

Auckland Regional Amenities Funding Board - Te Poari ā-Takiwā Tuku Pūtea Taonga Whakaahuru

BOARD PACK

for

ARAFB Business Meeting

Tuesday, 5 November 2024

12:00 pm (NZDT)

Held at:

Offices of Buddle Findlay (Primary Location)

Level 18, 188 Quay Street, Auckland 1010

INDEX

Cover Page

Index

Agenda

Attached Documents:

1.3 a	ARAFB-20240611 - OPN-MIN.pdf.....	11
1.5 a	Interests Register.....	16
4.2 a	20241020 Timetable of Meetings 2025.pdf.....	21
5.1 a	Auckland Council Governing Body 20240627 re Ombudsman's Report.pdf.....	24
5.1 b	Ombudsmans Report - Open for Business 2023.pdf.....	34
6.1 a	Draft 2025-2026 Funding Plan, Admin Budget, Director Remuneration.pdf.....	92

AGENDA

ARAFB BUSINESS MEETING

Name:	Auckland Regional Amenities Funding Board - Te Poari ā-Takiwā Tuku Pūtea Taonga Whakaahuru
Date:	Tuesday, 5 November 2024
Time:	12:00 pm to 3:00 pm (NZDT)
Location:	Offices of Buddle Findlay (Primary Location), Level 18, 188 Quay Street, Auckland 1010
Board Members:	Scott Pearson, Alastair Carruthers, Jonny Gritt, Linda Cooper, Paul Evans, Deputy Chair Paula Browning, Penelope Peebles, Ravi Nyayapati, Victoria Carter (Chair)
Apologies:	Moana Tamaariki-Pohe

Notes: Following on straight after the workshop, at this meeting you will make provisional allocation of grants for 2025-2026 for inclusion in Draft 2025-2026 Funding Plan.

DEPENDING ON PROGRESS OF THE EARLIER WORKSHOP THE CHAIR MAY NEED TO OPEN THEN ADJOURN THE MEETING AT 12:00PM TO ENABLE THE EARLIER DISCUSSIONS TO BE CONCLUDED

EXCLUSION OF THE PUBLIC – WHO NEEDS TO LEAVE THE MEETING

Members of the public

All members of the public must leave the meeting when the public are excluded unless a resolution is passed permitting a person to remain because their knowledge will assist the meeting.

Those who are not members of the public

General principles

- Access to confidential information is managed on a “need to know” basis where access to the information is required in order for a person to perform their role.
- Those who are not members of the meeting (see list below) must leave unless it is necessary for them to remain and hear the debate in order to perform their role.
- Those who need to be present for one confidential item can remain only for that item and must leave the room for any other confidential items.
- In any case of doubt, the ruling of the Chair is final.

Members of the meeting

- The members of the meeting remain.
- However, standing orders require that a member who has a pecuniary conflict of interest leave the room.

Staff / Advisory Officer

- All staff supporting the meeting (administrative, senior management) remain.
- Only staff who need to because of their role may remain.

1. Opening Meeting

1.1 Opening Karakia

Victoria Carter

For Information

An opening karakia will be undertaken at the beginning of the meeting.

1.2 Apologies

Victoria Carter

For Decision

At the close of the agenda apologies for leave had been from Moana Tamaariki-Pohe.

Recommendation:

- a) Accept the apology from Moana Tamaariki-Pohe for leave.

1.3 Confirm Minutes

Victoria Carter

For Decision

Recommendation:

- a) Confirm the ordinary minutes of its meeting, held on 11 June 2024, including the confidential section, as a true and correct record
- b) Authorise the Advisory Officer to affix the chairs electronic signature to the minutes.

Supporting Documents:

1.3.a ARAFB-20240611 - OPN-MIN.pdf

11

1.4 Extraordinary Business

Victoria Carter

For Information

Section 46A(7) of the Local Government Official Information and Meetings Act 1987 (as amended) states:

“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.”

Section 46A(7A) of the Local Government Official Information and Meetings Act 1987 (as amended) states:

“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.”

1.5 Interests Register

Victoria Carter

For Decision

DECLARATIONS OF CONFLICT OF INTEREST

Funding Board Directors are reminded of their obligation to maintain a clear separation between their personal interests and their duties as an appointed member of the Funding Board.

