment Schedule as it would stand at the time the recommended Standing Orders 2013 are adopted.

Amendment Schedule:

Reference (notes clause at the time of publication)	Amendment	Date
2.5.1 and 2.5.2	<p>Voting at Meetings Replace with:</p> <p>2.5.1 The acts of a local authority must be done, and the questions before the local authority must be decided, at a meeting by:</p> <p>a) Vote; and; b) The majority of members that are present and voting.</p> <p>2.5.2 The Mayor or Chairperson or other person presiding at the meeting:</p> <p>a) Has a deliberative vote; and; b) In the case of an equality of votes has a casting vote.</p>	21 October 2004
2.10.1(1)(g)	Delete Standing Order 2.10.1(1)(g) as by virtue of the Local Government Act 2002 Amendment Act 2004, the Council can now delegate power to a committee, or member or officer of the Council, to issue warrants to enforcement officers.	21 October 2004
3.7.5	<p>3.7.5 – Items not on the agenda may be discussed be amended to read as follows:</p> <p>3.7.5 A major item that is not on the agenda for a meeting may be dealt with at the meeting if:</p> <p>a) The local authority by resolution so decides; and b) the presiding member explains at the meeting at a time when it is open to the public:</p> <p>i) the reason why the item is not on the agenda; and ii) the reason why the discussion of the item cannot be delayed until a subsequent meeting.</p>	2 December 2004
3.14.2	As the proposed new Standing Orders provide for the Chairperson at any meeting to have a deliberative vote and, in case of equality of votes, a casting vote as well. Standing Order 3.14.2 should be omitted and substituted by the	21 October 2004

	<p>following: 3.14.2 The Chairperson at any meeting has a deliberative vote and, in case of equality of votes, has a casting vote as well.</p>	
Appendix C	<p>Powers of the Chairperson C6 Chairperson's voting – delete sentence under this heading and replace with: The Chairperson at any meeting has a deliberative vote and, in the case of equality of votes, has a casting vote as well.</p>	

6 Other considerations

6.1 Alignment with Nelson City Council Standing Orders

Staff have considered the alignment of Tasman's Standing Orders with the Standing Orders of Nelson City Council with particular consideration to the functioning of any joint committees of the two councils. A paragraph has been added to note in the Scope and General section that these Standing Orders may be applied or set aside in favour of Nelson City Council's Standing Order for the function of a Joint Committee of Nelson City and Tasman District Councils; as determined by that Joint Committee.

Staff recommend that the Joint Committee resolves which set of Standing Orders (Nelson's or Tasman's) that Joint Committee will operate under at the first meeting of that committee.

Over the short to medium term staff will continue to try to achieve alignment between the Standing Orders of Nelson and Tasman. One notable point of difference is that Tasman allows the Chairperson a casting vote in the case of an equality of votes, whereas the Nelson Standing Orders do not allow the Chairperson a casting vote.

6.2 Correct quotations of legislation

Staff have identified that in places the Model Standing Orders either do not correctly quote references to legislation, or have not allowed for changes to legislation since the Model Standing Orders were published in 2004. Staff have reviewed all direct quotations of the legislation and have corrected where needed. Cross-references to other clauses within the document have also been checked for accuracy.

7 Strategic Challenges/Risks

7.1 The risks of adopting the Standing Orders are relatively low. The Standing Orders are based on the Model Standing Orders with some amendments to make them specific to Tasman District Council's circumstances or to meet current legislation.

8 Requirements / Plan

8.1 The adoption of a set of Standing Orders fulfils the requirements of Clause 27, Schedule 7 of the Local Government Act 2002.

- 8.2 Such adoption also ensures that other legislation, such as the Local Government Official Information and Meetings Act 1987, is complied with.

9 Consideration of Financial or Budgetary Implications

- 9.1 There are no financial considerations associated with this report.

10 Significance

- 10.1 Adopting a set of Standing Orders is considered of very low significance as it does not have a high degree of public interest and it does not impact on levels of service or have financial implications.

11 Consultation

- 11.1 The special consultative procedure, as prescribed in the Local Government Act 2002, does not have to be considered, as adopting a set of Standing Orders is required by the Local Government Act 2002.

12 Conclusion

- 12.1 Council is recommended to adopt the Standing Orders 2013

13 Next Steps / Timeline

- 13.1 The Standing Orders will come into effect when adopted by resolution and will apply to all meetings of the Full Council, its Committees, Subcommittees, quasi-judicial committees and subordinate decision-making bodies. The Golden Bay and Motueka Community Boards will be asked to adopt these Standing Orders at their inaugural meetings on 1 November 2013.

14 Attachments

1. Standing Orders 2013 11



Standing Orders 2013

Tasman District Council Standing Orders 2013

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Foreword

These Standing Orders are based on the NZS 9202:2003 Model Standing Orders for Meetings of Local Authorities and Community Boards.

These Standing Orders reflect legislative requirements relating to the conduct of local authority meetings, particularly the provisions of the Local Government Act (2002) and the Local Government Official Information and Meetings Act (1987) and all subsequent amendments to these Acts.

The following Standing Orders 2013 were adopted by resolution of the Tasman District Council on xx October 2013.

GENERAL

1.1. Scope and General

This document sets out Standing Orders for the conduct of proceedings at meetings of the Tasman District Council, its Committees, Subcommittees and its Community Boards.

It incorporates the provisions of the Local Government Act (2002) and the Local Government Official Information and Meetings Act (1987) and all subsequent amendments to these Acts as they affect the provisions of the Standing Orders.

These Standing Orders are presented in three parts. Part 1 is the general introduction. Part 2 covers constitutional and legislative matters, and Part 3 relates to meeting procedures.

Part 3 involves some repetition of Part 2, to ease use and to ensure each part can stand alone without the need for undue cross referencing.

These Standing Orders may be applied or set aside in favour of Nelson City Council's Standing Orders for the function of a Joint Committee of Nelson City and Tasman District Councils, as determined by that Committee.

1.2. Interpretation

The terms "normative" and "informative" have been used in these Standing Orders to define the application of the Appendix to which they apply. A "normative" appendix is an integral part of a Standing Orders, whereas an "informative" appendix is only for information and guidance. Informative provisions do not form part of the mandatory requirements of the Standing Orders.

In these Standing Orders the word "shall" identifies a mandatory requirement for compliance with the Standing Orders. The word "should" refers to practices which are advised or recommended.

Where direct quotations from the legislation are cited in these Standing Orders they are shown in **bold** with quotation marks.

These Standing Orders apply in full to Community Boards as if they are a 'local authority', except when statute specifically overrides this provision, for example the Local Government Act.

1.3. Definitions

In these Standing Orders, unless inconsistent with the context:

Agenda means the list of items for consideration at a meeting together with reports and other attachments relating to those items.

Chairperson means the Mayor of the Tasman District Council, or the Deputy Mayor in the absence of the Mayor, and any person presiding at any meeting of a committee or subcommittee of the Tasman District Council or a community board.

Chief Executive means the chief executive of the Tasman District Council under section 42 of the Local Government Act 2002, and includes for the purposes of these Standing Orders, any other officer authorised by the local authority.

Clear working days means the number of working days prescribed in these Standing Orders for the giving of notice; and excluding the date of service of that notice and the date of the meeting, the subject of that notice.

Committee includes, in relation to the Tasman District Council:

- (a) A committee comprising all the members of the Tasman District Council;
- (b) A standing committee or special committee appointed by the Tasman District Council;
- (c) A joint committee appointed under clause 30 of Schedule 7 of the Local Government Act 2002; and
- (d) Any subcommittee of a committee described in items (a), (b) or (c) of this definition.

Conflict of Interest includes any pecuniary interest and any interest arising because of that person's position as a trustee, director, officer, employee or member of another body or because of any personal non-pecuniary interest.

Council means the Tasman District Council comprising the Mayor and members elected under the Local Electoral Act 2001.

Deputation means a request from any person or interest group in the community to make a presentation to the Tasman District Council or any committee, subcommittee, joint committee or community board meeting. This includes presentations, but excludes petitions. This is in addition to participation in hearings as part of any statutory or non-statutory consultation.

Division means a formal vote at a Council, committee, subcommittee or Community Board meeting whereby the names of those members present, are formally recorded as voting either YES or NO. This includes a vote where the names and votes are electronically recorded.

Ex-officio means conferred membership of a committee or community board without having been formally appointed or elected to that committee or community board. The person is appointed by virtue of his or her office or position in the Council or in the community. An ex-officio member has the full rights of membership of the committee, unless otherwise expressly stated.

Extraordinary meeting has the same meaning as defined in clause 22 of Schedule 7 of the Local Government Act 2002.

Item means a substantive matter for discussion at a meeting.

Leave of the meeting/Unanimous means agreement without a single member present dissenting.

Local authority means the Tasman District Council and/or the community boards covered by these Standing Orders, being a local authority or a community board as defined in section 5 of the Local Government Act 2002.

Mayor means the Mayor of a territorial authority elected under the Local Electoral Act 2001.

Meeting means any first, or extraordinary meeting of a local authority; and any meeting of any committee, standing committee, joint committee, special committee or subcommittee of the local authority. At any meeting of a local authority, or of any committee or subcommittee of a local authority, at which no resolutions or decisions are made, the provisions of these Standing Orders regarding public access and notification need not apply.

Member means any person elected or appointed to the local authority or to any committee or subcommittee of the local authority, and includes the Mayor of a territorial authority and the

chairperson of a regional council or community board, or of any committee or subcommittee of a regional council, territorial authority or community board.

Minutes means the record of the proceedings of any meeting of the local authority and its committees and subcommittees.

Motion means a substantive matter for resolution at a meeting.

Officer means any staff member employed by the Council.

Ordinary meeting means any meeting publicly notified by the Council in accordance with sections 46(1) and (2) of the Local Government Official Information and Meetings Act 1987.

Pecuniary interest includes any interest described in sections 3 and 6 of the Local Authorities (Members Interests) Act 1968.

Public excluded information means any information which can be excluded from the public for reasons meeting the provisions of the Local Government Official Information and Meetings Act 1987.

Public excluded session refers to those meetings or parts of meetings from which the public is excluded by the local authority as provided for in the Local Government Official Information and Meetings Act 1987.

Publicly notified is defined by statute (Local Government Official Information and Meetings Act 1987) as "notified in some newspaper circulating in the district, or, where there is no such newspaper in general circulation, means notified on printed placards affixed to public places in the district." For practical purposes, this means notified as widely as possible in newspapers, council's publications, website or council noticeboards so that any person who may have an interest in the items to be considered has a reasonable chance of being informed.

Quasi-judicial means typically relating to a power decision-making discretion delegated by Parliament; after investigating or ascertaining facts; and drawing conclusions from those facts as the foundation for official actions; often concerning the rights of parties.

Quorum means the minimum number of members needing to be present to constitute a valid meeting.

Subordinate decision-making body for the purposes of Tasman District Council includes at least one elected member.

Working day means any day of the week other than:

(a) Saturday, Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's Birthday, and Labour Day, and the Provincial Anniversary day (i.e. Nelson Anniversary day)

(b) A day in the period commencing with the 25th day of December in any year and ending with the 15th day of January in the following year.

2. CONSTITUTIONAL AND LEGISLATIVE MATTERS

2.1. Introduction

2.1.1. Requirement for adoption of Standing Orders

"A local authority must adopt a set of Standing Orders for the conduct of its meetings and those of its committees. The Standing Orders of a local authority must not contravene [any provisions of the Local Government Act 2002], the Local Government Official Information and Meetings Act 1987, or any other Act."

[cl.27(1) & (2), Schedule 7, LGA]

2.1.2. Alteration of Standing Orders

"After the adoption of the first Standing Orders of a local authority, an amendment of the Standing Orders or the adoption of a new set of Standing Orders requires, in every case, a vote of not less than 75% of the members present."

[cl.27(3), Schedule 7, LGA]

2.1.3. Temporary suspension of Standing Orders

"A local authority or committee may temporarily suspend Standing Orders during a meeting by a vote of not less than 75% of the members present and voting, and the reason for the suspension must be stated in the resolution of suspension."

[cl. 27(4), Schedule 7, LGA]

(See Standing Order 3.2.1)

2.1.4. All members to abide by Standing Orders

"A member of a local authority must abide by the Standing Orders adopted under clause 27 [of Schedule 7 of the Local Government Act]."

[cl. 16(1), Schedule 7, LGA]

(See Standing Order 3.1.1)

2.2 Appointment of Deputy Mayor

2.2.1. Mayor may appoint a Deputy Mayor

The Mayor has the power to appoint the Deputy Mayor. The Mayor may decline to exercise this power.

[section 41A(3)(a) LGA]

2.2.2. Mayor must give notice of intention

The Mayor must give notice to members that either:

- (a) the Mayor will appoint a Deputy Mayor; or
- (b) the Mayor will seek ratification of their nominee for Deputy Mayor; or
- (c) the Council will elect a Deputy Mayor at its first meeting.

2.3 First meeting of the local authority following election

2.3.1. Meeting called by chief executive

"The first meeting of a local authority following a triennial general election of members must be called by the chief executive as soon as practicable after the results of the election are known. The chief executive must give the persons elected to a local authority not less than 7 days' notice of the meeting. [However] if an emergency exists, the chief executive may give notice of the meeting as soon as practicable. The chief executive (or, in the absence of the chief executive, a nominee of that officer) must chair

the meeting until the... chairperson has made and attested the declaration required under clause 14 [of schedule 7 of the Local Government Act].”

[cl. 21(1) – (4), Schedule 7, LGA]

2.3.2. Business to be conducted

“The business that must be conducted at the meeting must include –

- (a) the making and attesting of the declarations required of the Mayor (if any) and members under clause 14 [of Schedule 7 of the Local Government Act]; and
- (b) ...
- (c) a general explanation given or arranged by the chief executive, of –
 - (i) the Local Government Official Information and Meetings Act 1987; and
 - (ii) other laws affecting members including - the appropriate provisions of the Local Authorities (Members' Interests) Act 1968; sections 99,105 and 105A of the Crimes Act 1961; and the Secret Commissions Act 1910 and the Securities Act 1978; and
- (d) the fixing of the date and time of the first ordinary meeting ..., or the adoption of a schedule of ordinary meetings; and
- (e) the election of the deputy Mayor... in accordance with clause 17 [of Schedule 7 of the Local Government Act].” unless notice has been given under Standing Order 2.2. that the Mayor will appoint a Deputy Mayor or seek ratification of a nominee.

[cl. 21(5), Schedule 7, LGA]

2.3.3. Members to give notice of addresses

Every member of the Council must give to the chief executive a residential or business address together with, if desired, a facsimile or other address within the district or region of the local authority to which notices and material relating to meetings and Council business may be sent or delivered.

2.4 Chairperson of meetings

2.4.1. Mayor of local authority to preside

“The Mayor ... must preside at each meeting of the local authority at which he or she is present unless the Mayor ... vacates the chair for a particular meeting...” or part thereof. “If the Mayor ... is absent from a meeting, the deputy Mayor ... (if any) ... must preside... If a deputy Mayor ... has not been appointed, or if the deputy Mayor ... is also absent, the members of the local authority... that are present must elect 1 of their number to preside at that meeting, and that person may exercise at that meeting the responsibilities, duties and powers of the Mayor ...”

[cl. 26(1), (5) & (6), schedule 7, LGA]

2.4.2. Chairperson of committee to preside

“The chairperson of a committee must preside at each meeting of the committee at which he or she is present unless the chairperson vacates the chair for a particular meeting... If the...chairperson of a committee is absent from a meeting, the deputy...chairperson (if any) of the committee must preside... If a deputy chairperson has not been appointed, or if ...the deputy chairperson is also absent, the members of the committee that are present must elect 1 of their number to preside at that meeting, and that person may exercise at that meeting the responsibilities, duties, and powers of the chairperson.”

[cl. 26(2), (5) & (6), Schedule 7, LGA]

2.5 Quorum at meetings

2.5.1. Requirement for a quorum

"A meeting is duly constituted if a quorum is present whether or not all of the members are voting or entitled to vote."

[cl. 23(1), Schedule 7, LGA]

2.5.2. Quorum to be present throughout meeting

"Business may not be transacted at any meeting unless at least a quorum of members is present during the whole of the time at which the business is transacted."

[cl. 23(2), Schedule 7, LGA]

2.5.3. Definition of quorum for local authority or joint committee meetings

"The quorum at any meeting of –

(a) a local authority [or joint committee] consists of –

- (i) half of the members if the number of members (including vacancies) is even; or**
- (ii) a majority of members if the number of members (including vacancies) is odd."**

[cl. 23(3), Schedule 7, LGA]

2.5.4. Definition of quorum for committee, subcommittee and Community Board meetings of Tasman District Council

The quorum of a meeting of a committee, subcommittee and Community Board meeting consists of

- (i) half of the members if the number of members (including vacancies) is even; or**
- (ii) a majority of members if the number of members (including vacancies) is odd."**

(see Standing Order 3.5)

2.6 Voting at meetings

2.6.1. Acts and decisions of the local authority by majority vote at meetings

"[Unless the Local Government Act 2002 provides otherwise], the acts of a local authority must be done, and the questions before the local authority must be decided, at a meeting by –

(a) vote; and

(b) the majority of members that are present and voting."

