



Office of Hon David Carter

Minister for Primary Industries
Minister of Local Government

18 OCT 2012

Gareth Vaughan
Gareth.vaughan@interest.co.nz

Dear Mr Vaughan

Request under the Official Information Act 1982

Thank you for your email of 20 September 2012 about the Commissioners appointed for Kaipara District Council. You have asked for information in the following terms:

"I've been told that three of the commissioners are being paid \$900 a day, and the chairman about \$1500.

Apparently they are working at least two full days per week, and potentially more where necessary.

Are these figures accurate? If not, how much are they being paid?

Also, are they being paid by Kaipara District Council, ie by the council's ratepayers?

And how long do you expect the commissioners to be needed for?"

The Commissioners' fees and allowances are determined by me, as Minister, under section 255(4) – (5) and Schedule 15, clauses 16 – 19, of the Local Government Act 2002 (LGA02), the Fees and Travelling Allowances Act 1951, and the Fees and Travelling Allowances Regulations 1952. I have set the fees at a daily rate of \$1400 for the Chair and \$900 for the other Commissioners. This is consistent with the daily rates for the Environment Canterbury Commissioners. The Council will reimburse the Commissioners' travel and other costs in accordance with the Fees and Travelling Allowances Act 1951, as required by Schedule 15, clause 18(4) of the LGA02.

The LGA02 requires that the cost of the Commissioners is to be met out of funds held by the Council. Schedule 15, clause 18(4) of the LGA02 reads as follows:

"All expenditure incurred by the commission in carrying out its functions under this Act or any other Act, including the remuneration and travelling allowances and expenses of the commission, are to be paid out of money belonging to the local authority."

This cost to the Kaipara community is balanced by the fact that the elected representatives will not be paid during the Commissioners' term of appointment, as provided for by Schedule 15, clause 19 of the LGA02, which reads:

"While a commission is in office, neither the chairperson of the local authority nor any member of the local authority may exercise or purport to exercise any power, right, or entitlement, or perform or purport to perform any function or duty conferred or imposed on it or him or her in that capacity by this or any other Act, or by any

instrument or otherwise, and is not entitled to be paid in that capacity any salary, allowances, or expenses under this Act.”

The Government has postponed the 2013 elections for the Kaipara District Council until October 2015. The Commissioners will remain in place until that point. This will enable the Commissioners to adopt the 2015-2025 long-term plan and assist with the induction of the newly elected Mayor and Councillors in October 2015.

You have also asked *“will there be a forensic accounting examination into the Kaipara District Council including a probe of Audit NZ's role? If so, how far back will it go?”*

I have attached for your information a copy of the terms and conditions of appointment of the Commissioners, published in the *New Zealand Gazette* of 6 September 2012. You will see that the Commissioners are required to undertake a number of tasks related to the financial risks faced by the Council, and will be reviewing the Council's financial strategy, plans, rating policies, and capability (including debt and asset management). Should you wish to discuss the scope and timing of these tasks in more detail, you may wish to contact the Commissioners directly for further information.

You may also be aware that the Auditor-General Lyn Provost is carrying out an inquiry into the Kaipara District Council's management of the Mangawhai community wastewater scheme. The terms of reference for the inquiry may be viewed at the following link <http://www.oag.govt.nz/media/2012/inquiry-mangawhai-wastewater-scheme>. I understand that the Auditor-General has engaged independent advice on the part of the inquiry that is looking into the role of Audit NZ.

Thank you again for your email.

Yours sincerely

A handwritten signature in blue ink, appearing to be 'David Carter', written over a faint circular stamp or watermark.

Hon David Carter
Minister of Local Government

Appointment of Commissioners of the Kaipara District Council

1. Pursuant to section 255 of the Local Government Act 2002 ("the Act"), the Minister of Local Government gives notice of his appointment of the following persons as Commissioners of the Kaipara District Council ("Council") to perform and exercise its responsibilities, duties and powers:

Richard Booth
Colin Dale
John Robertson
Peter Winder

together referred to as the "Commissioners".

2. Pursuant to clause 16(2) of Schedule 15 of the Act, the Minister of Local Government gives notice of his appointment of

John Robertson

as chairperson of the Commissioners.

Election of the Kaipara District Council

3. Pursuant to sections 255(1)(b) and 257 of, the Minister of Local Government gives notice that a general election for the Council will be held on 17 October 2015.

4. Pursuant to clause 15(5) of Schedule 15 of the Act, the Minister of Local Government gives notice that the next triennial general election for the Council (scheduled for October 2013) is cancelled.