Directors should therefore be vigilant to stand aside from decision making when a conflict (or a perceived conflict) arises between their role as a Director and any private or other external (either pecuniary or non-pecuniary) interest they may have.

Any interests should be declared at the commencement of consideration of any item on this agenda and the member concerned abstain from voting or discussion on the item or leave the room for the duration of its consideration.

This is an opportunity for members to provide verbal updates to the Register of Members Interest and to have these received by the Funding Board.

Recommendation:

a) Receive the Register of Members Interests, including any verbal updates.

Supporting Documents:

1.5.a Interests Register

16

1.6 Notices of Motion

Victoria Carter

For Information

At the close of the agenda no requests for notices of motion had been received.

2. Presentations to the Board

2.1 Public Forum

Victoria Carter

For Information

A period of time (approximately 30 minutes) is set aside for members of the public to address the meeting on matters within its delegated authority. A maximum of 10 minutes per item is allowed, following which there may be questions from Directors.

At the time of preparing the agenda there were no requests from anyone to present in public forum.

2.2 Report From Amenities Board and/or Specified Amenities

Victoria Carter

For Information

If requested, an opportunity for representatives of the Amenities Board or individual Specified Amenities, to provide the Funding Board with a verbal update on matters relating to and affecting the Amenities Board or the Specified Amenity.

At the time of preparing the agenda there were no requests from representatives of the Amenities Board or individual Specified Amenities.

3. Board Activities Since Last Meeting

3.1 Chairs Report

Victoria Carter

For Noting

Providing the Chair with the opportunity to provide an verbal update to the Funding Board on any issues relating to the business of the Funding Board that he has been involved with since the last meeting.

Recommendation:

- a) Note the verbal update from the Chair.

3.2 Members Activities With Specified Amenities and Board Member Reports

Victoria Carter

For Discussion

Providing Funding Board members with the opportunity to update the Board on projects and issues they have been involved with relating to the business of the Funding Board and provide the Board with a verbal update on recent interactions with the specified amenities since the last meeting.

A register of recent member activities was circulated before meeting. Verbal updates received will be added to this register by the Advisory Officer.

Recommendation:

- a) Note any verbal updates to Members Activities with the Specified Amenities and instruct the Advisory Officer to update the register of activities and gifts with these details.

4. Management Reports

4.1 Advisory Officers Report

For Noting

Providing the Advisory Officer with the opportunity to provide an oral update to the Board on projects and issues she has been involved with relating to the business of the Funding Board not covered elsewhere in the agenda since the last meeting.

Recommendation:

- a) Note the verbal update from the Advisory Officer

4.2 Timetable of Meetings - 2025

For Decision

The Directors are required to set the proposed timetable of meetings and other important dates for 2025. A draft timetable is provided for consideration.

Recommendation:

- a) Adopt the Timetable of Meetings 2025.

Supporting Documents:

4.2.a 20241020 Timetable of Meetings 2025.pdf

21

5. Ombudsman's Report - Open for Business

5.1 Ombudsman's Report regarding workshops

Victoria Carter

For Discussion

Part 7 of the Local Government Official Information and Meetings Act 1987 applies to the Auckland Regional Amenities Funding Board as if it were a local authority. At its 27 June 2024 Governing Body meeting, the Auckland Council considered the 2023 Ombudsman Report - Open for Business, resulting in all workshops at council being open by default and requiring a good reason to be held in confidential.

Recommendation:

a) Note the Ombudsman Report Open for Business 2023 and the Auckland Council agenda item pertaining to this report.

Supporting Documents:

5.1.a	Auckland Council Governing Body 20240627 re Ombudsman's Report.pdf	24
5.1.b	Ombudsmans Report - Open for Business 2023.pdf	34

6. Draft 2024-2025 Funding Plan

6.1 Draft 2025-2026 Funding Plan, Admin Budget, Director Remuneration

Victoria Carter

For Decision

The Directors must agree on the draft Administration Budget and the proposed Directors' Remuneration (Honoraria) for 2025-2026 - to be incorporated into the Draft 2025-2026 Funding Plan.