[cl. 24(1), Schedule 7, LGA]

(see Standing Order 3.15.1.)

2.6.2. Casting Vote

"[Unless the Local Government Act 2002 provides otherwise], for the purposes of [standing order 2.6.1.], the Mayor or chairperson or other person presiding at the meeting;

(a) has a deliberative vote; and"

(b) In the case of an equality of votes has a casting vote.

[cl. 24(2), Schedule 7 LGA]

(see Standing Order 3.15.2.)

2.6.3. Open voting

"An act or question coming before the local authority must be done or decided by open voting"

[cl. 24(3), Schedule 7, LGA]

(see Standing Order 3.15.3.)

2.7 Voting systems for certain appointments

2.7.1. Provisions for election or appointment of deputy Mayor, chairpersons and deputy chairpersons of local authorities and committees, and representatives of the Tasman District Council

[This Standing Order applies to] –

- (a) ...
- (b) the election or appointment of the deputy Mayor; and
- (c) the election or appointment of the chairperson and deputy chairperson of a committee; and
- (d) the election or appointment of a representative of a local authority.

A local authority or a committee (if the local authority has so directed) must determine by resolution that a person be elected or appointed by using one of the following systems of voting:

System A

- (a) ... a person is elected or appointed if he or she receives the votes of a majority of the members of the local authority or committee present and voting; and
- (b) has the following characteristics:
 - i. there is a first round of voting for all candidates; and
 - ii. if no candidate is successful in that round there is a second round of voting from which the candidate with the fewest votes in the first round is excluded; and
 - iii. if no candidate is successful in the second round there is a third, and if necessary subsequent, round of voting from which, each time, the candidate with the fewest votes in the previous round is excluded; and
 - iv. in any round of voting, if 2 or more candidates tie for the lowest number of votes, the person excluded from the next round is resolved by lot.

System B

- (a) ... a person is elected or appointed if he or she receives more votes than any other candidate; and has the following characteristics:
 - i. there is only 1 round of voting; and
 - ii. if 2 or more candidates tie for the most votes, the tie is resolved by lot.

[cl.25, Schedule 7, LGA]

2.7.2. Exclusions to requirements for voting systems

Standing order 2.7.1. does not apply if the Mayor uses his powers: -

- (a) to appoint the deputy Mayor;
- (b) to establish committees of the territorial authority

- (c) to appoint the chairperson of each committee established under paragraph (b), and for that purpose, a Mayor –
 - (i) may make the appointment before the other members of the committee are determined; and
 - (ii) may appoint himself or herself.”

[cl. 41A(3) LGA]

2.8 Appointment of committees and other subordinate decision-making bodies

2.8.1. Appointment of committees, subcommittees and other subordinate decision-making bodies

“A local authority may appoint – the committees, subcommittees, and other subordinate decision-making bodies that it considers appropriate and... a committee may appoint the subcommittees that it considers appropriate unless it is prohibited from doing so by the local authority.”

[cl.30(1) & (2), Schedule 7, LGA]

2.8.2. Mayor may establish committees

A Mayor may establish the committees they consider appropriate.

[cl. 41A(3)(b) LGA]

(see Standing Order 2.7.2.)

2.8.3. Discharge or reconstitution of committees, subcommittees and other subordinate decision-making bodies

“Unless expressly provided otherwise in an Act, -

- (a) a local authority may discharge or reconstitute a committee or subcommittee or other subordinate decision-making body; and
- (b) a committee may discharge or reconstitute a subcommittee.

A committee, subcommittee or other subordinate decision-making body is, unless the local authority resolves otherwise, deemed to be discharged on the coming into office of the members of the local authority elected or appointed at, or following, the triennial general election of members next after the appointment of the committee, subcommittee, or other subordinate decision-making body.”

[cl. 30(5) & (7), Schedule 7, LGA]

2.8.4. Committees and subordinate decision-making bodies subject to direction of local authority

“A committee or other subordinate decision-making body is subject in all things to the control of the local authority, and must carry out all general and special directions of the local authority given in relation to the committee or other body or the affairs of the committee or other body. A subcommittee is subject in all things to the control of the committee that appointed it, and must carry out all general and special directions of the committee given in relation to the subcommittee or its affairs... Nothing in this [standing order] entitles a local authority or committee to rescind or amend a decision made under a delegation authorising the making of a decision by a committee, subcommittee, or another subordinate decision-making body.”

[cl.30(3), (4) & (6), Schedule 7, LGA]

2.9. Joint Committees

2.9.1. Appointment of joint committees

“A local authority may appoint... a joint committee with another local authority or other public body.”

[cl.30(1), Schedule 7, LGA]

2.9.2. Status of joint committees

"A joint committee... is deemed to be both a committee of the local authority and a committee of the other local authority or public body."

[cl.30(8) Schedule 7, LGA]

2.9.3. Powers and responsibilities of joint committees

"...[Part 1 of Schedule 7 of the Local Government Act] applies to a joint committee except that –

- (a) **the powers to discharge any individual member and appoint another in his or her stead must be exercised by the local authority or public body that made the appointment; and"**
- (b) **the meeting quorum is as outlined in Standing Order 2.5.3; and**
- (c) **"The committee may appoint and remove its own chairperson or deputy chairperson"**

[cl.30(9) Schedule 7, LGA]

2.9.4. Application to a public body that is not a local authority

For the purposes of a public body that is not a local authority, Standing Orders 2.9.2 and 2.9.3 apply to the extent that they are not inconsistent with the law applicable to committees of the public body.

[cl.30(10), Schedule 7 LGA]

2.10 Membership of committees and subcommittees

2.10.1. Appointment or discharge of committee members and subcommittee members

"A local authority may appoint or discharge any member of a committee or a subcommittee. Unless directed otherwise by the local authority, a committee may appoint or discharge any member of a subcommittee appointed by the committee."

[cl.31(1) & (2) Schedule 7, LGA]

2.10.2. Elected members on committees and subcommittees

"The members of a committee or subcommittee may, but need not be, elected members of the local authority, and a local authority or committee may appoint to a committee or subcommittee a person who is not a member of the local authority or committee if, in the opinion of the local authority, that person has the skills, attributes or knowledge that will assist the work of the committee or subcommittee... at least 1 member of a committee must be an elected member of the local authority; and an employee of a local authority acting in the course of his or her employment may not act as a member of any committee unless that committee is a subcommittee."

[cl.31(3) & (4) Schedule 7, LGA]

2.10.3. Local authority may replace members if committee not discharged

"If a local authority resolves that a committee, subcommittee, or other decision-making body is not to be discharged under clause 30(7) [of Schedule 7 of the Local Government Act], the local authority may replace the members of that committee, subcommittee or other subordinate decision-making body after the next triennial general election of members."

[cl.31(5), Schedule 7, LGA]

2.10.4. Minimum numbers on committees and subcommittees

"The minimum number of members is 3 for a committee, and is 2 for a subcommittee."

[cl.31(6) Schedule 7, LGA]

2.10.5. Mayor or chairperson of local authority as an ex-officio member

The Mayor or chairperson of the local authority may be appointed an ex-officio member of any committee other than a community board or quasi-judicial committee.

The provisions of Standing Orders 2.10.1 – 2.10.5 may not apply to a Regional Transport Committee or a District Licensing Committee or any other committee where the legislation describing that committee overrides these Standing Orders.

2.11. Powers of delegation

2.11.1. Delegations to committees, subcommittees, subordinate decision-making bodies, community boards, members and officers

- (1) “Unless expressly provided otherwise in [the Local Government Act 2002], or in any other Act, for the purposes of efficiency and effectiveness in the conduct of a local authority’s business, a local authority may delegate to a committee or other subordinate decision-making body, community board or member or officer of the local authority any of its responsibilities, duties, or powers except –
- (a) the power to make a rate; or
 - (b) the power to make a bylaw; or
 - (c) the power to borrow money, or purchase or dispose of assets, other than in accordance with the long-term plan; or
 - (d) the power to adopt a long-term plan, annual plan or annual report; or
 - (e) the power to appoint a chief executive; or
 - (f) the power to adopt policies required to be adopted and consulted on under [the Local Government Act 2002] in association with the long-term plan or developed for the purpose of the local governance statement; or
 - (g) ...[does not apply]
 - (h) The power to adopt a remuneration and employment policy.
- (2) Nothing in this clause restricts the power of a local authority to delegate to a committee or other subordinate decision-making body, community board or member or officer of the local authority the power to do anything precedent to the exercise by the local authority (after consultation with the committee or body or person) of any power or duty specified in...[(a) – (h) above].
- (3) A committee or other subordinate decision-making body, community board or member or officer of the local authority may delegate any of its responsibilities, duties, or powers to a subcommittee or person, subject to any conditions, limitations, or prohibitions imposed by the local authority or by the committee or body or person that makes the original delegation.”

[cl.32(1), (2) & (3), Schedule 7, LGA]

2.11.2. Use of delegated powers

“A committee, subcommittee, other subordinate decision-making body, community board or member or officer of the local authority to which or to whom any responsibilities, powers or duties are delegated may, without confirmation by the local authority, or committee or body or person that made the delegation, exercise or perform them in the like manner and with the same effect as the local authority could itself have exercised or performed them.”

[cl.32(4), Schedule 7, LGA]

2.11.3. Delegations related to bylaws and other regulatory matters

"A local authority may delegate to any other local authority, organisation, or person the enforcement, inspection, licensing, and administration related to bylaws and other regulatory matters."

[cl.32(5), Schedule 7, LGA]

- **2.11.4. Delegations to community boards**
- "A territorial authority must consider whether or not to delegate to a community board if the delegation would enable the community board to best achieve its role."
- **[cl. 32(6) Schedule 7 LGA**

2.12. Proceedings not invalidated by vacancies or irregularities

2.12.1. Proceedings not invalidated by vacancies or irregularities

"An act or proceeding of a local authority or committee, or of a person acting as a member of a local authority or committee, is not invalidated by a vacancy in the membership of the local authority or committee at the time of that act or proceeding, or the subsequent discovery of some defect in the election or appointment of the person acting as a member of the local authority or committee, or that that person was or is incapable of being a member."

[cl.29, Schedule 7, LGA]

2.13. General Provisions as to meetings

2.13.1. Meetings to be held

"A local authority must hold the meetings that are necessary for the good government of its region or district."

[cl.19(1), Schedule 7, LGA]

2.13.2. Right to attend meetings

"A member of a local authority, or of a committee of a local authority, has, unless lawfully excluded, the right to attend any meeting of the local authority or committee."

[cl.19(2), Schedule 7, LGA]

2.13.3. Calling, public notification and conduct of meetings

"A meeting of a local authority must be called and conducted in accordance with [Schedule 7 of the Local Government Act]; and Part 7 of the Local Government Official Information and Meetings Act 1987; and the Standing Orders of the local authority."

[cl.19(3), Schedule 7, LGA]

2.13.4. Agenda to be sent to members

In the case of each meeting to which Standing Order 2.13.1 applies, an agenda detailing the business to be brought before that meeting together with relevant attachments must be sent to every member not less than two clear working days before the day appointed for the meeting (in the case of extraordinary meetings Standing Order 2.15.2 applies).

[cl. 19(5) & 6, Schedule 7, LGA]

2.13.5. Meetings not invalid because notice not received

"A meeting of a local authority is not invalid if notice of that meeting was not received, or not received in due time, by a member of the local authority unless –

- (a) it is proved that the person responsible for giving notice of the meeting acted in bad faith or without reasonable care; and
- (b) the member concerned did not attend the meeting.

A member of a local authority may waive any requirement regarding the giving of notice of a meeting to that member."

[cl.20(1), (2), Schedule 7, LGA]

2.13.6. Minutes of proceedings

"A local authority must keep minutes of its proceedings. Minutes of proceedings duly entered and authenticated as prescribed by the local authority are prima facie evidence of those proceedings."

[cl.28(1), (2), Schedule 7, LGA]

2.14. Notification of Ordinary meetings to members

2.14.1. Period for notice in writing

"[Unless a meeting is Extraordinary] the chief executive must give notice in writing to each member of the time and place of a meeting –

- (a) not less than 14 days before the meeting; or**
- (b) if the local authority has adopted a schedule of meetings, not less than 14 days before the first meeting on the schedule."**

[cl.19(5), Schedule 7, LGA]

2.14.2. Schedule of meetings

"If a local authority adopts a schedule of meetings, –

- (a) the schedule may cover any future period that the local authority considers appropriate and may be amended; and**
- (b) notification of the schedule or any amendment to that schedule constitutes a notification of every meeting on the schedule or amendment."**

[cl.19(6), Schedule 7, LGA]

2.14.3. Cancellation of scheduled meetings

If it is necessary to cancel a scheduled meeting, all reasonable effort shall be taken to notify elected members and the public as soon as is practicable of the cancellation and of the reasons for the cancellation.

2.15. Extraordinary meetings

2.15.1. Extraordinary meetings may be called

"Despite [clause 19 (4) to (6) of Schedule 7 of the Local Government Act], if a resolution or requisition specifies the time and place at which the meeting is to be held and the general nature of the business to be brought before the meeting, a meeting may be called by-

- (a) a resolution of the local authority; or**
- (b) a requisition in writing delivered to the chief executive and signed by -**
 - (i) the Mayor or chairperson; or**
 - (ii) not less than one-third of the total membership of the local authority (including vacancies)."**

[cl. 22(1), Schedule 7, LGA]

2.15.2. Notification of extraordinary meetings to members

"Notice in writing of the time and place of the meeting called under [Standing Order 2.15.1] and of the general nature of business must be given by the chief executive to each member of the local authority at least 3 working days before the day appointed for

the meeting; or if the meeting is called by a resolution, within such lesser period of notice that is specified in the resolution, being not less than 24 hours.”

[cl. 22(3), Schedule 7, LGA]

2.15.3. Calling of extraordinary meetings at earlier time

“Despite [clause 19 (4) to (6) of Schedule 7 of the Local Government Act], if the business to be dealt with requires a meeting to be held at a time earlier than is allowed by the notice requirements specified [in Standing Order 2.15.2], a meeting may be called by the Mayor or chairperson; or if the Mayor or chairperson are unavailable, the chief executive.”

[cl. 22(2), Schedule 7, LGA]

2.15.4. Notification of extraordinary meetings held at earlier time

“Notice of the time and place of a meeting called under [Standing Order 2.15.3] and of the matters in respect of which the meeting is being called must be given by the person calling the meeting or by another person on that person’s behalf, by whatever means is reasonable in the circumstances, to each member of the local authority and to the chief executive at least 24 hours before the time appointed for the meeting.”

[cl. 22(4), Schedule 7, LGA]

2.15.5. Public notice of resolutions of extraordinary meetings

“A local authority must, as soon as practicable, publicly notify any resolution passed at an extraordinary meeting of the local authority unless the resolution was passed at a meeting or part of a meeting from which the public was excluded; or the extraordinary meeting was publicly notified at least 5 working days before the day on which the meeting was held.”

[s. 51A, LGOIMA]

2.16. Public at meetings, access to agendas etc

2.16.1. Meetings normally to be open to the public

“Except as otherwise provided by [Part VII of the Local Government Official Information and Meetings Act] every meeting of a local authority shall be open to the public... For the purposes of [Part VII of the Local Government Official Information and Meetings Act] bona fide members of the news media shall be deemed to be members of the public, and shall be entitled to attend any meeting or any part of a meeting for the purpose of reporting the proceedings for any news media.”

[s. 47 & 49(a), LGOIMA]

2.16.2. Information to be available to public

All information provided to members at Council and committee meetings must be available to the public and news media unless any item included in the agenda refers to any matter reasonably expected to be discussed with the public excluded.

[s. 5 & 49, LGOIMA]

2.16.3. Public notification about meetings

All meetings scheduled for the following month shall be publicly notified not more than 14 days and not less than 5 days before the end of every month, together with the dates on which and the times and places at which those meetings are to be held. Where any meeting is to be held on or after the 21st day of the month, such meetings may instead be publicly notified not more than 10 nor less than 5 working days before the day on which the meeting is to be held.

[s. 46(1) & (2), LGOIMA]

2.16.4. Public notification about extraordinary meetings

"Where any extraordinary meeting of a local authority is called and notice of that meeting cannot be given in the manner required or permitted by [Standing Order 2.15.3 as appropriate], the local authority shall cause that meeting and the general nature of business to be transacted at that meeting to be publicly notified or otherwise advertised as soon as practicable before the meeting is to be held as is reasonable in the circumstances".

[s. 46(3) & (4), LGOIMA]

2.16.5. Public notification additional requirements

The chief executive is to make any other arrangement for the notification of meetings including extraordinary meetings as the local authority may from time to time determine.

2.16.6. Meetings not invalid because not publicly notified

"No meeting of any local authority [is] invalid merely because that meeting was not publicly notified in accordance with [Standing Orders 2.16.3 - 2.16.5]."