Term of Commissioners' appointment

5. Commissioners listed in this notice take office on the date of this notice. The Commissioners' term of appointment will end on the day after the date on which members of the Council are declared elected, following the general election on 17 October 2015.

Terms and conditions of appointment

6. Pursuant to section 255(4) of the Act, the Minister of Local Government appoints the Commissioners on the following terms and conditions:

- The Commissioners will carry out all the functions and powers of the Council provided for under the Act, the Resource Management Act 1991 and any other Act which imposes powers, duties or obligations on the Council.
- The Commissioners must comply with any legal obligations that would otherwise apply to the Council, such as public consultation requirements in the Act and the Resource Management Act 1991.
- The Commissioners are required to perform the following tasks as outlined below.

Phase one – appointment of Commissioners until December 2012

The Commissioners will:

- work through issues raised by the Council's 2010/11 annual report and the Council's 2012–22 long-term plan that relate to the financial risks faced by the Council;
- undertake actions to enforce the payment of 2012/13 rates and any unpaid rates from previous years;
- work with the Kaipara community and ratepayers and the Department of Internal Affairs to identify options for dealing with invalidly set rates and other legal compliance matters;
- identify the capacity of the Mangawhai Community Wastewater Scheme, whether it is fit for purpose, and the ideal funding model for the scheme for the future. This work is to have regard to the findings from

the Auditor-General's Inquiry into the Mangawhai Community Wastewater Scheme ("the Auditor-General's report");

- begin to identify the extent of the problems faced by the Council (building on the work of the Kaipara District Council Review Team ("the Review Team") and the Auditor-General's report), and engage in existing Council initiatives to address these issues; and
- begin initial engagement with the community and iwi to rebuild confidence and trust in the Council. This may include the establishment of community and iwi reference groups.

Phase two – January to June 2013

The Commissioners will:

- identify the full extent of the problems faced by the Council (building on the work of the Review Team and the Auditor-General's report);
- work with the Council's Chief Executive to build capability and capacity within the Council organisation in many key areas, including asset and financial management;
- continue to work with the Kaipara community and ratepayers and the Department of Internal Affairs to progress options to deal with invalidly set rates and other legal compliance matters (if any);
- progress the development and implementation of strategies required to address the problems faced by the Council. This will include initiating a review of the Council's strategic and policy framework and considering whether an amendment is required to the adopted 2012–22 long-term plan to provide the Council with a more sustainable operating model and equitable funding base for the future;
- develop a comprehensive communications strategy to ensure effective engagement with the community and iwi; and
- adopt a 2013/14 annual plan and set the rates for 2013/14.

Phase three – June 2013 to June 2015

The Commissioners will:

- carry out extensive community and iwi engagement to continue to rebuild confidence and trust in the Council;
- conduct a review of the Council's financial strategy, plans, rating policies, and capability (including debt and asset management), to ensure financial resilience and equitable and sustainable funding;
- consider shared services and cooperation with other councils;
- consider (with the community and other local authorities) options for structural changes in local government in Northland, including options for reorganisation/amalgamation; and
- develop the 2015–25 long-term plan in consultation with community and iwi.

Phase four – July to October 2015:

The Commissioners will develop an exit plan to facilitate a smooth transition back to an elected Council. This may include:

- recommendations for any Government assistance required (eg special legislation);
- recommendations to use the Ministerial intervention and assistance provisions proposed as part of the Local Government Act 2002 Amendment Bill 2012 to assist the newly elected Council if appropriate; and
- a plan for the induction of the new mayor and councillors to be elected in 2015.

Remuneration

7. The remuneration of Commissioners will be paid out of money belonging to the Council pursuant to clause 18 of Schedule 15 of the Act. Remuneration will be paid in accordance with the daily rates set by the Minister of Local Government under section 255(5) and clause 18 of Schedule 15 of the Act and the Fees and Travelling Allowances Act 1951. Expenses incurred by the Commissioners will be reimbursed out of money belonging to the Council in accordance with the Fees and Travelling Allowances Act 1951.

8. The Chairperson is responsible for ensuring the Commissioners' remuneration stays within approved levels and that any expenses claimed by Commissioners are reasonable and necessary.

Advice and administrative support to the Commissioners

9. As the governing body of the Council, the Commissioners will be supported by its chief executive. The Commissioners will also have the ability to engage such other support or advice they may require.

Reporting requirements

10. The Commissioners will report quarterly to the Minister of Local Government on progress towards addressing the organisational capability and performance of the Council organisation and completion of the identified phases of work.

Dated at Wellington this 31st day of August 2012.

HON DAVID CARTER, Minister of Local Government.

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