Recommendations:

- a) Approve the overall draft administrative budget of \$377,350 for 2025-2026 to be incorporated in the Draft Funding Plan
- b) Approve the proposed rates of board member remuneration for 2025-2026 as:

Financial year	2025-2026		2024-2025		Increase	
	EACH	TOTAL	EACH	TOTAL	EACH	TOTAL
Members (8)	\$19,250	\$154,000	\$18,500	\$148,000	\$750	\$6,000
Deputy Chair	\$29,000	\$29,000	\$27,750	\$27,750	\$1,250	\$1,250
Chair	\$38,850	\$38,850	\$37,000	\$37,000	\$1,850	\$1,850

- c) Instruct the Advisory Officer to send details of the proposed board member remuneration to Auckland Council for consideration and approval
- d) Instruct the Advisory Officer to incorporate the administrative budget, board member remuneration and proposed grant allocations into the Draft 2025-2026 Funding Plan
- e) Note that the closing dates for submissions on the Draft 2025-2026 Funding Plan is 5PM on Tuesday, 4 February 2025.

Supporting Documents:

6.1.a	Draft 2025-2026 Funding Plan, Admin Budget, Director Remuneration.pdf	92
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7. Exclusion of the Public

7.1 Exclusion of Public: Local Government Official Information & Meetings Act

Victoria Carter

For Decision

Bree Torkington	
<u>Advisory Officer</u>	
<u>Section 48, Local Government Official Information and Meetings Act 1987:</u>	

Recommendation:

That the public be excluded from the following part(s) 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 follows.

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, as follows:

- o C7.2 Minutes of a Confidential Meeting Held on 11 June 2024
- o C7.3 Provisional Allocation of Grants and Draft 2025-2026 Funding Plan

7.2 Minutes of the Confidential Meeting held on 11 June 2024

Victoria Carter

For Information

Minutes of the Confidential Meeting held on 11 June 2024.

7.3 Provisional Allocation of Grants and Draft 2025-2026 Funding Plan

Victoria Carter

For Information

Reason for passing this resolution in relation to each matter:	Particular interest(s) protected (where applicable)	Ground(s) under section 48(1) for the passing of this resolution
The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.	<p>Section 7(2)(h)</p> <p>Enable any local authority holding the information to carry out, without prejudice or disadvantage, commercial activities.</p> <p>Section 7(2)(i)</p> <p>The withholding of the information is necessary to enable the local authority to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).</p>	Public conduct of matter would be likely to result in disclosure of information for which good reason to withhold exists under section 7.

Following the Workshop to held prior to the Business meeting, the Directors are to confirm the provisional allocation of grants, including any conditions, to be made to each of the Specified Amenities

8. Close Meeting

8.1 Close the meeting

Next meeting: ARAFB meet Auckland Council re 2025 Levy / Grants - 8 Nov 2024, 11:00 am

A karakia will be recited at the conclusion of the meeting.

Auckland Regional Amenities

Funding Board

MINUTES OF A MEETING OF THE AUCKLAND REGIONAL AMENITIES FUNDING BOARD

HELD ON TUESDAY, 11 JUNE 2024 10:00AM

Meeting Room, Buddle Findlay
Level 18, HSBC Tower
188 Quay Street, Auckland 1010

PRESENT:

Acting Chair	Ms Paula	Browning	
Members:	Mrs Moana	Tamaariki-Pohe	
	Ms Victoria	Carter	
	Ms Penelope	Peebles	From 10:06AM
	Ms Linda	Cooper	Left 11.50am
	Mr Ravi	Nyayapati	
	Mr Paul	Evans	
	Mr Jonny	Gritt	Via Video-link
	Mr Scott	Pearson	
	Mr Alastair	Carruthers	From 11.30am

ALSO PRESENT:

Advisory Officer	Mr Leigh	Redshaw	Excl item C3.1, C4.1
	Mr Zac	Franich	GM – SLSNR (2.2)
	Ms Victoria	Travers	CEO – Stardome (C2.1 and C2.2)

TUESDAY
11 JUNE 2024

AUCKLAND REGIONAL AMENITIES FUNDING BOARD

MINUTES

1.1 The meeting was opened with a karakia led by Linda Cooper.

1.2 **APOLOGIES**

Moved: Victoria Carter / Scott Pearson

A. Apologies from Penelope Peebles and Alastair Carruthers for lateness, and early departure by Linda Cooper were accepted.