[s. 46(5), LGOIMA]

2.16.7. Public notice of meetings not notified

"Where a local authority becomes aware that any meeting of that local authority has not been publicly notified in accordance with [Standing Orders 2.16.3 – 2.16.5], the local authority shall, as soon as practicable, give public notice that that meeting was not so notified, and shall, in that notice, state the general nature of the business transacted at that meeting; and give the reasons why that meeting was not so notified."

[s. 46(6), LGOIMA]

2.16.8. Availability of agendas and reports

"Subject to [subsections (6) to (10) of s. 46A of the Local Government Information and Meetings Act], any member of the public may, without payment of a fee, inspect, during normal office hours, within a period of at least 2 working days before every meeting, all agendas and associated reports circulated to members of the local authority and relating to that meeting. The agendas -

- (a) shall be available for inspection ... at the public offices of the local authority, (including service delivery centres) and the public libraries under the authority's control; and
- (b) shall be accompanied by either -
 - (i) the associated reports; or
 - (ii) a notice specifying the places at which the associated reports may be inspected.

...The associated reports shall be available for inspection... at the public offices of the local authority. Any member of the public may take notes from any agenda or report inspected by that member of the public... Every member of the public who inspects an agenda or report made available... and who requests a copy of any part of any such agenda or report and tenders the prescribed amount (if any) shall be given such a copy as soon as practicable. Where a meeting is an extraordinary meeting called pursuant to a resolution of the local authority, the local authority must cause the agenda and any associated reports to be made available as soon as is reasonable in the circumstances."

[s. 46A(1)-(6), LGOIMA]

2.16.9. Exclusion from reports to be discussed with public excluded

The chief executive may exclude from the reports made available, reports or items from reports that are reasonably expected to be discussed with the public excluded. These items are to be indicated on each agenda.

[s. 46A(8) & (9), LGOIMA]

2.16.10. Availability of agendas and reports for meetings of community boards

Where agendas and associated reports are for meetings of community boards, it is sufficient for the purposes of these Standing Orders that they be available for public viewing at the main office of the local authority and those service delivery centres and public libraries, if any, under the control of the local authority situated within the community.

[s. 46A(10), LGOIMA]

2.16.11. Agenda to be made available to public who are at meetings

Additional copies of the agenda and further particulars indicating the nature of the items to be discussed must be available at meetings in sufficient numbers to enable any spare copies to be provided for members of the public to take away with them on payment of the prescribed amount (if any).

[s. 49, LGOIMA]

2.16.12. List of committee members publicly available

The members of each committee are to be named on the relevant agenda.

2.16.13. Public entitled to inspect minutes

The public is entitled without charge to inspect, take notes from, or receive copies of, minutes of any meeting or part of any meeting from which the public was not excluded.

[s. 51, LGOIMA]

2.16.4. Requests for minutes of meetings in closed session

The chief executive must consider any request for the minutes of a meeting or part thereof from which the public was excluded as a request for official information in terms of the Local Government Official Information and Meetings Act 1987.

[s. 51, LGOIMA]

2.17. Reasons to exclude public

2.17.1. Lawful reasons to exclude public

A local authority may by resolution exclude the public from the whole or any part of the proceedings of any meeting only on one or more of the grounds specified in section 48 of the Local Government Official Information and Meetings Act (see Appendix A).

(s. 48, LGOIMA)

2.17.2. Form of resolutions to exclude public

Any resolution to exclude the public must be in the form set out in Schedule 2A to the Local Government Official Information and Meetings Act 1987 and state the general subject of each matter to be considered while the public is excluded, the reason for passing that resolution in relation to that matter, and the grounds on which the resolution is based. (For an example resolution refer to Appendix B).

[s. 48(3), LGOIMA]

2.17.3. Motion to exclude public to be put with the public present

Every motion to exclude the public must be put at a time when the meeting is open to the public, and copies of the text of that motion must be available to any member of the public who is present. The resolution then forms part of the minutes of the local authority.

[s. 48(4), LGOIMA]

2.17.4. Provision for persons to remain after public excluded

A resolution in accordance with Standing Order 2.17.3 may provide for one or more specified persons to remain after the public has been excluded if those persons have, in the opinion of

the local authority, knowledge that will assist the authority. Any such resolution is required to state the knowledge possessed by those persons which will be of assistance in relation to the matter to be discussed and how it is relevant to the matter. No such resolution is necessary in respect of the attendance of the chief executive and relevant staff during a public excluded session.

[s. 48(5) & (6), LGOIMA]

2.17.5. Release of public excluded information

A local authority may provide for the release to the public of information, which has been considered during the public excluded part of a meeting.

2.18. Application of Standing Orders to public excluded session

2.18.1. Standing orders to apply

Standing orders apply to meetings or parts of meetings from which the public has been excluded.

2.19. Use of public excluded information

2.19.1. Public excluded business not to be disclosed

Subject to the provisions of the Local Government Official Information and Meetings Act 1987, no member or officer is permitted to disclose to any person, other than a member or officer:

- (a) any information which has been or is to be presented to any meeting from which the public is properly excluded, or where it is proposed that the public be properly excluded.
- (b) any discussions, deliberations or recommendations of any committee or subcommittee which are to be dealt with subsequently by the Council in public excluded session.

3. MEETING PROCEDURES

3.1 Application of Standing Orders

3.1.1. All members to abide by Standing Orders

"A member of a local authority must abide by the Standing Orders adopted under clause 27 [of Schedule 7 of the Local Government Act]."

[cl. 16(1), Schedule 7, LGA]

(see Standing Order 2.1.4)

3.1.2. Additional to or substitution of Standing Orders

Notwithstanding the generality of Standing Order 3.1.1, for any quasi-judicial proceedings, the local authority may adopt meeting procedures and practices additional to, or in substitution of, these Standing Orders for the conduct of the business to be transacted.

For example, committees appointed to hear applications under the Resource Management Act have powers under the Commissions of Inquiry Act 1908.

[s. 41, RMA]

3.1.3. Exclusions for meetings at which no resolutions or decisions are made

For the avoidance of doubt, any provision of these Standing Orders relating to the making of decisions and the passing of resolutions does not apply to any meeting of the local authority or of any committee or subcommittee or other subordinate decision-making body of the local authority which has been properly constituted as a meeting at which no resolutions or decisions are to be made under the Local Government Act 2002 or the Local Government Official Information and Meetings Act 1987.

3.2. Suspensions of Standing Orders

3.2.1. Temporary suspension

A local authority or committee may temporarily suspend one or more Standing Orders during a meeting by a vote of not less than 75% of the members present and voting. The reason for the suspension and the specific order(s) suspended must be stated in the resolution of suspension *(see Standing Order 2.1.3)*.

[cl. 27(4), Schedule 7, LGA]

3.3. Conduct of meetings

3.3.1. Mode of address for chairperson

The person in the chair is to be addressed in such terms as denotes the statutory office of that person, the choice of mode of address being as determined by that person.

3.3.2. Chairperson to decide

The chairperson is to decide all questions where these Standing Orders make no provision or insufficient provision, and all points of order, and any member who refuses to obey any order or ruling of the chairperson shall be held guilty of contempt (see Standing Orders 3.1.1, 3.14.6 and Appendix C).

3.3.3. Chairperson rising

Whenever the chairperson rises during a debate any member then speaking or offering to speak is to be seated, and members are to be silent so that the chairperson may be heard without interruption.

3.3.4. Members to speak in places and address the chair

Members granted the right to speak at meetings are to address the chairperson, and may not leave their place while speaking without the leave of the chairperson. Members may remain seated when speaking at extraordinary meetings of the local authority and at committee meetings.

3.3.5. Priority of speakers

When two or more members seek the right to speak, the chairperson is to name the member who has the right to speak first, provided that the following members shall have precedence, where in order, when they state their intention to:

- (a) Raise a point of order (see Standing Order 3.14.1), including any request to obtain a time extension for the previous speaker;
- (b) Move a motion to terminate or adjourn the debate (see Standing Order 3.13.1);
or
- (c) Make a point of explanation or request an indulgence of the chairperson (see Standing Order 3.9.12 & 3.9.13).

3.3.6. Speeches in English or Māori

A member may address the chairperson in English or Māori. The chairperson may order that a speech be translated and printed in another language. A member must give prior notice, not less than two working days before the meeting, to the chairperson if he or she intends to address the chairperson in Māori, when the normal business of the committee is conducted in English, or in English when the normal business of the committee is conducted in Māori.

3.3.7. Reporting of meetings

When a meeting of a local authority is open to the public the following provisions shall apply:

- (a) Members of the public including bona fide members of the news media are entitled to attend any meeting or any part of a meeting and to report on the proceedings.
[s. 49(a) LGOIMA]
- (b) Any recording of meetings must be carried out in an unobtrusive manner, and must not be distracting to members.
- (c) Any recording of meetings must be notified to the chairperson at the commencement of the meeting.

3.4. Maintenance of order**3.4.1. Disorderly members to withdraw**

Members called to order by the chairperson are to resume their seats and/or stop speaking, as the case may be. Should any member refuse to obey, such member may be directed by the chairperson to withdraw from the meeting. Upon such direction, any such member is to withdraw and must not be permitted to return during the meeting, or any period of that meeting that the chairperson may determine (see Appendix C).

3.4.2. Members not to be disrespectful

No member of the local authority at any meeting may be disrespectful in speech or use offensive or malicious language, including in reference to the local authority, any other member, or any officer or employee of the local authority. In addition, no member may impute improper motives or make offensive remarks about the private affairs of any other member of the local authority or its staff.

3.4.3. Retraction of, or apology for, offensive or malicious language

The chairperson may call upon any member or speaker to withdraw any offensive or malicious expression and may require the member to apologise for the expression.

3.4.4. Withdrawal from meeting

Any member who refuses to withdraw the expression or apologise, if required by the chairperson, can be directed to withdraw from the meeting for a time specified by the chairperson.

3.4.5. Disorder in meeting

The chairperson may require any member whose conduct is disorderly or who is creating a disturbance to withdraw immediately from the meeting for a time specified by the chairperson.

3.4.6. Adjournment of meeting following disorder

Should the disorder continue, the chairperson has the right to adjourn the meeting for a time specified by the chairperson. At the end of that period the meeting shall resume and decide without debate the question as to whether the meeting shall proceed or be adjourned. The chairperson may also take such action in relation to disorder from other sources or in the event of an emergency.

3.4.7. Contempt to be recorded in minutes

Where the meeting resolves to find the member in contempt that resolution must be recorded in the minutes.

3.4.8. Removal from meeting

"A constable, or an officer or employee of the local authority, may, at the request of the chairperson, remove or exclude a member from a meeting if that member is required to leave the meeting by a ruling made under the Standing Orders and that member –

- (a) refuses or fails to leave the meeting; or
- (b) having left the meeting, attempts to re-enter the meeting without the permission of the chairperson."

[cl. 16(2), Schedule 7, LGA]

3.5 Quorum at meetings

3.5.1. Requirement for a quorum

"A meeting is duly constituted if a quorum is present, whether or not all of the members are voting or entitled to vote."

[cl. 23(1), Schedule 7, LGA]

3.5.2. Quorum to be present throughout meeting

"Business may not be transacted at any meeting unless at least a quorum of members is present during the whole of the time at which the business is transacted."

[cl. 23(2), Schedule 7, LGA]

3.5.3 Definition of quorum for local authority or joint committee meetings

"The quorum at a meeting for local authority [or joint committee] consists of –

- (a) half the members if the number of members (including vacancies) is even;
- or
- (b) a majority of members if the number of members (including vacancies) is odd."

[cl. 23(3), Schedule 7, LGA]

3.5.4. Definition of quorum for committee, subcommittee and Community Board meetings of Tasman District Council

The quorum of a meeting of a committee, subcommittee and Community Board meeting consists of

- (a) half of the members if the number of members (including vacancies) is even;
or
 - (b) a majority of members if the number of members (including vacancies) is odd.*
- (see *Standing Order 2.5*)

3.6. Failure of a quorum

2.6.1. Meeting lapses if no quorum

If a meeting is short of a quorum at its commencement, or falls short of a quorum, the business is to stand suspended and, if no quorum is present within 10 minutes, the chairperson is to vacate the chair and the meeting shall lapse.

2.6.2. Lapsed business

The business remaining to be disposed of following the lapsing of a meeting is to stand adjourned until the next ordinary meeting unless an earlier meeting is fixed by the chairperson and notified by the chief executive.

2.6.3. Minutes to record failure of quorum

If a meeting lapses by reason of failure of a quorum, the names of the members then in attendance, and the fact of the lapse, are to be recorded in the minutes.

3.7. Leave of absence and apologies

3.7.1. Granting leave of absence

The local authority may grant leave of absence to a member from a meeting or other meetings of the local authority or its committees upon application by the member.

3.7.2. Apologies at meetings

If a member has not obtained leave of absence an apology may be tendered on behalf of the member and the apology may be accepted or declined by the local authority. Acceptance of the apology shall be deemed to be a granting of leave of absence for that meeting.

3.7.3. Recording of apologies

The chairperson of each meeting must invite apologies at the beginning of each meeting, including apologies for lateness and early departure, and these and subsequent apologies during the meeting shall be recorded in the minutes, including whether they were accepted or declined, and the time of arrival and departure of all members.

3.7.4. Absence without leave

An extraordinary vacancy is created where any member is absent without leave of the territorial authority, regional council or community board from 4 consecutive meetings other than extraordinary meetings of the territorial authority, regional council or community board.
[cl. 5, Schedule 7, LGA]

3.8. Order of business

3.8.1. Adoption of order of business

The order of business is to be determined by the local authority.

3.8.2. Agenda

The chief executive is to prepare for each meeting an agenda listing and attaching information on the items of business to be brought before the meeting so far as is known. At the meeting the business is to be dealt with in the order in which it stands on the agenda unless the meeting or the chairperson accord precedence to any business set down on the agenda.

3.8.3. Public excluded items

The chief executive must place on a public excluded agenda any matters for which he/she considers the local authority, or committee of the local authority, is likely in his/her opinion to wish to exclude the public in terms of the Local Government Official Information and Meetings Act 1987, provided that an indication of the subject matter likely to be considered with the public excluded is placed on the agenda available to the public.

3.8.4. Chairperson's report

The chairperson, by report, has the right to direct the attention of the local authority, or the relevant committee as the case may be, to any matter or subject within the role or function of the local authority or committee respectively. Members' questions shall be taken as part of the consideration of the Chairperson's report.

3.8.5. Major items not on the agenda may be dealt with

"An item that is not on the agenda for a meeting may be dealt with at that meeting if -

- (a) The local authority by resolution so decides; and
- (b) The presiding member explains at the meeting at a time when it is open to the public, -
 - (i) The reason why the item is not on the agenda; and
 - (ii) The reason why the discussion of the item cannot be delayed until a subsequent meeting."

[s.46A(7), LGOIMA]

3.8.6. Minor items not on the agenda may be discussed

"Where an item is not on the agenda for a meeting, -

- (a) That item may be discussed at that meeting if –
 - (i) That item is a minor matter relating to the general business of the local authority; and
 - (ii) The presiding member explains at the beginning of the meeting, at a time when it is open to the public, that the item will be discussed at the meeting; but
- (b) No resolution, decision, or recommendation may be made in respect of that item except to refer that item to a subsequent meeting of the local authority for further discussion."

[s. 46A(7A), LGOIMA]

3.8.7. Chairperson's recommendation

The chairperson of any meeting may include on the agenda for that meeting a chairperson's recommendation regarding any item brought before the meeting.

3.9 Rules of debate

3.9.1. Reserving speech

A member may second a motion or amendment without speaking to it, reserving the right to speak later in the debate.

3.9.2. Irrelevant matter and needless repetition

In speaking to any motion or amendment, members are to confine their remarks strictly to such motion or amendment, and shall not introduce irrelevant matters or indulge in needless repetition. In this matter, the chairperson's ruling is final and not open to challenge.

3.9.3. Limitation on speakers

If 3 speakers have spoken consecutively in support of, or in opposition to a motion, the chairperson may call for a speaker to the contrary. If no such speaker is forthcoming and after the mover has had the right of reply, the motion must be put. Members speaking must, if so called upon by the chairperson, announce whether they are speaking in support of, or against the motion or amendment being debated.

3.9.4. Taking down words

When any member objects to words used and desires his/her objection to be recorded in the minutes, the chairperson may order the objection to be recorded, provided such objection be made at the time the words were used and not after any other members have spoken (see Standing Order 3.14.4).

3.9.5. Reading of speeches

Members shall not read their speeches, except with the permission of the chairperson, but may refresh their memory by reference to notes.

3.9.6. Time limits on speakers

The following time limits apply to members speaking at local authority meetings, unless extended by a majority vote of members present:

- (a) Movers of motions when speaking to the motion, five minutes;
- (b) Movers of motions, when exercising their right of reply, five minutes;
- (c) Other members, not more than five minutes.

3.9.7. Member speaking more than once

A member may not speak more than once to a motion, save that this order does not apply to meetings of committees or subcommittees.

3.9.8. Restating of motion

Members may request the chairperson to restate the motion for their information at any time during the debate, but not so as to interrupt.