CARRI
ED

1.3 CONFIRMATION OF MINUTES

Moved: Paul Evans / Moana Tamaariki-Pohe

A. That the ordinary minutes of the meeting of the Auckland Regional Amenities Funding Board held on 30 April 2024, including the confidential section, be confirmed as a true and correct record and the Advisory Officer permitted to affix the Acting Chairs digital signature to the minutes.

CARRI
ED

1.4 **EXTRAORDINARY BUSINESS**

There was no extraordinary business.

1.5 **REGISTER OF MEMBERS INTERESTS**

Moved: Paul Evans / Scott Pearson

A. That the Register of Members Interests be received and updated in respect of Ravi Nyayapati.

CARRIED

1.6 **NOTICES OF MOTION**

There were no notices of motion.

2.1 **PUBLIC FORUM**

There were no deputations for public forum.

2.2 **REPORT FROM AMENITIES BOARD**

Moved: Moana Tamaariki-Pohe / Ravi Nyayapati

A. That Mr Zac Franich, General Manager Surf Life Saving Northern Region be thanked for his oral report to the board on matters relating to the recent central government announcement of additional funding for surf lifesaving and coastguard operation in New Zealand.

TUESDAY
11 JUNE 2024

AUCKLAND REGIONAL AMENITIES FUNDING BOARD

MINUTES

CARRIED

This item was also covered in the Confidential section (C2.1 and C2.2) of the agenda.

Confidential Items C2.1 and C2.2 were taken.

Moved: Linda Cooper / Victoria Carter

That Confidential items C2.2 and C2.2 be moved forward in the agenda and be taken now to allow Ms Travers to present to the board.

CARRIED

Members of the public were excluded from the meeting at 10:22AM.

Resolutions in relation to the confidential items are recorded in the confidential section of these minutes and are not publicly available.

At the conclusion of items C2.1 and C2.2 the meeting reverted to the open agenda.

Moved: Linda Cooper / Victoria Carter

That the Board close the Confidential section of the meeting and revert to the open agenda.

CARRIED

The meeting was re-opened to members of the public at 10:39AM.

3.1 CHAIR'S REPORT

Item not required.

3.2 MEMBERS ACTIVITIES WITH SPECIFIED AMENITIES AND BOARD MEMBERS' REPORTS

Moved: Paula Browning / Victoria Carter

A. That the Members Activities information and Board Members oral reports be received, and the register of activities and gifts be updated.

CARRIED

4.1 ADVISORY OFFICER'S REPORT

Moved: Linda Cooper / Jonny Gritt

A. That the Advisory Officer's oral report be received.

CARRIED

5.1 2025-2026 FUNDING APPLICATIONS

Moved: Victoria Carter / Jonny Gritt

That the Funding Board:

**TUESDAY
11 JUNE 2024**

AUCKLAND REGIONAL AMENITIES FUNDING BOARD

MINUTES

- A. Approves the use of the updated Funding Application form for 2025-2026, subject to any final adjustments to be noted by 18 June 2024, and requests that the Application form be distributed to the Specified Amenities by 30 June 2024.**
- B. Confirms that the closing date for 2025-2026 Funding Applications is 5PM, Tuesday 17 September 2024.**
- C. Invites all Specified Amenities that wish to submit 2025-2026 Funding Applications to attend a workshop on Tuesday 10 September 2024 to present the highlights of their proposed funding application to the Funding Board.**

CARRIED

6.1 APPOINTMENT OF CHAIR AND DEPUTY CHAIR 2024-2025

Moved: Victoria Carter / Moana Tamaariki-Pohe

That the Funding Board:

- A. Thanks Mr Scott Pearson and Ms Paula Browning for their leadership and work whilst fulfilling the roles of Chair and Deputy Chair for the 2023-2024 term.**

CARRIED

Acting Chair Paula Browning led a discussion on the appointment process.

Moved: Paula Browning / Ravi Nyayapati

- B. Appoints Victoria Carter as Chair of the Auckland Regional Amenities Funding Board for the 2024-2025 term with effect from 1 July 2024.**

CARRIED

Moved: Victoria Carter / Linda Cooper

- C. Appoints Paula Browning as Deputy Chair of the Auckland Regional Amenities Funding Board for the 2024-2025 term with effect from 1 July 2024.**

CARRIED

Moved: Ravi Nyayapati / Linda Cooper

- D. Approves the appointment of Victoria Carter (Chair), Paula Browning (Deputy Chair) and member Scott Pearson as full signatories on the ASB Bank accounts operated by the Funding Board, effective from / about 1 July 2024.**

CARRIED

Moved: Ravi Nyayapati / Linda Cooper

- E. Approves the removal of Leigh Redshaw (Advisory Officer) as full signatory on the ASB Bank accounts operated by the Funding Board, effective 30 June 2024.**

CARRIED

TUESDAY
11 JUNE 2024

AUCKLAND REGIONAL AMENITIES FUNDING BOARD

MINUTES

Members moved a vote of thanks to Advisory Officer, Leigh Redshaw, for his extensive and valuable service to the Funding Board over the past 17 years.

7.1 EXCLUSION OF THE PUBLIC: LOCAL GOVERNMENT OFFICIAL INFORMATION AND MEETINGS ACT 1987

Moved: Victoria Carter / Ravi Nyayapati

- A. 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 follows.**

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, as follows:

C1.1 Minutes of the Confidential Meeting held on 30 April 2024

C2.1 Amenities Report to Funding Board

C2.2 Report from Specified Amenities – Stardome

C3.1 Advisory Officer Appointment

C4.1 Extraordinary Item – ATC Update

- B. That Ms Victoria Travers, (CEO Stardome and Chair – Amenities Board) be permitted to remain for items C2.1 and C2.2 only.**

- C. That Mr Leigh Redshaw remain for items C1.1, C2.1, C2.2 only,**

CARRIED

Members of the public were excluded from the meeting at 11:08AM.

Resolutions in relation to the confidential items are recorded in the confidential section of these minutes and are not publicly available.

The meeting was re-opened to members of the public at 12.20pm.

A closing karakia was given by Moana Tamaariki-Pohe

There being no further business the Chair declared the meeting closed at 12.25pm

CONFIRMED AS A TRUE AND CORRECT RECORD AT A MEETING OF THE
AUCKLAND REGIONAL AMENITIES FUNDING BOARD HELD ON:

DATE:

CHAIR:

Interests Register

Auckland Regional Amenities Funding Board - Te Poari ā-Takiwā Tuku Pūtea Taonga Whakaahuru

As of: 5 Nov 2024

Person	Organisation	Active Interests	Notice Date
Alastair Carruthers	Auckland Museum : Tāmaki Peanga Hira	Deputy Chair	1 Oct 2024
	Auckland Unlimited	Director	11 Aug 2022
	Carruthers Consulting Ltd	Director and Shareholder	11 Aug 2022
	Cornwall Park Trust Board	Trustee	11 Aug 2022
	Homeland NZ Enterprises Ltd	Director and Shareholder	11 Aug 2022
	Homeland NZ Trading Ltd	Director and Shareholder	11 Aug 2022
	MOTAT - Museum of Transport and Technology Auckland	Board Member	1 Oct 2024
	Ring Hora, Services Workforce Development Council, Tertiary Education Commission	Trustee and Board Member	11 Aug 2022
	Tāmaki Paenga Hira - Auckland War Memorial Museum	Trustee and Board Member	11 Aug 2022
Television New Zealand	Chair	1 Jul 2023	
Deputy Chair Paula Browning	Auckland Chamber of Commerce	Tech Advisory Panel	27 Jun 2023