3.9.9. Right of reply

The mover of an original motion (not an amendment) has a right of reply. After the mover has commenced such reply, or has intimated the wish to forego this right, or having spoken to an amendment to the motion and the chairperson has intimated his/her intention to put the motion, no other member of the local authority may speak on the motion. Movers in reply are not to introduce any new matter and must confine themselves strictly to answering previous speakers.

3.9.10. When right of reply may be exercised

The right of reply is governed as follows:

- (a) Where no amendment has been moved, the mover may reply at the conclusion of the discussion on the motion;
- (b) If there is an amendment, the mover of the original motion may make such reply at the conclusion of the debate on such amendment, and this reply exhausts their rights as mover of the original motion (see Standing Order 3.9.9), provided that the mover may reserve such right of reply. The mover may, however, take part in the discussion upon subsequent amendments.

NOTE - A right of reply can be exercised at either the end of the debate on an original motion or at the end of the debate on an amendment. Only the mover of an original motion has a right of reply and that right can only be used once. In addition to a right of reply, the mover of an original motion may reserve a right of reply and speak once to an original motion and once to each amendment without losing that right of reply.

3.9.11. Speaking only to relevant matters

Members may speak to any matter before the meeting or upon a motion or amendment to be proposed by themselves, or upon a point of order arising out of debate, but not otherwise.

3.9.12. Personal explanation

Notwithstanding Standing Order 3.9.7, members may make a personal explanation with the permission of the chairperson, but such matters may not be debated.

3.9.13. Explanation of previous speech

With the permission of the chairperson, explanation of some material part of a previous speech in the same debate may be given by a member who has already spoken, but new matter may not be introduced.

3.10. Motions and amendments

3.10.1. Requirement for a seconder

All motions and amendments moved in debate (including notices of motion) must be seconded, and thereupon the chairperson shall state the matter raised and propose it for discussion.

3.10.2. Withdrawal of motions and amendments

Once motions or amendments have been seconded and put to the meeting by the chairperson they cannot be withdrawn without the consent of the majority of the members present and voting. A motion to which an amendment has been moved and seconded, cannot be withdrawn until the amendment is withdrawn or lost.

3.10.3. Substituted motion by amendment

The meeting may allow a motion, which is subject to an amendment, to be withdrawn and replaced by the amendment as the substituted motion, provided the mover and seconder of the original motion agree to the withdrawal of the original motion. In such circumstances, members who have spoken to the original motion may speak again to the substituted motion.

3.10.4. Motions in writing

The chairperson may require movers of motions or amendments to provide them in writing signed by the mover.

3.10.5. Motions expressed in parts

The chairperson or any member may require a motion expressed in parts to be decided part by part.

3.10.6. Amendment once moved

When a motion has been moved and seconded, then proposed by the chairperson for discussion, an amendment may be moved or seconded by any member who has not spoken to the motion, whether an original motion or a substituted motion. The mover or seconder of a motion for the adoption of the report of a committee, who desires to amend any item in the report, may also propose or second an amendment.

3.10.7. Amendments and motions not seconded

Amendments and motions which are proposed but not seconded are not in order and are not entered in the minutes.

3.10.8. Further amendments

No further amendment may be allowed until the first amendment is disposed of, although members may notify the chairperson of their intention to move further amendments and the tenor of their content.

3.10.9. Where amendment lost

Where an amendment is lost, another may be moved and seconded by any members who have not spoken to the motion, whether an original motion or substituted motion. Movers of previous amendments which were lost are regarded as having spoken to the motion only and are entitled to speak to the new amendment, but are not entitled to move or second the new amendment.

3.10.10. Where amendment carried

Where an amendment is carried, the motion as amended becomes the substantive motion, and any member, other than previous movers or seconders in the debate, may then propose a further amendment.

3.10.11. Amendments relevant

Every proposed amendment must be relevant to the motion under discussion and not be in similar terms to an amendment which has been lost.

3.10.12. Direct negatives not allowed

No amendment which amounts to a direct negative, is to be allowed which, if carried, would have the same effect as negating the motion.

3.10.13. Procedure until resolution

The procedures in Standing Orders 3.10.6 and 3.10.8 must be repeated until a resolution is adopted.

3.10.14. Flow chart of motions and amendments

A flow chart illustrating the process regarding motions and amendments is included in these Standing Orders as Appendix D.

3.10.15. Revocation or alteration of resolutions

A notice of motion for the revocation or alteration of all or part of a previous resolution of the local authority is to be given to the chief executive by the member intending to move such a motion.

- (a) Such notice is to set out:
 - (i.) The resolution or part thereof which it is proposed to revoke or alter;
 - (ii.) The meeting date when it was passed; and
 - (iii.) The motion, if any, that is intended to be moved in substitution thereof.
- (b) Such notice is to be given to the chief executive at least 5 clear working days before the meeting at which it is proposed to consider such a motion and is to be signed by not less than one third of the members of the local authority, including vacancies.
- (c) The chief executive must then give members at least 2 clear working days notice in writing of the intended motion and of the meeting at which it is proposed to move such.

3.10.16. Restriction on action to be taken on previous resolution

Where a notice of motion has been given in terms of Standing Order 3.10.15, no action which is irreversible may be taken under the resolution which is proposed for revocation or alteration until the proposed notice of motion has been dealt with by the local authority, provided that if, in the opinion of the chairperson:

- (a) The practical effect of the delay would be equivalent to a revocation of the resolution, or if;
- (b) By reason of repetitive notices the effect of the notice is an attempt by a minority to frustrate the will of the local authority;

then, in either case, action may be taken as though no such notice to the chief executive had been given or signed.

3.10.17. Revocation or alteration of resolution at same meeting

If, during the course of a meeting of the local authority, fresh facts or information are received concerning a matter already resolved at the meeting, the previous resolution may be revoked or altered by the consent of 75% of the members then present and voting.

3.10.18. Local authority may revoke or alter any previous resolution

A local authority meeting may, on a recommendation contained in a report by the chairperson or chief executive, or the report of any committee, revoke or alter all or part of resolutions previously passed at meetings. At least two clear working days notice of any meeting to consider such a proposal must be given to members, accompanied by details of the proposal to be considered.

3.10.19. Restating the motion

The chairperson may, immediately prior to any division being taken, request the chief executive to restate the motion upon which the division is to be taken.

3.10.20. No speakers after reply or question has been put

Members may not speak on any motion once the mover has commenced replying or where the chairperson has commenced putting the question.

3.10.21. Reflections on resolutions

In speaking in any debate no member may unduly criticise the validity of any resolution of the local authority except by a notice of motion to amend or revoke the same.

3.11. Notices of motion

3.11.1. Notices of motion to be in writing

Notices of motion must be in writing signed by the mover, stating the meeting at which it is proposed that the notice of motion be considered, and must be delivered to the chief executive at least five clear working days before such meeting.

3.11.2. Refusal of notice of motion

The chairperson may direct the chief executive to refuse to accept any notice of motion which:

- (a) Is disrespectful or which contains offensive language or statements made with malice; or
- (b) Is not related to the role or functions of the local authority; or
- (c) Contains an ambiguity or a statement of fact or opinion which cannot properly form part of an effective resolution, and where the mover has declined to comply with such requirements as the chief executive may make; or
- (d) Is concerned with matters which are already subject of reports or recommendations from a committee to the meeting concerned.

Reasons for refusing a notice of motion should be provided to the proposer.

3.11.3. Mover of notice of motion

Notices of motion shall not proceed in the absence of the mover, unless moved by another member authorized in writing by the mover to do so.

3.11.4. Alteration of notice of motion

A notice of motion may be altered only by the mover with the consent of the meeting.

3.11.5. When notices of motion lapse

Notices of motion not moved on being called for by the chairperson, shall lapse.

3.11.6. Referral of notices of motion to committees

Any notice of motion referring to any matter ordinarily dealt with by a committee of the local authority may be referred to that committee by the chief executive. Where such notices are so referred, the mover of the motion shall, if not a member of that committee, have the right to move that motion, and of reply, as if a committee member.

3.12. Repeat notices of motion

3.12.1. First repeat where notice of motion rejected

When a motion which is the subject of a notice of motion has been considered and rejected by the local authority, no similar notice of motion which, in the opinion of the chairperson, is substantially the same in purport and effect may be accepted within the next 6 months unless signed by not less than one third of all members, including vacancies.

3.12.2. Second repeat where notice of motion rejected

If such a repeat notice of motion as provided for in Standing Order 3.12.1 is also rejected by the local authority, any further notice prior to the expiration of the original period of 6 months must be signed by a majority of all members, including vacancies.

3.12.3. No repeats where notice of motion adopted

Where a notice of motion has been considered and adopted by the local authority, no notice of any other motion which is, in the opinion of the chairperson, to the same effect may be put again whilst such original motion stands.

3.13. Procedural motions to terminate or adjourn debate

3.13.1. Members may move procedural motions to terminate or adjourn debate

Any member who has not spoken on the matter under debate, may move any one of the following procedural motions to terminate or adjourn debate, but not so as to interrupt a member speaking:

- (a) That the meeting be adjourned to the next meeting, unless an alternative time and place is stated; or
- (b) That the item of business being discussed be adjourned to a time and place to be stated; or
- (c) That the motion under debate be now put (a "closure motion"); or
- (d) That the meeting move directly to the next business, superseding the item under discussion; or
- (e) That the item of business being discussed does lie on the table, and not be further discussed at that meeting; or
- (f) That the item of business being discussed be referred (or referred back) to the relevant committee of the local authority.

3.13.2. Chairperson may accept closure motions

The chairperson may accept a closure motion if there have been no less than 2 speakers for and 2 speakers against the motion, or, if there are no such speakers, in the chairperson's opinion, it is reasonable to do so.

3.13.3. Procedural motions to terminate or adjourn debate to take precedence

Procedural motions to terminate or adjourn debate take precedence over other business, other than points of order, and shall, if seconded, be put to the vote immediately without discussion or debate.

3.13.4. Voting on procedural motions to terminate or adjourn debate

All procedural motions to terminate or adjourn debate must be determined by a majority of those members present and voting. If lost, a further procedural motion to terminate or adjourn debate, may not be moved by any member within the next 15 minutes.

3.13.5. Closure motion to be put if no further speaker

Notwithstanding Standing Order 3.13.4, a closure motion shall be put if there is no further speaker in the debate.

3.13.6. Closure motion on amendment

When an amendment to a motion is under debate, a closure motion relates to the amendment and not to the motion.

3.13.7. Right of reply following closure

If a closure motion is carried, the mover of the motion then under debate is entitled to the right of reply, and the motion or amendment under debate is then to be put.

3.13.8. Debate on items previously adjourned

The debate on adjourned items of business is to be resumed with the mover of such adjournment being entitled to speak first in the debate. Members who have already spoken in the debate may not speak again.

3.13.9. Adjourned items taken first

Adjourned items of business are to be taken first at the subsequent meeting in the class of business to which they belong.

3.13.10. Other business not superseded

The carrying of any motion to adjourn a meeting shall not supersede other business before the meeting remaining to be disposed of, and such other business is to be considered at the next meeting.

3.13.11. Referral or referred back to committee

Business referred, or referred back, to a specified committee is to be considered at the next meeting of that committee, unless otherwise specified.

3.13.12. Table of procedural motions

A table of procedural motions is included in these Standing Orders as Appendix E.

3.14 Points of order

3.14.1. Members rising to points of order

Any member may rise to speak to a point of order upon any breach of these Standing Orders and the member previously speaking is to be seated and stop speaking.

3.14.2. Stating subject matter of point of order

The member rising is to state without explanation precisely the subject matter of the point of order.

3.14.3. Points of order during division

No point of order may be raised during a division except by the permission of the chairperson.

3.14.4. Types of points of order

The following are recognized as substance for points of order:

- (a) Where disorder is drawn to the attention of the chairperson; or
- (b) Use of disrespectful, offensive or malicious language; or

- (c) Discussion of a question not before the local authority; or
- (d) Misrepresentation of any statement made by a member or by an officer or employee of the local authority or
- (e) The breach of any standing order; or
- (f) A request that words objected to be recorded in the minutes.

3.14.5. Contradiction not point of order

Rising to express a difference of opinion or to contradict a statement of a previous speaker does not constitute a point of order.

3.14.6. Decision of chairperson final

The chairperson may decide on any point of order immediately after it has been raised by any member, or may first hear further argument before deciding. The ruling of the chairperson upon any point of order is not open to any discussion and is final.

3.15 Voting

3.15.1. Decisions to be decided by majority votes

"[Unless the Local Government Act 2002 provides otherwise], the acts of a local authority must be done, and the questions before the local authority must be decided, at a meeting by –

- (a) vote; and
- (b) the majority of members that are present and voting".

[cl. 24(1), Schedule 7, LGA]

(See Standing Order 2.6.1)

3.15.2. Chairperson's voting

The Chairperson at any meeting has a deliberative vote and, in the case of equality of votes, has a casting vote as well.

(See Standing Order 2.6.2)

3.15.3. Open voting

"An act or question coming before the local authority must be done or decided by open voting".

[cl. 24(3), Schedule 7, LGA]

(See Standing Order 2.6.3)

3.15.4. Members may abstain

Any member may abstain from voting.

3.15.5. Members may have their votes recorded

Any member's vote or abstention must be recorded in the minutes if so requested by that member.

3.15.6. Method of voting

The method of voting shall be as follows:

- (a) The chairperson in putting the motion shall call for an expression of opinion on the voices or take a show of hands, the result of either of which, as announced by the chairperson, shall be conclusive unless such announcement is questioned immediately by any member, in which event the chairperson shall call a division.

- (b) The chairperson or any member may call for a division instead of or after receiving opinion on the voices and taking a show of hands.
- (c) Where a suitable electronic voting system is available, that system may be used instead of a show of hands, vote by voices or division, and the result displayed shall be notified to the chairperson who shall declare the result.

3.15.7. Division

When a division is called, the chief executive or his/her nominee shall take down the names of the members voting for and against the motion and abstentions and is to hand the list to the chairperson to declare the result. The result of the division shall be entered into the minutes.

3.15.8. Second division

The chairperson may call a second division where there is confusion or error in the original division, unless the same can be otherwise corrected.

3.15.9. Pecuniary interest

No members may vote or take part in the discussion of any matter at any meeting where they, directly or indirectly, have any pecuniary interest as defined in law, other than an interest in common with the public.

[s. 6(1), Local Authorities (Members' Interests) Act]

3.15.10. Declaration of pecuniary interest

Every member present when any matter is raised in which they directly or indirectly have a pecuniary interest, apart from any interest in common with the public, is under a duty to fully declare any such interest to the meeting. This disclosure and the subsequent abstention of such members from both discussion and voting on the item, is to be recorded in the minutes.

[s. 6(5), Local Authorities (Members' Interests) Act]

3.15.11. Pecuniary interest a reason for leaving room

Members who have declared a pecuniary interest in matters to be discussed under Standing Order 3.15.10 should consider leaving the meeting room for the full duration of discussion on such matters.

3.16. Qualified privilege

3.16.1. Qualified privilege relating to agenda and minutes

Where a meeting of any local authority is open to the public during the proceedings or any part thereof, and a member of the public is supplied with a copy of the agenda for the meeting or any part of the minutes of that meeting are provided, the publication of any defamatory matter included in the agenda or in the minutes is privileged unless the publication is proved to have been made with ill will or taking improper advantage of the publication.

[s. 52, LGOIMA]

3.16.2. Qualified privilege relating to oral statements

Any oral statement made at any meeting of a local authority in accordance with the rules that have been adopted by that local authority for the guidance and order of its proceedings, is privileged, unless the statement is proved to have been made with ill will or taking improper advantage of the publication.

[s. 53(1), LGOIMA]

3.16.3. Qualified privilege additional to any other provisions

"The privilege conferred by [Standing Order 3.16.2] is in addition to, and not in substitution for or derogation of any other privilege, whether absolute or qualified, that applies, by virtue of any other enactment or rule of law, to the proceedings of any local authority."

[s. 53(2), LGOIMA]

3.17. Maintenance of public order at meetings

3.17.1. Chairperson may require members of the public to leave meeting

The chairperson presiding at any meeting of the local authority may require any member of the public to leave the meeting if it is believed on reasonable grounds that the behaviour of that member of the public is likely to prejudice the orderly conduct of the meeting if that person is permitted to remain.

[s. 50, LGOIMA]

3.17.2. Removal of members of public

If any member of the public who is required in accordance with Standing Order 3.17.1 to leave a meeting, refuses or fails to leave the meeting or, having left the meeting, attempts to re-enter the meeting without the permission of the chairperson, any police officer or employee of the local authority may, at the request of the chairperson, remove or exclude that member of the public from the meeting.

3.18 Minutes of proceedings

3.18.1. Minutes to be evidence of proceedings

"A local authority must keep minutes of its proceedings. Minutes of proceedings duly entered and authenticated as prescribed by a local authority are prima facie evidence of those proceedings."