	Auckland Chamber Tech Working Group	Member	5 Sept 2023
	Creative New Zealand and Ministry of Culture and Heritage	On-going engagement with CNZ through role at WeCreate	28 Jul 2022
	Entain (formerly TAB NZ)	Sustainability Advisory Panel	27 Jun 2023
	Institute of Directors	Chartered Member	28 Jul 2022
	MCH - Heritage Artist Resale Royalty Advisory Group	Member	18 Oct 2022
	Tāmaki Regional Skills Leadership Group	Member	5 Sept 2023
	Toi Mai, the Workforce Development Council for Creative, Cultural, Tech and Recreation	Board Member	10 Sept 2024
	WeCreate Incorporated	Chair	28 Jul 2022
Jonny Gritt	The Lottery Community Northland Committee	Member	24 Aug 2023
Linda Cooper	Auckland Justice of the Peace Association	Member - JP	23 Aug 2023
	Community Patrol NZ (Henderson Branch)	Patron	23 Aug 2023
	Family Action Trust	Chair	23 Aug 2023
	Institute of Directors	Chartered Member	29 Apr 2024
	Judith Eastgate Family Trust	Trustee (non-beneficial)	23 Aug 2023
	Massey High School Foundation	Trustee	23 Aug 2023
	Noel Cooper Realty Ltd	Shareholder	23 Aug 2023

	Northwest Economic Masterplan Steering Group	Chair	1 Sept 2024
	Parliamentary Services	Member Support- Part time	30 Jan 2024
	Waitakere Health Link	Chair	23 Aug 2023
	Waitakere Licensing Trust	President	23 Aug 2023
	West Auckland Trust Services Ltd	Director	23 Aug 2023
Moana Tamaariki-Pohe	Maurea Consulting	Head of Training	1 Nov 2022
	Ngāti Whātua Whai Mai Ltd	Lead - Business Mentoring	9 Jan 2023
	Orākei Water Sport Inc	President	9 Jan 2023
	Tāmaki Paenga Hira - Auckland War Memorial Museum	Representative - Taumata a Iwi	9 Jan 2023
Paul Evans	BioGro New Zealand Limited	Independent Director	24 Aug 2023
	Edison Consulting Group Limited	Director	19 Sept 2023
	HFC Group	Independent Chair	16 Jul 2024
	Institute of Directors	Chartered Member	24 Aug 2023
	Localised Limited	Independent Chair	24 Aug 2023
	Maria Maria Limited	Shareholder and Director	24 Aug 2023
	Matakite Consulting	Owner	24 Aug 2023
	Ministry for the Environment	Waste Investment Panel Member	24 Aug 2023
	Pattle Delamore Partners	Director	28 Nov 2023
	WasteMINZ	Elected Board Member	24 Aug 2023
Penelope Peebles	CV Check	Penelope's husband (James Sutherland) is NZ Managing Director of the Australian public listed company that supplies Auckland Council with 'background screening services'.	23 Aug 2023

	Manchester Unity Friendly Society	Director	23 Aug 2023
	Penelope Peebles Advisory	Shareholder / Director	23 Aug 2023
	St Cuthbert's College Educational Trust Board	Trustee	23 Aug 2023
	Whatapaka Equestrian Ltd	Shareholder / Director	23 Aug 2023
Ravi Nyayapati	Badminton New Zealand	Board Member	28 Aug 2023
	Eventfinda Stadium	Board Trustee	5 Sept 2023
	Eventfinda Stadium	Deputy Chair	1 May 2024
	Institute of Directors New Zealand	Chartered Member	28 Aug 2023
	Institute of Directors New Zealand	Auckland Branch Committee Member	11 Jun 2024
	Lynfield College	Deputy Chair, Board of Trustees	28 Aug 2023
	Palmerston North City Council	Contractor	28 Aug 2023
	Peace Consulting LTD	Shareholder & Director	28 Aug 2023
	Te Wānanga o Aotearoa	Member of Audit & Risk Committee (Te Ārai Tūpono)	28 Aug 2023
Scott Pearson	Association of Certified Fraud Examiners	CFE	28 Jul 2022
	Chartered Accountants Australia New Zealand	Chartered Accountant	28 Jul 2022
	CPA Australia	FCPA	28 Jul 2022
	Gambling Commission	Commissioner	27 Jul 2022
	Institute of Directors	Chartered Member	28 Jul 2022
	Repromed New Zealand	Deputy Chair	16 Feb 2024
	The Big Idea	CFO	27 Jul 2022
Victoria Carter	Auckland Eye	Director	8 Feb 2023