[cl. 28(1) & (2), Schedule 7, LGA]

3.18.2. Keeping of minutes

The chief executive or his/her designated representative must keep the minutes of meetings. The minutes must record the date, time and venue of the meeting; the names of those members present; identification of the chairperson; apologies tendered and accepted; arrival and departure times of members; any failure of a quorum; a list of speakers in the public forum and the topics they cover; a list of items considered; resolutions and amendments pertaining to those items; any objections to words used; all divisions taken; names of any members requesting the recording of their abstentions or votes; declarations of pecuniary interest; contempt, censure and removal of any members; resolutions to exclude members of the public; and the time that the meeting concludes or adjourns.

3.18.3. No discussion on minutes

No discussion shall arise on the substance of minutes at any succeeding meeting, except as to their correctness.

3.18.4. Inspection of minute books

The minute books of the local authority must be kept by the chief executive and be open to inspection in accordance with the Local Government Official Information and Meetings Act 1987 and the Local Government Act (see Standing Order 2.16.1 and 2.16.2.).

[s. 51, LGOIMA]

3.18.5. Minutes of last meeting before election

The chairperson and the chief executive shall authenticate the minutes of the last meeting of the Council prior to the next election of members.

3.19. Public presentation

3.19.1. Public forum

A period of up to 30 minutes, will be set aside for a public forum at the commencement of ordinary meetings of the local authority, committee and subcommittee meetings which are open to the public. Each speaker during the public forum section of a meeting, may speak for three minutes.

3.19.2. Time extension of public forum

Standing orders may be suspended on a vote of not less than 75% of those present, to extend the period of public participation or the period any speaker is allowed to speak.

3.19.3. Subjects of public forum

In respect of local authority, committee and subcommittee meetings, the public forum is to be confined to those items falling within the terms of reference of that meeting, provided the matter is not sub-judice.

NOTE — The public forum procedure does not apply in respect of any hearing, including the hearing of submissions where the local authority, committee or subcommittee sits in a quasi-judicial capacity.

3.19.4. Questions of speakers during public forum

With the permission of the chairperson, members may ask questions of speakers during the period reserved for public forum. Questions by members are to be confined to obtaining information or clarification on matters raised by the speaker. Members may not engage in debate with speakers.

3.19.5. Deputations where heard

Deputations may be received by the local authority or any of its committees provided an application for admission setting forth the subject, has been lodged with the chief executive at least 2 working days before the date of the meeting concerned and has been subsequently approved by the chairperson. The chairperson may refuse requests for deputations which are repetitious or offensive.

3.19.6. Urgency or major public interest

Notwithstanding Standing Order 3.19.5 where in the opinion of the chairperson the matter which is the subject of a deputation is one of urgency or major public interest, the chairperson may determine that the deputation be received.

3.19.7. Deputations and presentations in English or Māori

A deputation or presentation to a local authority or any of its committees, may be made in English or Māori. Prior arrangement with the chairperson should be sought at least 2 working days before the meeting if the address is not in English. The chairperson may order that any speech or document presented be translated and/or printed in another language.

3.19.8. Procedures for deputations

Except with the approval of the local authority or committee, not more than 2 members of a deputation may address the meeting. After a presentation is received members may put to the deputation any question pertinent to the subject heard, but no member may express an opinion upon, or discuss the subject, until the deputation has completed making its submissions and answering questions (see Standing Order 3.16.2 regarding qualified privilege).

3.19.9. Termination of presentation if disrespectful

The chairperson may terminate a presentation in progress which is disrespectful or offensive, or where the chairperson has reason to believe that statements have been made with malice (see Standing Order 3.16.2 regarding qualified privilege).

3.19.10. Time limit on presentation

Unless the meeting determines otherwise in any particular case, a limit of 10 minutes is placed on a speaker making a presentation, or if there are 2 members of the deputation addressing the meeting 10 minutes in total for the 2 speakers.

3.20. Petitions

3.20.1. Form of petitions

Every petition presented to the local authority or to any of its committees, must comprise fewer than 50 words (not including signatories) and not be disrespectful, nor use offensive language or include statements made with malice (see Standing Orders 3.16.1 and 3.16.2 regarding qualified privilege).

3.20.2. Petition where presented by members

Any member of the local authority, who presents a petition on behalf of the petitioners is to confine himself/herself to reading the petition and the statement of the parties from which it comes, and the number of signatures attached to it.

3.20.3. Petition in English or Māori

A petition presented to a local authority or any of its committees may be in English or Māori. Prior arrangement with the chairperson should be sought at least 2 working days before the meeting if the petition is not in English. The chairperson may order that any petition be translated and/or printed in another language.

3.20.4. Petition where presented by petitioner

Where a petition is presented by a petitioner, unless the local authority determines otherwise, a limit of 5 minutes is placed on that person (see Standing Orders 3.16.1 and 3.16.2 regarding qualified privilege). If the chairperson has reason to believe that the petitioner is disrespectful or offensive, or has made statements with malice, the chairperson shall terminate presentation of the petition.

3.21. Officers' role

3.21.1. Officers to present an item

Officers may, at the request of the chairperson, present an item on the agenda of the meeting. Any member may, at the chairperson's discretion, ask any question of the relevant officer on any matter relating to the item being presented.

3.21.2. Questions to officers during debate

In the course of any debate at any local authority meeting, any member may, at the chairperson's discretion, ask any question of the relevant officer on any matter under debate. Such questions are to be directed through the chair.

APPENDICES

APPENDIX A

Grounds to exclude the public from meetings in terms of the Local Government Official Information and Meetings Act 1987

(Normative)

A local authority may by resolution exclude the public from the whole or any part of the proceedings of any meeting only on one or more of the following grounds:

A1 That the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information where such disclosure would be likely:

- (a) To prejudice the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial; or
- (b) To endanger the safety of any person.

A2 That the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information where the withholding of the information is necessary to:

- (a) Protect the privacy of natural persons, including that of deceased natural persons; or
- (b) Protect information where the making available of the information:
 - (i) Would disclose a trade secret; or
 - (ii) Would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information; or
- (c) In the case only of an application for a resource consent, or water conservation order, or a requirement for a designation or heritage order, under the Resource Management Act 1991, to avoid serious offence to tikanga Māori, or to avoid the disclosure of the location of wāhi tapu; or
- (d) Protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information:
 - (i) Would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied

Or

- (ii) Would be likely otherwise to damage the public interest; or
- (e) Avoid prejudice to measures protecting the health or safety of members of the public; or
- (f) Avoid prejudice to measures that prevent or mitigate material loss to members of the public; or
- (g) Maintain the effective conduct of public affairs through the protection of members, officers or employees of any local authority from improper pressure or harassment; or
- (h) Maintain legal professional privilege; or
- (i) Enable the local authority holding the information to carry out, without prejudice or disadvantage, commercial activities; or
- (j) Enable the local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations); or
- (k) Prevent the disclosure or use of official information for improper gain or improper advantage.

Provided that where A2 of this Appendix applies the public may be excluded, unless, in the circumstances of the particular case, the exclusion of the public is outweighed by other considerations which render it desirable, in the public interest, that the public not be excluded.

A3 That the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information, the public disclosure of which would:

- (a) Be contrary to the provisions of a specified enactment; or
- (b) Constitute contempt of Court or of the House of Representatives.

A4 That the purpose of the whole or the relevant part of the proceedings of the meeting is to consider a recommendation made to the local authority by an Ombudsman under section 30(1) or section 38(3) of the Local Government Official Information and Meetings Act 1987 (in the case of a local authority named or specified in the First Schedule to this Act).

A5 That the exclusion of the public from the whole or the relevant part of the proceedings of the meeting is necessary to enable the local authority to deliberate in private on its decision or recommendation in:

- (a) Any proceedings before a local authority where:
 - (i) A right of appeal lies to any Court or Tribunal against the final decision of the local authority in those proceedings; or
 - (ii) The local authority is required, by any enactment, to make a recommendation in respect of the matter that is the subject of those proceedings; and
- (b) Any proceedings of a local authority in relation to any application or objection under the Marine Farming Act 1971.

APPENDIX B Sample resolution to exclude the public

(Informative)

Section 48, Local Government Official Information and Meetings Act 1987.

I move that the public be excluded from the following parts of the proceedings of this meeting.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

Item No	Minutes/report of:	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
1.	Report of the Chair of the Strategy and Finance Committee.	Appointment of Directors – City Services limited	Good reason to withhold exists under Section 7	Section 48(1)(a)
2.	Report of the Sustainable Transport and Utilities Committee Meeting of 24/12/2003	Northern connection to Smith Road. Purchase of Land	Good reason to withhold exists under Section 7	Section 48(1)(a)
3.	Report of the Chairman of the Parks, Gardens and Waterways Committee	Property purchase – 20 Smith Street	Good reason to withhold exists under Section 7	Section 48(1)(a)
4.	Report of the Council Hearings Panel	Recommendation on Submissions to Variation 100 to City Proposed District Plan	Good reason to withhold exists under Section 7	Section 48(1)(a)

This resolution is made in reliance on section 48(1)(a) 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 relevant part of the proceedings of the meeting in public are as follows:

Item No:	
1	Protection of privacy of natural persons (Section 7(2)(a))
2,3	Conduct of negotiations (Section 7(2)(i))
4	Prevention of improper advantage (Section 7(2)(j))

NOTE –

Section 48(4) of the Local Government Official Information and Meetings Act 1987 provides as follows:

"(4) Every resolution to exclude the public shall be put at a time when the meeting is open to the public, and the text of that resolution (or copies thereof):

- (a) Shall be available to any member of the public who is present; and
- (b) Shall form part of the minutes of the local authority."

APPENDIX C

Powers of the Chairperson

(Normative)

This Appendix is intended to separately set out the chairperson's powers which are contained in various parts of the Model Standing Orders.

The provisions in the Model Standing Orders shall be authoritative. The relevant Model Standing Orders are referred to in brackets.

C1 Chairperson to decide all questions

The chairperson is to decide all questions where these Standing Orders make no provision or insufficient provision. The chairperson's ruling is final and not open to debate.

(See Standing Order 3.3.2)

C2 Chairperson to decide points of order

The chairperson is to decide any point of order and may do so immediately after it has been raised or may first hear further argument before deciding. The ruling of the chairperson upon any point of order is not open to any discussion and is final. No point of order may be raised during a division except by permission of the chairperson.

(See Standing Orders 3.14.3 and 3.14.6.)

C3 Items not on the agenda

Items not on the agenda may be dealt with at that meeting if so resolved by the local authority and the chairperson explains at the meeting at a time when it is open to the public the reason why the item was not listed on the agenda and the reason why discussion of the item cannot be delayed until a subsequent meeting.

Minor matters not on the agenda relating to the general business of the local authority may be discussed if the chairperson explains at the beginning of the meeting at a time when it is open to the public that the item will be discussed at that meeting, but no resolution, decision or recommendation may be made in respect of that item except to refer it to a subsequent meeting of the Council for further discussion.

(See Standing Orders 3.8.5 and 3.8.6.)

C4 Chairperson's report

The chairperson, by report, has the right to direct the attention of the local authority to any matter or subject within the role or function of the local authority.

(See Standing Order 3.8.4.)

C5 Chairperson's recommendation

The chairperson of any meeting may include on the agenda for that meeting a chairperson's recommendation regarding any item brought before the meeting. The purpose of such a recommendation is to focus debate on a suggested motion.

(See Standing Order 3.8.7.)

C6 Chairperson's voting

The chairperson at any meeting has a deliberative vote and, in the case of equality of votes, has a casting vote.

(See Standing Order 2.6.2.)

C7 Motion in writing

The chairperson may require the mover of any motion or amendment to submit it in writing signed by the mover.

(See Standing Order 3.10.4)

C8 Motion in parts

The chairperson may require any motion expressed in parts to be decided part by part.

(See Standing Order 3.10.5)

C9 Notice of motion

The chairperson may direct the chief executive to refuse to accept any notice of motion which:

- (a) Is disrespectful or which contains offensive language or statements made with malice;
or
- (b) Is not within the scope of the role or functions of the local authority; or
- (c) Contains an ambiguity or statement of fact or opinion which cannot properly form part of an effective resolution; and the mover has declined to comply with such requirements as the chief executive may have made; or
- (d) Is concerned with matters which are already the subject of reports or recommendations from a committee to the meeting concerned.

Reasons for refusing a notice of motion should be provided to the proposer.

Where a notice of motion has been considered and agreed by the local authority, no notice of any other motion which is, in the opinion of the chairperson, to the same effect may be put again whilst such original motion stands.

(See Standing Orders 3.11.2 and 3.12.3)

C10 Action on previous resolutions

If in the opinion of the chairperson the practical effect of a delay in taking action on a resolution which is subject to a notice of motion, until the proposed notice of motion has been dealt with by the local authority, would be equivalent to revocation of the resolution, or if repetitive notices of motion are considered by the chairperson to be an attempt by a minority to frustrate the will of the local authority, action may be taken as though no such notice had been given.

(See Standing Order 3.10.16)

C11 Repeat notice of motion

If in the opinion of the chairperson, a notice of motion is substantially the same in purport and effect to any previous notice of motion which has been considered and rejected by the local authority, no such notice of motion may be accepted within six months of consideration of the first notice of motion unless signed by not less than one third of the members of the local authority including vacancies.

(See Standing Order 3.12.1)

C12 Revocation or alteration of previous resolution

A chairperson may recommend in a report to the local authority the revocation or alteration of all or part of any resolution previously passed, and the local authority meeting may act on such recommendation.

(See Standing Order 3.10.18)

C13 Chairperson may call a meeting

The chairperson:

- (a) May call a meeting to dispose of the business to be transacted following the lapsing of a meeting due to failure of a quorum if such business cannot be delayed until the next ordinary meeting;
- (b) May requisition an extraordinary meeting to be held at a specified time and place in order to conduct specified business;

(See Standing Orders 2.13.3, 2.15.1(b)(ii), 2.15.3)

C14 Irrelevant matter and tedious repetition

The chairperson's ruling preventing members when speaking to any motion or amendment from introducing irrelevant matter or indulging in needless repetition is final and not open to challenge.

(See Standing Order 3.9.2)

C15 Taking down words

The chairperson may order words used and objected to by any member to be recorded in the minutes, provided such objection is made at the time the words are used and not after any other members have spoken.

(See Standing Order 3.9.4)

C16 Reading of speeches

The chairperson may permit members who request permission to do so, to read their speeches. (See *Standing Order 3.9.5*)

C17 Explanations

The chairperson may permit members to make a personal explanation in addition to speaking to a motion, and members who have already spoken, to explain some material part of a previous speech in the same debate.

(See *Standing Orders 3.9.12 and 3.9.13*)

C18 Chairperson rising

Whenever the chairperson rises during a debate any member then speaking or offering to speak is to be seated and members are to be silent so that the chairperson may be heard without interruption.

(See *Standing Order 3.3.3*)

C19 Members may leave places

The chairperson may permit members to leave their place while speaking.

(See *Standing Order 3.3.4*)

C20 Priority of speakers

The chairperson shall determine the order in which members may speak when two or more members indicate their wish to speak.

(See *Standing Order 3.3.5*)

C21 Minutes

The chairperson is to sign the minutes and proceedings of every meeting once confirmed. The chairperson and chief executive are responsible for confirming the correctness of the minutes of the last meeting of a local authority prior to the next election of members.

(See *Standing Orders 3.18.5*)

C22 Questions of speakers

The chairperson may permit members to ask questions of speakers under public forum or tangata whenua participation, for the purpose of obtaining information or clarification on matters raised by the speaker.

(See *Appendices F4 and G5*)

C23 Withdrawal of offensive or malicious expressions

(a) The chairperson may call upon any member to withdraw any offensive or malicious expression and may require the member to apologise for the expression.

(See *Standing Order 3.3.11*)

(b) Any member who refuses to withdraw the expression or apologise, if required by the chairperson, can be directed to withdraw from the meeting for a time specified by the chairperson. (See *Standing Order 3.3.12*)

C24 Chairperson's rulings

Any member who refuses to accept a ruling of the chairperson may be required by the chairperson to withdraw from the meeting for a specified time.

(See *Standing Orders 3.1.1 and 3.3.2*)

C25 Disorderly behaviour

The chairperson may:

(a) Require any member or member of the public whose conduct is disorderly or who is creating a disturbance to withdraw immediately from the meeting for a time specified by the chairperson. (See *Standing Orders 3.3.13 and 3.17.1*)

(b) Ask the meeting to hold in contempt any member whose conduct is grossly disorderly and where the meeting resolves to find the member in contempt, that resolution must be recorded in the minutes.