Camden Farms Ltd	Director	28 Jul 2022
Camden Investments Ltd	Director	28 Jul 2022
Carter Bloodstock Ltd	Director	28 Jul 2022
Davies-Booth Associates	Director	28 Jul 2022
Friends of Laura Fergusson Trust Inc.	Chair	28 Jul 2022
Institute of Directors	Chartered Fellow	28 Jul 2022
James Fletcher Management	Director	28 Jul 2022
Joyce Fisher Endowment Fund	Chair	9 Feb 2024
Laura Fergusson Board Inc.	Chair	9 Feb 2024
Laura Fergusson Trust	Chair	9 Feb 2024
Mrs Mac's NZ Limited	Director	27 Jun 2023
Ngati Awa The Strand Development GP Ltd	Director	28 Jul 2022
Waka Kotahi - People Culture and OSH	Chair	28 Jul 2022

AUCKLAND REGIONAL AMENITIES FUNDING BOARD

Report

20 October 2024

To: Auckland Regional Amenities Funding Board Directors

From: Bree Torkington, Advisory Officer

Subject: DRAFT Schedule of Meetings 2025

Purpose

The purpose of this report is to present a draft Schedule of Meetings, workshops and key dates for 2025 for discussion and adoption.

Summary

It is necessary for the Auckland Regional Amenities Funding Board to confirm the schedule of meetings for 2025. Although the location of meetings has traditionally been at the offices of Buddle Findlay (HSBC Tower), the board may wish to move the location of meetings around to the premises of certain amenities throughout the year.

The location of each meeting can be determined in advance and notified to interested parties via the public notice process the board is required to undertake.

Due to the nature of the role of the board in meeting its obligations under the legislation there is not much scope to move the dates of meetings by more than a few days either side of the suggested dates.

The proposed schedule of meetings, workshops and key dates is in the following pages.

Recommendations

That the Auckland Regional Amenities Funding Board:

- a) Adopt the Schedule of Meetings 2025
- b) Authorise the Advisory Officer to circulate the adopted Schedule of Meetings 2025 to the Specified Amenities and Auckland Council.

AUCKLAND REGIONAL AMENITIES FUNDING BOARD (ARAFB)

DRAFT Schedule of Meetings 2025

Most meetings will commence at **10:00AM**, unless indicated or agreed otherwise.

Day	Date and time	Activity	Key Business
Monday	16 Dec 2024	Admin	<ul style="list-style-type: none"> • Publish draft 2025-2026 Funding Plan
Tuesday	4 Feb 2025	Key date	<ul style="list-style-type: none"> • Closing date for submissions on Draft 2025-2026 Funding Plan
Tuesday	11 Feb 2025	Business Meeting	<p>FIRST MEETING OF THE YEAR</p> <ul style="list-style-type: none"> • Public Hearings to receive written and oral submissions on the draft 2025-2026 Funding Plan <p><i>All oral submissions must be heard in the Open section of the meeting</i></p>
Tuesday	18 Feb 2025 <i>Depending on the number and nature of submissions (supra) this may be able to be amalgamated with the meeting on 11 Feb 2025</i>	Business Meeting	<ul style="list-style-type: none"> • Finalise final allocation of grants for 2025-2026 • Consider and approve final version of 2025-2026 Funding Plan • Submit 2025-2026 Funding Plan to Auckland Council to approve proposed levy for 2025-2026
TBC	Mar 2025 (TBC)	<i>Council Committee</i>	<ul style="list-style-type: none"> • Auckland Council considers ARAFB levy requirement for 2025-2026
Tuesday	25 Mar 2025	Business Meeting then Workshop	<p>Meeting:</p> <ul style="list-style-type: none"> • General Business • Funding Board meets to fix levy for 2025-2026 (must be done by 30 April 2025) <p>Workshop: Review Funding Board Policies:</p> <ul style="list-style-type: none"> • TBD
Tuesday	15 Apr 2025	Business Meeting then Workshop	<ul style="list-style-type: none"> • Meeting: Funding Board meets to fix levy for 2025-2026 (if not done at March meeting) • Workshop: Review 2025-2026 Grant Process, Questionnaire, etc
Tuesday	17 Jun 2025	Business Meeting	<ul style="list-style-type: none"> • Funding Board Business Meeting • Appoint Chair & Deputy Chair for 2025-2026 term
Tuesday	2 Sep 2025 Early start – all day	Workshop	<ul style="list-style-type: none"> • Funding Board receives presentations from Specified Amenities prior to 2026-2027 Funding Applications
Tuesday	9 Sep 2025	Key date	<ul style="list-style-type: none"> • Closing date for 2026-2027 Funding Applications from Specified Amenities