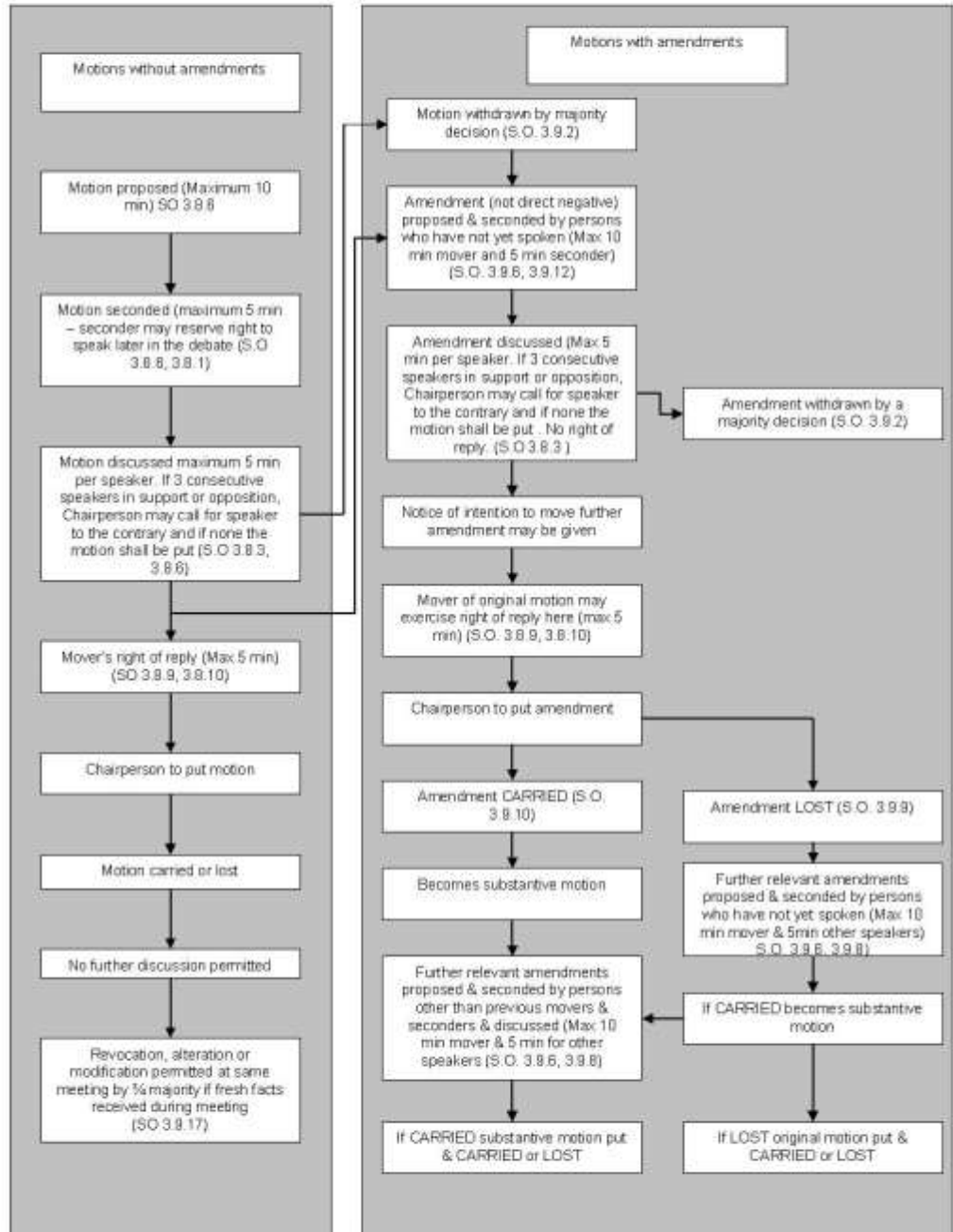
(See *Standing Orders 3.4.5 and 3.4.6*)

C26 Failure to leave meeting

If a member or member of the public who is required, in accordance with a chairperson's ruling, to leave the meeting, refuses or fails to do so, or having left the meeting, attempts to re-enter without the permission of the chairperson, any member of the police or officer or employee of the local authority may, at the chairperson's request, remove or exclude that person from the meeting.

(See Standing Orders 3.4.8.)

APPENDIX D
Motions & Amendments
(Normative)



APPENDIX E
Table of procedural motions
 (Normative)

See Standing Orders 3.12.1 to 3.12.2, 3.13.1 to 3.13.6

Motion	Has the Chair discretion to refuse this motion?	Is seconder required?	Is discussion in order?	Are amendments in order?	Is mover of procedural motion entitled to reply?	Are previous participants in debate entitled to move this motion?	Can a speaker be interrupted by the mover of this motion?	If lost, can motion be moved after an interval?	Position if an amendment is already before the Chair	Position if a procedural motion is already before the Chair	Remarks
(a) "That the meeting be adjourned to the next meeting, or to a stated time and place"	No	Yes	No	As to time and date only	No	No	No	Yes – 15 minutes	If carried, debate on the original motion and amendment are adjourned.	If carried, debate on the original motion and amendment are adjourned.	On resumption of debate, the mover of the adjournment speaks first. Members who have already spoken in the debate may not speak again.
(b) "That the item of business being discussed be adjourned to a stated time and place."	No	Yes	No	As to time and date only	No	No	No	Yes – 15 minutes	If carried, debate on the original motion and amendment are adjourned.	If carried, debate on the original motion and amendment are adjourned.	
(c) "That the motion under debate be now put (closure motion)."	No	Yes	No	No	No	No	No	Yes – 15 minutes	If carried, only the amendment is put.	If carried, only the procedural motion is put.	The mover of the motion under debate is entitled to exercise a right of reply before the motion or amendment under debate is put.

Motion	Has the Chair discretion to refuse this motion?	Is a seconder required?	Is discussion in order?	Are amendments in order?	Is mover of procedural motion entitled to reply?	Are previous participants in debate entitled to move this motion?	Can a speaker be interrupted by the mover of this motion?	If lost, can motion be moved after an interval?	Position if an amendment is already before the Chair	Position if a procedural motion is already before the Chair	Remarks
(d) "That the meeting move directly to the next business, suspending the item under discussion."	No	Yes	No	No	No	No	No	Yes – 15 minutes	If carried, debate on the original motion and amendment are adjourned	If carried, debate on the original motion and amendment are adjourned	
(e) "That the item of business being discussed does lie on the table and not be further discussed at this meeting."	No	Yes	No	No	No	No	No	Yes – 15 minutes	If carried, the original motion and amendment are both laid on the table	Motion not in order	
(f) "That the item of business being discussed be referred to the relevant committee."	No	Yes	No	As to committee time for reporting back etc. only	No	No	No	Yes – 15 minutes	If carried, the original motion and all amendments are referred to the committee.	If carried, the procedural motion is deemed disposed of	
(g) "Points of order"	No – but may rule against	No	Yes – at discretion of Chairperson	No	No	Yes	Yes	No	Point of order takes precedence	Point of order takes precedence	See Standing Orders 3.13.1 to 3.13.6

APPENDIX F
Additional provisions for tangata whenua

(Informative)

G1 Tangata whenua representation at meetings

Where representatives of the tangata whenua identify any item on the agenda for a meeting of a local authority, committee or subcommittee which the tangata whenua wish to discuss, they may attend the meeting for that purpose. These provisions do not apply to any meeting of the local authority, committee or subcommittee which is sitting in a quasi-judicial capacity in respect of any matter to be heard.

G2 Speaking rights in addition to public forum

The right to speak at meetings of the local authority conferred by these provisions are in addition to and separate from those rights of a public forum available in terms of Appendix F.

G3 Tangata whenua representation at committees and subcommittees

Where representatives of the tangata whenua have, in accordance with clause F1, identified items they wish to discuss at a meeting, they may be represented by such number of representatives as is equal to the number of permanent members of that committee or subcommittee who are present at that meeting.

G4 Tangata whenua speaking time

Representatives of the tangata whenua shall have the right to address any meeting of the local authority, committee or subcommittee for a period of 15 minutes in total on any item or issue which has been identified or initiated by the tangata whenua and listed for consideration at a meeting.

G5 Questions of speakers during tangata whenua participation

With the permission of the chairperson, members may ask questions of representatives of the tangata whenua. If permitted by the chairperson, questions by members are to be confined to obtaining information or clarification on matters raised by the speaker.

NOTE - The term "tangata whenua" is not mentioned in the Local Government Act 2002. The Act refers to "Māori".

7.2 VOTING SYSTEM FOR ELECTION OF DEPUTY MAYOR

Decision Required

Report To: Full Council
Meeting Date: 24 October 2013
Report Author: Sandra Hartley, Executive Officer - Strategic Development
Report Number: RCN13-10-02

Item 7.2

1 Summary

- 1.1 The business of the inaugural meeting is required to include the election of the Deputy Mayor.
- 1.2 Clause 25, Schedule 7 of the Local Government Act 2002, requires all local authorities to determine by resolution which voting system they will use for the election of Deputy Mayor.
- 1.3 Two systems are available for this process under the Local Government Act 2002. System A requires the successful candidate to get the majority of the votes of the members present and voting. It is akin to a transferable voting system and only works if there are three or more candidates in the contest for one position. Multiple voting rounds may be needed. System B is a majority vote system akin to first past the post and requires the successful candidate to get more votes than any other candidate during a single voting round. This report recommends that Council adopts System B.
- 1.4 The Local Government Act 2002 as amended now provides a new role and powers for mayors, which include the right to appoint a deputy mayor, establish committees and appoint the chairperson of each committee. The Mayor has indicated his intention to make a nomination for the Council to vote on, rather than exercising this new power.

2 Draft Resolution

That the Full Council:

- 1. receives the Voting System for Election of Deputy Mayor report RCN13-10-02; and
- 2. adopts System B, Clause 25(4) of the Local Government Act 2002 for the election or appointment of the deputy mayor, chairperson and deputy chairperson of a committee and a representative of a local authority, which requires that a person is elected or appointed if he or she receives more votes than any other candidate during a single round of voting.
- 3. elects as Deputy Mayor for the Tasman District Council

3 Purpose of the Report

- 3.1 To advise Council on the two systems of voting available for the appointment of members, as set out in Clause 25, Schedule 7, of the Local Government Act 2002, so that Council can discuss and resolve to adopt one such system.
- 3.2 To advise Council that the Local Government Act 2002 now provides mayors with the powers to appoint the deputy mayor; establish committees of the territorial authority; and to appoint the chairperson of each committee. However, the Mayor has indicated that he will not exercise his powers under this legislation, and will make recommendations for Councillors to vote on instead.
- 3.3 To request the Council to elect a Deputy Mayor.

4 Background and Discussion

Voting Systems

- 4.1 Clause 25, Schedule 7 of the Local Government Act 2002 stipulates that local authorities must determine by resolution which voting system they will use for the election or appointment of Deputy Mayor, Chairperson or Deputy Chairperson of committees and the election or appointment of representatives of a local authority.
- 4.2 The two systems are as follows:

System A

- a) Requires that a person is elected or appointed if he or she receives the votes of a majority of the members of the local authority or committee present and voting; and
- b) Has the following characteristics:
 - i. There is a first round of voting for all candidates; and
 - ii. If no candidate is successful in the round there is a second round of voting from which the candidate with the fewest votes in the first round is excluded; and
 - iii. If no candidate is successful in the second round, there is a third, and if necessary subsequent round of voting from which, each time, the candidate with the fewest votes in the previous round is excluded; and
 - iv. In any round of voting, if two or more candidates tie for the lowest number of votes, the person excluded from the next round is resolved by lot.

System B

- a) Requires that a person is elected or appointed if he or she receives more votes than any other candidate; and

- b) Has the following characteristics:
- i. There is only one round of voting; and
 - ii. If two or more candidates tie for the most votes, the tie is resolved by lot.

Role and Powers of Mayors

4.3 The Local Government Act 2002 now includes the following:

41A Role and powers of mayors

“(1) The role of a mayor is to provide leadership to—

“(a) the other members of the territorial authority; and

“(b) the people in the district of the territorial authority.

“(2) Without limiting subsection (1), it is the role of a mayor to lead the development of the territorial authority's plans (including the long-term plan and the annual plan), policies, and budgets for consideration by the members of the territorial authority.

“(3) For the purposes of subsections (1) and (2), a mayor has the following powers:

“(a) to appoint the deputy mayor:

“(b) to establish committees of the territorial authority:

“(c) to appoint the chairperson of each committee established under paragraph (b), and, for that purpose, a mayor—

“(i) may make the appointment before the other members of the committee are determined; and

“(ii) may appoint himself or herself.

“(4) However, nothing in subsection (3) limits or prevents a territorial authority from—

“(a) removing, in accordance with clause 18 of Schedule 7, a deputy mayor appointed by the mayor under subsection (3)(a); or

“(b) discharging or reconstituting, in accordance with clause 30 of Schedule 7, a committee established by the mayor under subsection (3)(b); or

“(c) appointing, in accordance with clause 30 of Schedule 7, 1 or more committees in addition to any established by the mayor under subsection (3)(b); or

“(d) discharging, in accordance with clause 31 of Schedule 7, a chairperson appointed by the mayor under subsection (3)(c).

“(5) A mayor is a member of each committee of a territorial authority.

“(6) To avoid doubt, a mayor must not delegate any of his or her powers under subsection (3).

“(7) To avoid doubt,—

“(a) clause 17(1) of Schedule 7 does not apply to the election of a deputy mayor of a territorial authority unless the mayor of the territorial authority declines to exercise the power in subsection (3)(a):

“(b) clauses 25 and 26(3) of Schedule 7 do not apply to the appointment of the chairperson of a committee of a territorial authority established under subsection (3)(b) unless the mayor of the territorial authority declines to exercise the power in subsection (3)(c) in respect of that committee.”

5 Options

Systems of Voting

Council may resolve to adopt either System A or System B.

- 5.1 System A – this is a form of transferable voting. It is more complex, but it does provide for the candidate to have the majority of votes at the final vote.
- 5.2 System B – this system is simple and has been used by Council in the past. The person elected under this system may not have the support of the majority of Councillors; however, the person with the greatest support at the first vote is elected. This is the preferred system.

Appointment of Deputy Mayor

- 5.3 The Mayor has the option of either exercising his powers under Section 41A of the Local Government Act 2002 for the appointment of a deputy mayor, or may ask the Council elect a Deputy Mayor with the option of using System A or B as prescribed in Clause 25, Schedule 7 of the Local Government Act 2002. The Mayor has indicated that he will not exercise his powers under this legislation, and will make a nomination for the Council to vote on.

6 Strategic Challenges / Risks

- 6.1 The risks are minimal and have been outlined in the options above.

7 Policy / Legal Requirements / Plan

- 7.1 The adoption of a voting system fulfils the requirements of Clause 25, Schedule 7 of the Local Government Act 2002.
- 7.2 The new role and powers of mayors as outlined in Section 41A of the Local Government Act 2002 Amendment Act 2012 for the appointment of deputy mayor, establishment of committees an appointment of chairpersons for those committees.

8 Significance

- 8.1 Adopting a System of Voting is considered of very low significance as it does not have financial or level of service implications, nor is it likely to be of major interest to the public.

9 Consultation

- 9.1 No consultation is required. It is a decision solely for Councillors to make.

10 Conclusion

- 10.1 Council is required to resolve a system of voting to enable the election or appointment of members to certain positions.
- 10.2 The incumbent Mayor has indicated that he will not exercise his new role and powers under the Local Government Act 2002 for appointing the deputy mayor, establishing committees or appointment chairpersons for these committees.

11 Next Steps / Timeline

- 11.1 Once a System of Voting is resolved, Council will be able to elect a Deputy Mayor.

12 Attachments

Nil

7.3 CODE OF CONDUCT**Decision Required**

Report To:	Full Council
Meeting Date:	24 October 2013
Report Author:	Pamela White, Executive Assistant to CEO/Mayor
Report Number:	RCN13-10-03

Item 7.3**1 Summary**

- 1.1 A Code of Conduct for members must be adopted under Schedule 7, Clause 15 of the Local Government Act 2002.
- 1.2 A Code of Conduct provides guidance on the standards of behaviour that are expected from the Mayor and elected members of the Tasman District Council in their dealings with each other, staff, the public as well as how they handle information acquired in their official roles.
- 1.3 The Code also sets out the roles and responsibilities of elected members, including appointed members. Compliance and breaches of the code is dealt with. A summary of the legislative requirements that have some bearing on the duties and conduct of elected members is included.

2 Draft Resolution**That the Full Council:**

- 1) receives the Code of Conduct Report; and**
- 2) adopts the attached Code of Conduct 2013; and**
- 3) refers the Code of Conduct 2013 to the two community boards for their consideration, and adoption.**

3 Purpose of the Report

- 3.1 To consider adopting the Code of Conduct 2013 as required under Schedule 7, Section 15 of the Local Government Act 2002.

4 Background and Discussion

- 4.1 Schedule 7, Clause 15 of the Local Government Act 2002 (LGA) requires Councils to adopt a Code of Conduct for its members.
- 4.2 Council first adopted a Code of Conduct in 2004, and has had minor amendments over the years, the most recent being in 2010.
- 4.3 The Code outlines the manner in which members should behave towards each other, the public and staff as well as how they handle information acquired in their official roles
- 4.4 The Code sets out the roles and responsibilities of elected members, including appointed members.
- 4.5 Compliance and breaches of the code are outlined in the Code.
- 4.6 A summary of legislation that has a bearing on the role and conduct of elected members is also appended to the Code.
- 4.7 Council must also decide whether it wants the Code of Conduct to include a clause on whether or not a member or newly elected member must declare they are an undischarged bankrupt.
- 4.8 Council may amend or replace the Code, but it must always have a Code of Conduct in place. Any amendment of the Code or the adoption of a new Code requires, in every case, a vote in support of not less than 75% of the members present.
- 4.9 Community Boards are not required to adopt a Code of Conduct. Both Boards have adopted the Council Code of Conduct since 2007 and will be requested to adopt the Code of Conduct 2013 at their inaugural meetings of 1 November.
- 4.10 A breach of the Code of Conduct does not constitute an offence under the Local Government Act 2002.

5 Significant Amendments

- 5.1 A number of amendments to the previous 2010 Code of Conduct have been made while developing the Code of Conduct 2013. These include:

5.2 Mayoral roles

The provisions of section 41A LGA in regard to the mayoral powers to appoint the Deputy Mayor, establish the committees of council and appoint the chairperson of each committee have been added to section 2.2 of the Code.

This section also notes the Mayor's ex-officio role on all Council committees.

5.3 Committee Chairperson

Section 2.4 of the Code has been amended to include the role of Joint Committee Chairpersons or Community Board Chairpersons. The role of the chairperson has also been extended within this section to include “The Chairperson.... must ensure members of their members of their committee (or board) also abide by Standing Orders during meeting of their committee (or board).”

5.4 **Removal from Office**

The reference to removal or dismissal from office has been removed from the clauses 2.3, 2.4 and 2.6. This is covered in Standing Orders.

5.5 **Role of Community Board members**

Section 2.8 has been checked for accuracy with the wording in section 52 of the LGA; and now notes the additional roles and responsibilities of Community Board members that Council has given to the boards.

5.6 **Relationships with staff**

The opening paragraph of clause 3.2 has been strengthened to note the Council’s responsibilities under employment law.

5.7 **Representing the Council**

This section has been moved to a latter part of the document.

5.8 **Contact with the Media**

This section has been amended to incorporate the community board members.

6 Options

- 6.1 Council is required by the Local Government Act 2002 to adopt a Code of Conduct, and must adopt a version to comply with its statutory obligations.
- 6.2 Council may wish to adopt the current version of the Code of Conduct, and consider making amendments at a later stage.

7 Policy / Legal Requirements / Plan

- 7.1 A breach of the Code is not considered a breach of the Local Government Act 2002.
- 7.2 The Code of Conduct fulfils the requirements of Clause 15, Schedule 7 of the Local Government Act 2002.

8 Significance

- 8.1 Adopting a Code of Conduct is considered of very low significance as it does not have a high degree of public interest and it does not impact on levels of service or have financial implications.

9 Consultation

- 9.1 The special consultative procedure, as prescribed in the Local Government Act 2002, does not have to be considered, as the adoption of the Code of Conduct is a requirement of the Local Government Act.

10 Conclusion

- 10.1 Council is recommended to adopt the Code of Conduct 2013.

11 Next Steps / Timeline

- 11.1 The Code of Conduct 2013, once adopted, will be published on the Council's website.

12 Attachments

1. Code of Conduct

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Code of Conduct

Tasman District Council Code of Conduct

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PART ONE: INTRODUCTION

1.1 Introduction

Schedule 7 of the Local Government Act 2002 (the Act) requires each local authority to adopt a code of conduct. Once adopted, all elected members are required to comply with the code.

This Code of Conduct provides guidance on the standards of behaviour that are expected from elected members of the Tasman District Council (Mayor and Councillors). The Code extends to all elected and appointed members of Council committees and sub-committees. The Code of Conduct applies to Community Board members where they have adopted it.

The Code applies to the Mayor and elected and appointed members in their dealings with:

- Each other
- The Chief Executive
- All staff employed by the Chief Executive on behalf of the Council
- The media
- The general public

The objective of the Code is to enhance:

- The effectiveness of the Council as the autonomous local authority with statutory responsibilities for the good local governance of Tasman District
- The credibility and accountability of the Council within its community
- Mutual trust, respect and tolerance between the elected and appointed members as a group and between the elected and appointed members and management

This Code of Conduct seeks to achieve its objectives by recording:

- An agreed statement of roles and responsibilities (recorded in Part Two of the Code)
- Agreed general principles of conduct (recorded in Part Three of the code)
- Specific codes of conduct applying to particular circumstances or matters (also recorded in Part Three of the Code)

Elected members are primarily accountable to the electors of the District through the democratic process. However both elected and appointed members must note that the Auditor-General may hold them to account for unlawful actions or expenditure or for breaches of the Local Authorities (Members' Interests) Act 1968.

1.2 General Principles

The Code of Conduct that follows is based on the following general principles of good governance.

- **Public Interest:** Members should serve only the interests of the District as a whole and never improperly confer an advantage or disadvantage on any one person.
- **Honesty and Integrity:** Members should act with honesty and integrity and not place themselves in situations where those qualities may be questioned, nor behave improperly and on all occasions avoid the appearance of such behaviour.
- **Objectivity:** Members should impartially make decisions on merit including making appointments, awarding contracts, or recommending individuals for rewards or benefits. Mayor and Councillors should also note that, once elected, their primary duty is to the interests of the entire District. Community Board members should also note that, once elected, their primary duty is to the interests of their community.
- **Accountability:** Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and cooperate fully and honestly with the scrutiny appropriate to their particular office.
- **Openness:** Members should be as open as possible about their actions and those of the Council, and be prepared to justify their actions.
- **Personal Judgment:** Members can and will take account of the view of others, but should reach their own conclusions on the issues before them, and act in accordance with those conclusions.
- **Respect for Others:** Members should promote equality by not discriminating unlawfully against any person and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation, or disability. They should respect the impartiality and integrity of the Council staff.
- **Duty to Uphold the Law:** Members should uphold the law, and on all occasions, act in accordance with the trust the public places in them.
- **Stewardship:** Members must ensure that the Council uses resources prudently and for lawful purposes, and that the Council maintains sufficient resources to meet its statutory obligations.
- **Leadership:** Members should promote and support these principles by example, and always endeavour to act in the best interests of the community.

PART TWO: ROLES AND RESPONSIBILITIES

This part of the Code describes the roles and responsibilities of elected members, the additional roles of the Mayor and Deputy Mayor as well as the role of appointed members and the Chief Executive.

2.1 Elected Members

Elected members, acting as the Council are responsible for:

- The development and adoption of Council policy.
- Monitoring the performance of the Council against its stated objectives and policies.
- Prudent stewardship of Council resources.
- Employment of the Chief Executive, and overseeing and monitoring his/her performance.
- Representing the interests of the residents and ratepayers of Tasman District - on election, the members' first responsibility is to the District as a whole.

Unless otherwise provided in the Local Government Act 2002 or in Standing Orders, the Council can only act by majority decisions at meetings. Each member has one vote, except that in the case of an equality of votes, the Chairperson has a casting vote. Any individual member has no authority to act on behalf of the Council unless the Council has expressly delegated such authority.

2.2 Mayor

The Mayor is elected by the District as a whole and as one of the elected members shares the same responsibilities as other members of the Council. The Mayor also has the following roles:

- A presiding member at Council meetings. The Mayor is responsible for ensuring the orderly conduct of business during meetings as determined in Standing Orders.
- An ex-officio member on all Council standing committees
- An advocate on behalf of the community. This role may involve promoting the community and representing its interests. Mayoral advocacy will be most effective where it is carried out with the knowledge and support of the Council. The Mayor has no authority to act on behalf of the Council unless the Council has expressly delegated such authority.
- A ceremonial head of the Council.
- Leadership and feedback to other elected members on teamwork and chairpersonship of committees.
- As a Justice of the Peace during the period the Mayor holds office.

- The exercise of the powers to appoint a Deputy Mayor and the Committees of Council, and to appoint the Chairperson to those committees, as per Standing Orders (section 41A, Local Government Act 2002)

The Mayor must follow the same rules as other elected members about making public statements and committing the Council to a particular course of action, unless acting in accordance with the rules for media contact on behalf of the Council under a delegation of authority from the Council.

2.3 Deputy Mayor

The Deputy Mayor generally exercises the same roles as other elected members. If the Mayor is absent or incapacitated, the Deputy Mayor must perform all of the responsibilities and duties, and may exercise the Mayor's powers.

2.4 Committee Chairperson or Joint Committee Chairperson or Community Board Chairperson

A committee (or board) chairperson presides over all meetings of the committee (or board), ensuring that the committee (or board) acts within the powers delegated by the Council, and as set out in the Council's Delegations Manual. The Chairperson must abide by Standing Orders and must ensure members of their committee (or board) also abide by Standing Orders during meetings of their committee (or board). Committee (or board) chairpersons may be called on to act as an official spokesperson on a particular issue.

2.5 Deputy Chairperson

The deputy chairperson may stand in for the chairperson when the chairperson is absent or unavailable. While standing in for the chairperson, the deputy chairperson has the roles and responsibilities of the chairperson.

2.6 Appointed Members

The Council may appoint members of the public to any of its committees or sub-committees if it believes they have a significant contribution to make to the work of the committee or sub-committee. Appointed members are subject to this Code of Conduct.

2.7 Chief Executive

The Chief Executive is appointed by the Council in accordance with section 42 of the Local Government Act 2002. The Chief Executive is responsible for implementing and managing the Council's policies and objectives within the budgetary constraints established by the Council. In terms of section 42 of the Act, the responsibilities of the Chief Executive are:

- Implementing the decisions of the Council
- Providing advice to the Council and to Community Boards
- Ensuring that all responsibilities, duties and powers delegated to the Chief Executive or to any person employed by the Chief Executive, or imposed or conferred by any Act, regulation or bylaw are properly performed or exercised.
- Managing the activities of the local authority economically, effectively and efficiently

- Maintaining systems to enable effective planning and accurate reporting of the financial and service performance of the local authority
- Providing leadership for the staff of the local authority
- Employing staff on behalf of the local authority (including negotiation of the terms of employment for the staff of the local authority)

Under section 42 of the Local Government Act 2002 the Chief Executive employs all other staff on behalf of the local authority.

2.8 Community Board members

The role of a community board member is to:

- represent, and act as an advocate for, the interests of its community; and
- consider and report on all matters referred to it by the territorial authority, or any matter of interest or concern to the community board; and
- maintain an overview of services provided by the territorial authority within the community; and
- prepare an annual submission to the territorial authority for expenditure within the community; and
- communicate with community organisations and special interest groups within the community; and
- undertake any other responsibilities that are delegated to it by the territorial authority.

Section 52 LGA 2002

In addition, the Tasman District Council has given the community boards additional roles and responsibilities that are outlined in the Delegations Register.

PART THREE: RELATIONSHIPS AND BEHAVIOURS

3.1 Relationships with Other Members

Successful teamwork is a critical element in the success of any democratically elected organisation. No team will be effective unless mutual respect exists between members. To achieve this objective, elected and appointed members should conduct their dealings with each other in ways that:

- Maintains public confidence in the office to which they have been elected
- Is open and honest
- Focuses on issues rather than personalities
- Avoids aggressive, offensive or abusive conduct

3.2 Relationships with Staff

Elected members should be aware that failure to observe this section of the Code of Conduct may breach the Council's obligations to act as a good employer and may expose the Council to civil litigation, proceedings under employment law and audit sanctions.

The effective performance of the Council also requires a high level of cooperation and mutual respect between elected and appointed members and staff. To ensure that level of cooperation and trust is maintained, elected and appointed members will:

- Recognise that the Chief Executive, (on behalf of the Council), is the employer of all Council employees. Only the Chief Executive may hire, dismiss, instruct or censure any employee.
- Make themselves aware of the obligations that the Council and the Chief Executive have as employers and observe those requirements at all times.
- Treat all employees with courtesy and respect, including the avoidance of aggressive, offensive or abusive conduct towards employees.
- Not do anything which compromises, or could be seen as compromising, the impartiality of an employee.
- Not publicly criticise the competence and integrity of any employee in any way.
- Raise concerns about employees only with the Chief Executive, and concerns about the Chief Executive only with the Mayor or the Chief Executive Review Committee.

3.3 Internal Communications

- 3.3.1 The Mayor, Standing Committee Chairs and Chief Executive Officer will meet as needed to maintain and promote effective communication.
- 3.3.2 At every ordinary meeting of the Council, the Mayor will provide a written report for inclusion in the agenda outlining activities undertaken in the capacity of Mayor (including activities in the community leadership/advocacy role) since the date of the last ordinary meeting or any matters the Mayor wishes to draw to the attention of Council.
- 3.3.3 At every standing Committee meeting, the Chair of that committee will provide a written report for inclusion in the agenda outlining activities undertaken in the capacity as Chairperson, or any matters the Chairperson wishes to draw to the attention of the committee.
- 3.3.4 Other elected members may provide reports on their attendances on behalf of the Council through the Chair's Report.
- 3.3.5 All meeting agendas will be finalised by the Chief Executive Officer or Departmental Manager in consultation with the presiding member (the Mayor in the case of Council meetings, the relevant Committee Chair in the case of committee meetings), or the relevant Community Board Chair in the case of Community Board meetings.

3.4 Relationships with the Community

Effective Council decision-making depends on productive relationships between elected members and the community at large.

Members should ensure that individual citizens are accorded respect in their dealings with the Council and have their concerns heard and deliberated on in accordance with the requirements of the Act.

Members should act in a manner that encourages and values community involvement in local democracy.

3.6 Contact with the Media

Tasman District Council's elected members have a responsibility to conduct Council business in an open and democratic manner mindful of the role that the media plays in the democratic process.

From time to time, individual members will be approached to comment on a particular issue either on behalf of the Council, or as an elected member in their own right. This part of the code deals with the rights and duties of members when speaking to the media on behalf of the Council, or in their own right.

The following rules apply for media contact on behalf of the Council:

- The Mayor is the first point of contact for the official view on any issue. Where the Mayor is absent, any matters will be referred to the Deputy Mayor or relevant committee chairperson.
- The Mayor may refer any matter to the relevant committee chairperson or to the Chief Executive for their comment.

- No other member may comment on behalf of the Council without having first obtained the approval of the Mayor.

Elected members, including community board members, are free to express a personal view in the media, at any time, provided the following rules are observed:

- Media comments must not state or imply that they represent the views of the Council or community board, unless that is true.
- Where an elected member is making a statement that is contrary to a Council or community board decision or Council policy, the member must not state or imply that the statement represents a majority view.
- Media comments must observe the other requirements of the Code of Conduct, e.g. not disclose confidential information, or compromise the impartiality or integrity of staff, or be critical of other elected members.

3.7 Confidential Information

In the course of their duties elected and appointed members will occasionally receive information that may need to be treated as confidential. This will generally be information that is either commercially sensitive or is personal to a particular individual or organisation.

Elected and appointed members must not use or disclose confidential information for any purpose other than the purpose for which the information was supplied to the member.

Elected and appointed members should be aware that failure to observe these provisions will impede the performance of the Council by inhibiting information flows and undermining public confidence in the Council. Failure to observe these provisions may also expose the Council to prosecution under the Privacy Act 1993 and/or civil litigation.

3.8 Conflicts of Interest

Elected and appointed members must be careful that they maintain a clear separation between their personal interests and their duties as a member of the Council, a committee or sub-committee. This is to ensure that people who fill positions of authority carry on their duties free from bias (whether real or perceived). Members therefore need to familiarise themselves with the provisions of the Local Authorities (Members' Interests) Act 1968 which concerns financial interests, and with other legal requirements concerning non-financial conflicts of interest.

The Act provides that an elected member is disqualified from office, or from election to office, if that member is concerned or interested in contracts under which payments made by or on behalf of the local authority exceed \$25,000 in any financial year.

Additionally, elected and appointed members are prohibited from participating in any Council discussion or vote on any matter in which they have a pecuniary interest, other than an interest in common with the general public. The same rules also apply where the member's spouse contracts with the authority or has a pecuniary interest. Members must declare their interests at Council meetings where matters in which they have a pecuniary interest arise. Elected members must make a general declaration of interest annually and as soon as practicable after becoming aware of any new interests. These declarations are recorded in a

register of interests maintained by Council. The declaration must notify the Council of the nature and extent of any interest, including:

- Any employment, trade or profession carried on by the member or the member's spouse for profit or gain.
- Any company, trust, partnership etc for which the member or their spouse is a director, partner, trustee or beneficiary.
- The address of any land in which the member has a beneficial interest and which is in Tasman District.
- The address of any land where the landlord is the Tasman District Council and:
- The member or their spouse is a tenant; or
- The land is tenanted by a firm in which the member or spouse is a partner, or a company of which the member or spouse is a director, or a trust of which the member or spouse is a trustee or beneficiary.
- Any other matters which the public might reasonably regard as likely to influence the member's actions during the course of their duties as a member.

Appointed members are not required to make a declaration but are advised to do so if their business or other activities might reasonably be regarded as likely to influence the member's actions during the course of their duties as a member.

Declarations of interest from elected and appointed members are available for public inspection at any time.

If the member is in any doubt as to whether or not a particular course of action including a decision to take no action raises a conflict of interest, then the member should immediately seek guidance from the Chief Executive.

Members may also contact the Audit Office for guidance as to whether that member has a pecuniary interest. If there is a pecuniary interest, the member may seek an exemption to allow that member to participate or vote on a particular issue in which they may have a pecuniary interest. The latter must be done before the discussion or vote. The Chief Executive must also seek approval from the Audit Office for contractual payments to members, their spouses or their companies that exceed the \$25,000 annual limit.

Failure to observe the requirements of the Local Authorities (Members' Interests) Act 1968 could potentially invalidate the particular decision made, or the action taken, by the Council. Failure to observe these requirements could also leave the elected member open to prosecution under the Local Authorities (Members' Interests) Act 1968. In the event of a conviction elected members can be ousted from office.

3.9 Representing the Council in the community

Elected members who are invited or wish to represent the Council at an event such as a seminar or conference, must meet the following conditions:

- The Mayor must approve any requests involving members travelling outside the Nelson/Tasman/Marlborough District at Council expense, with regard to Council's travel policy.
- The cost of representation must be within the annual budgeted figure for such activities unless the council makes specific authorisation for additional expenditure.
- Following his or her attendance, the member must forward a written or oral report to the Council, or appropriate Standing Committee, which summarises the event including potential significance to the business of the Tasman District Council. Where the Council is represented by a delegation, one member of the party will report back on their behalf.

These requirements apply to situations where members will be participating as representatives of the Tasman District Council. They do not apply to situations where members attend in a private capacity. In such cases the member may wish to report to the Council on items of interest or general value.

3.10 Standing Orders

Elected and appointed members must adhere to any Standing Orders adopted by the Council under the Local Government Act 2002. Those Standing Orders are subject to the same legal requirements as a Code of Conduct with regard to their adoption and amendment.

3.11 Ethics

Tasman District Council seeks to promote the highest standards of ethical conduct amongst its elected members. Accordingly, elected members in relation to Council activities will:

- Claim only for legitimate expenses as laid down by any determination of the Remuneration Authority then in force, and any lawful policy of the Council developed in accordance with that determination.
- Not influence, or attempt to influence, any Council employee to take actions that may benefit the member, or the member's family or business interests.
- Not use Council resources for personal business including campaigning for election or promotion of a particular point of view.
- Not solicit, demand, or request any gift, reward or benefit by virtue of their position.
- Notify the Chief Executive if any gifts are accepted.
- Where a gift to the value of \$250 or more is received by virtue of their position as a member, immediately disclose this to the Chief Executive for inclusion in the publicly available register of interests.

3.11 Dress Code

Elected members must maintain a reasonable standard of dress when attending Civic Functions, Council meetings and committee meetings.

3.12 Disqualification of Members from Office

Elected members are automatically disqualified from office if they are convicted of a criminal offence punishable by two or more years imprisonment, or if they cease to be or lose their status as an elector or convicted of certain breaches of the Local Authorities (Members' Interests) Act 1968.

The Council requires elected members who are declared bankrupt to notify the Chief Executive as soon as practicable after being declared bankrupt. The Chief Executive will then notify the Mayor and all other elected members.

PART FOUR: COMPLIANCE AND REVIEW

4.1 Compliance

Elected members must note that they are bound to comply with the provisions of this code of conduct pursuant to the Local Government Act 2002, Schedule 7, clause 15(4). The Council also requires appointed members to comply with this code.

Members are also bound by the other provisions of the Local Government Act 2002, the Local Authorities (Members' Interests) Act 1968, the Local Government Official Information and Meetings Act 1987, the Secret Commissions Act 1910, the Crimes Act 1961 and the Securities Act 1978. The Chief Executive will ensure that an explanation of these Acts is made at the first meeting after each triennial election. Elected members are referred to www.legislation.govt.nz for these Acts. Short explanations of the obligations each of these impose with respect to conduct of elected members is attached in the Appendix to this code.

Alleged breaches of the Code shall be reported to the Chief Executive or Mayor as appropriate. Where it is a minor matter, the Mayor may require a Member to apologise at a subsequent Council meeting. Where it is considered that the matter is of substance, a report shall be submitted for the consideration of the Council.

4.2 Responses to Breaches of the Code

The exact nature of the action the Council may take depends on the nature of the breach and whether there are statutory provisions dealing with the breach.

Where there are statutory provisions:

- Breaches relating to members' interests render members liable for prosecution by the Auditor-General under the Local Authorities (Members' Interests) Act 1968.
- Breaches which result in the Council suffering financial loss or damage may be reported on by the Auditor-General under the Local Government Act 2002, which may result in an elected member having to make good the loss or damage.
- Breaches relating to the commission of a criminal offence may leave the elected or appointed member liable for criminal prosecution.

In these cases, the Council may refer an issue to the relevant body, any member of the public may make a complaint, or the body itself may take action of its own initiative.

Where there are no statutory provisions, the Council may take the following action:

- Censure
- Removal of the elected or appointed member from Council committees and/or other representative type bodies
- Removal by resolution of the elected member from a position as Deputy Mayor or chair of a committee
- Removal by resolution of the appointed member as chair of a committee

A decision to apply one or more of these actions requires a Council resolution in the appropriate terms.

4.3 Review

Once adopted, a code of conduct continues in force until amended by the Council. The code can be amended at any time but cannot be revoked unless the Council replaces it with another code. Once adopted, amendments to the Code of Conduct require a resolution supported by 75 per cent or more of the members of the Council present.

The Council will formally review the code as soon as practicable after the beginning of each triennium. The results of that review will be presented to the Council for its consideration and approval while any amendment will require a resolution supported by 75% or more of the members of the Council present.

APPENDIX TO THE CODE: LEGISLATION BEARING ON THE ROLE AND CONDUCT OF ELECTED MEMBERS

This is a summary of the legislation requirements that has some bearing on the duties and conduct of elected members.

Local Authorities (Members' Interests) Act 1968

This Act¹ regulates situations where a member's personal interests impinge, or could be seen as impinging on their duties as an elected member.

The Act provides that an elected member is disqualified from office if that member is concerned or interested in contracts under which payments made by or on behalf of the local authority exceed \$25,000 in any financial year.

Additionally, elected members are prohibited from participating in any Council discussion or voting on any matter in which they have a pecuniary interest, other than an interest in common with the general public. The same rules also apply where the member's spouse contracts with the authority or has a pecuniary interest.

Members may also contact the Audit Office for guidance as to whether that member has a pecuniary interest, and if so, may seek an exemption to allow that member to participate or vote on a particular issue in which they may have a pecuniary interest. The latter must be done before the discussion or vote. The Chief Executive must also seek approval from the Audit Office for contractual payments to members, their spouses or their companies that exceed the \$25,000 annual limit.

Failure to observe these requirements could also leave the elected member open to prosecution under the Local Authorities (Members' Interests) Act 1968. In the event of a conviction elected members can be ousted from office.

Local Government Official Information and Meetings Act 1987

The Local Government Official Information and Meetings Act 1987 sets out a list of meeting procedures and requirements. Of particular importance for the roles and conduct of elected members is the fact that the chair has the responsibility to maintain order at meetings, but all elected members should accept a personal responsibility to maintain acceptable standards of address and debate. No elected member should:

- Create a disturbance or a distraction while another Councillor is speaking.
- Be disrespectful when they refer to each other or other people.
- Use offensive language about the Council, other Councillors, any employee of the Council or any member of the public.

¹ The Audit Office publication *Financial Conflicts of Interests of Members of Governing Bodies* (2001) provides further guidance on this Act.

Secret Commissions Act 1910

Under this Act it is unlawful for an elected member (or officer) to advise anyone to enter into a contract with a third person and receive a gift or reward from that third person as a result, or to present false receipts to the Council.

If convicted of any offence under this Act a person can be imprisoned for up to 2 years, or fined up to \$1000, or both. A conviction therefore would trigger the ouster provisions of the Local Government Act 2002 and result in the removal of the member from office.

Crimes Act 1961

Under this Act it is unlawful for an elected member (or officer) to:

- Accept or solicit for themselves (or anyone else) any gift or reward for acting or not acting in relation to the business of the Council.
- Use information gained in the course of their duties for their, or another persons, monetary gain or advantage.

These offences are punishable by a term of imprisonment of 7 years or more. Elected members convicted of these offences will also be automatically ousted from office.

Securities Act 1978

The Securities Act 1978 essentially placed elected members in the same position as company directors whenever the Council offers stock to the public. Elected members may be personally liable if investment documents such as a prospectus contain untrue statements and may be liable for criminal prosecution if the requirements of the Act are not met.

7.4 EXPLANATION OF THE LAWS AFFECTING MEMBERS AND THEIR CONDUCT

Information Only - No Decision Required

Report To:	Full Council
Meeting Date:	24 October 2013
Report Author:	Lindsay McKenzie, Chief Executive
Report Number:	RCN13-10-04

Item 7.4

1 Summary

As the cover page to this agenda explains, the business that must be conducted at the first meeting of the local authority following the triennial general election of members is set out in Clause 21, Schedule 7 of the Local Government Act 2002

I am required by that clause to give you a general explanation of the Local Government Official Information and Meetings Act 1987, and the other laws affecting members. That explanation follows.

The laws affecting members, include –

- (a) the appropriate provisions of the Local Authorities (Members' Interests) Act 1968; and
- (b) sections 99, 105, and 105A of the Crimes Act 1961, and
- (c) the Secret Commissions Act 1910; and
- (d) the Securities Act 1978;

It is a pity that the first thing that I'm required to advise you about is the extent to which the law proscribes and often constrains your conduct as a member. How much better would it be if our first engagement could have been to share our individual and shared aspirations for the organisation and community that we now have accountability to manage and govern? That is unfortunately the scheme of much of the law that governs us and a necessary quid pro quo for the coercive funding powers Parliament has given the local government sector.

Our challenge is to ensure that we meet our statutory obligations in a way that enables rather than frustrates the Council in achieving its vision for the district.

2 Draft Resolution

That the Full Council receives the report outlining the Local Government Official Information and Meetings Act 1987, and other laws affecting members and their conduct.

3 Purpose of the Report

- 3.1 To inform in the incoming members of the Tasman District Council about the relevant provisions of the Local Government Official Information and Meetings Act 1987 and other laws affecting members.

4 Background and Discussion

4.1 Introduction

The Local Government Act 2002 (LGA) requires the following laws to be explained at the first meeting of a local authority after each triennial general election:

- The Local Government Official Information & Meetings Act 1987 (LGOIMA),
- The Local Authorities (Members' Interests) Act 1968,
- sections 99, 105 and 105A of the Crimes Act 1965,
- The Secret Commissions Act 1910,
- The Securities Act 1978.

This paper provides an overview of these laws and is intended to acquaint you with the type of legislation that may directly affect your actions. The conduct of meetings and members' relationships with each other and with Council employees is also covered by Standing Orders, the Code of Conduct and the Delegations Manual. The review and re-adoption of the first two of those documents was dealt with earlier. The Delegations Manual will be dealt with over the next two meetings.

The conduct of Council's business is subject to the law. Despite the empowering nature of the Local Government Act 2002 (LGA), at least compared to the Acts that predate it, councils are still "creatures of statute". Most of Council's powers, duties and responsibilities are set out in the law. Where Council has discretion in its decision making there are prescribed processes to follow – some would say quite onerous – including to consult and consider the views and preferences of communities.

4.2 Local Government Official Information & Meetings Act 1987

The Local Government Official Information & Meetings Act (LGOIMA) deals with the:

- disclosure or otherwise of information by a local authority, and
- conduct of meetings including giving notice, public attendance, reasons for excluding the public and availability of agendas and reports.

The Standing Orders that have been circulated contain the provisions of LGOIMA which affect meetings. The disclosure of information by a local authority is not something that elected representatives generally get involved in. Requests for information are dealt with by management within the parameters laid down under the Act and any delegations you give. Where Councillors are affected by a request for information they are consulted about the decision whether or not to release it. You can use LGOIMA to obtain official information also but I'd typically view it as a failure in our relationship if you have to revert to that approach.

The fundamental principle underpinning LGOIMA is that all information held by a local authority should be publicly accessible unless there is good reason for withholding it. While the existence or otherwise of a good reason to withhold will ultimately depend on the facts, the two most relevant reasons are those relating to the conduct of negotiations – especially commercial negotiations – and the privacy of natural persons.

The part of LGOIMA dealing with meetings applies the same principles of openness and availability. Agendas are to be available to members and to the public two working days prior to meetings. We aim for 5 clear days – 2 being a weekend. A meeting must be open to the public unless there are good reasons for excluding the public. These reasons are to be stated by resolution at the time the decision is taken to exclude the public. The reasons for excluding the public are generally the same as those applying to the withholding of official information except that you cannot exclude the public to have a ‘free and frank’ discussion.

Decisions taken by local authorities under LGOIMA are able to be referred to the Ombudsman for review. Should either party not accept the Ombudsman’s decision the matter may finally be dealt with in the High Court.

1.3 Local Authorities (Members’ Interests) Act 1968

A handbook on the Local Authorities (Members’ Interests) Act and the law on conflicts of interest has been provided to you. The key presumption to adopt is that any formal business dealings that members have with the Council may fall within the scope of the Act. These can be discussed with the Chief Executive to ensure that no breach of the Act occurs. We use a Register of Interests as a useful risk management approach, especially relating to pecuniary interests.

You can be disqualified from office if you are ‘concerned or interested’ in contracts with Council if the total payments made or to be made exceed \$25,000 in any year. A pecuniary interest still exists below that threshold.

As a rule Councillors may take part in a debate and may vote on any issue in which their interest is no greater than that of a member of the general public. If their personal interest is greater than that of the general public, they should ‘declare an interest’ at the beginning of the debate (and this will be recorded by the Secretary) and they should take no further part in the debate and not vote.

Members’ interests in revenue and financing policy decisions have been examined by the Office of the Auditor-General. In July 2009 she received a complaint that three Councillors at Environment Canterbury had breached section 6(1) of the Local Authorities (Members’ Interests) Act 1968 (the Act), by discussing and voting on proposal to recover the costs of managing water resources in Canterbury. A fourth Councillor was later added.

Section 6(1) of the Act prohibits members of a local authority from discussing or voting on a matter if they have a financial (or “pecuniary”) interest in it. Section 6(4) enables the Auditor-General to give a declaration that this prohibition will not apply if its application impedes the business of the local authority or is against the interests of electors. She concluded that the four Councillors breached section 6(1) by participating in a decision when they had a financial interest in it. As a prosecution would be unlikely to result in a conviction she decided that it would not be appropriate in these circumstances to seek to have the Councillors prosecuted. The net financial benefit to the Councillors ranged from \$134 to \$1628. That gives you a feel for the thresholds that apply.

Managing conflicts of interest is a member's individual responsibility and, while staff will assist, a member cannot rely upon staff to advise them of a possible breach. The induction information you have and will get provides further information on nonpecuniary conflicts and bias.

1.4 Crimes Act 1961

Sections 99, 105 and 105A of the Crimes Act deal with corruption and bribery of and by officials and the corrupt use of official information by 'officials' which includes members of local authorities. Section 105 indicates that the misuse of any official's power in these respects can result in the imprisonment of the official for up to seven years. Section 105A indicates that similar penalties are possible for the corrupt use of official information.

1.5 Secret Commissions Act 1901

The Secret Commissions Act defines an officer or member of a local authority as an agent of that local authority. It then indicates that the corrupt giving of gifts or other consideration to an agent for favours, or acts being done or not being done, is an offence. Reasonably enough, the acceptance of gifts or other consideration in such circumstances is also an offence. An offence is committed even if the reward is obtained for another person. An agent who makes a contract on behalf of the principal (the Council) and fails to disclose a financial interest the agent has in the making of the contract, commits an offence.

The giving of false or misleading receipts, invoices or accounts to an agent with intent to deceive the principal is an offence. So too is the delivery or presentation of such documents to the principal by the agent. The receiving of secret rewards for procuring contracts is an offence.

1.6 The Securities Act 1973

The Securities Act concerns itself largely with the issuing of bonds and financial instruments that are available as funding mechanisms to Local Government. Council uses these mechanisms so the requirements of the Securities Act will need to be carefully observed.

Should any of you require any further information on any of these issues please do not hesitate to ask for the assistance.

5 Attachments

Nil

7.5 DATE OF FIRST ORDINARY MEETING**Decision Required**

Report To:	Full Council
Meeting Date:	24 October 2013
Report Author:	Pamela White, Executive Assistant to CEO/Mayor
Report Number:	RCN13-10-05

Item 7.5**1 Summary**

- 1.1 The Council is required under the Local Government Act 2002 to conduct certain business at the first meeting of the local authority after the election. This is outlined in Clause 21(5), Schedule 7 of the Act.
- 1.2 One of the requirements is “the fixing of the date and time of the first meeting of the local authority or the adoption of a schedule of meetings”.
- 1.3 The Council is requested to set Thursday 31 October 2013 at 9.30am as the date and time of the first meeting of Council after the election. The meeting will be held in the Chambers, Richmond.

2 Draft Resolution**That the Full Council**

- 1) receives the Date of First Ordinary Meeting report; and
- 2) sets the date and time of the first meeting as Thursday 31 October 2013 at 9.30am

3 Attachments

Nil