Day	Date and time	Activity	Key Business
Tuesday	30 Sep 2025 Early start – all day	Workshop	<ul style="list-style-type: none"> Funding Board considers 2026-2027 Funding Applications from Specified Amenities for first time
<i>Tuesday</i>	<i>30 Sep 2025</i>	<i>Key date</i>	<ul style="list-style-type: none"> <i>2024-2025 Annual Reports and Audited Financial Statements due from Specified Amenities</i>
Tuesday	7 Oct 2025 Early start – all day	Workshop	<ul style="list-style-type: none"> Amenities present their 2024-2025 Annual Reports & Trading Results
Tuesday	4 Nov 2025	Workshop then Business Meeting	<ul style="list-style-type: none"> Workshop: Consider any further information supplied by Specified Amenities following 7 Oct workshop Meeting: Make provisional allocation of grants for inclusion in draft 2026-2027 Funding Plan
TBD	TBD: 5-17 Nov 2025	Discussion	<ul style="list-style-type: none"> Chair meets Auckland Council representatives to discuss proposed levy for 2026-2027
Tuesday	18 Nov 2025 or 25 Nov (<i>standby only</i>)	Business Meeting	<ul style="list-style-type: none"> Adopt ARAFB 2025 Annual Report Confirm provisional allocation of grants for 2026-2027 Approve draft 2026-2027 Funding Plan for publication in December 2025
<i>Monday</i>	<i>15 Dec 2025</i>	<i>Admin</i>	<ul style="list-style-type: none"> <i>Publish draft 2026-2027 Funding Plan</i>

Adopted and approved _____

Response to the Ombudsman's recommendation to open workshops by default

File No.: CP2024/03589

Item 13

Te take mō te pūrongo Purpose of the report

1. The purpose of this report is to:
 - i) provide a response to the recommendations made in the [Ombudsman's report](#): 'Open for business: A report on the Chief Ombudsman's investigation into local council meetings and workshops',
 - ii) confirm the default setting for workshops of the Governing Body and its committees.

Whakarāpopototanga matua Executive summary

2. In August 2022, the Ombudsman initiated an investigation to test concerns that councils were using workshops and other informal meetings to make decisions. (The inference being that if decisions are being made at workshops, they would be subject to the Local Government Official Information and Meetings Act 1987 (LGOIMA)). A key motivation for the Ombudsman was to address the reported low trust in councils.
3. In October 2023 the Ombudsman released a thematic report detailing a range of recommendations to improve the transparency and accountability of councils in their meetings and workshop practices, in addition to individual reports for those eight councils that were investigated. Auckland Council was not one of the eight councils that were selected to be in scope of the investigation.
4. The Ombudsman found no evidence of actual or effective decisions being made in workshops, however, in the Ombudsman's opinion, closed (without a defensible reason) workshops are *"..counter to the principles of openness and could contribute to a public perception that workshops are not being used in the right way.."*
5. The Governing Body's meeting management practices are generally aligned with the Ombudsman's recommendations.
6. However, the Governing Body's current approach to workshops are that they are closed to the public unless the relevant chairperson determines that it should be open to the public. The Ombudsman's view is that best practice for council workshops is to be open to the public by default and should be closed only where that is reasonable.
7. It is recommended that the Governing Body change its default setting for workshops from closed by default to open by default. This change will bring the Governing Body into alignment with the Ombudsman's guidance and will ensure the work undertaken by the Governing Body is seen to be open, transparent, and democratically accountable.
8. The council can meet the Ombudsman's expectations for increased openness and transparency by ensuring that any workshop without a justifiable reason for closure should be open to the public. This can be achieved by enabling the public attendance in person, livestreaming or making a recording available on the council website.
9. Local boards will make their own workshops decisions and staff will provide them with the same advice for consistency.

Ngā tūtohunga Recommendations

That the Governing Body:

- a) whakaū / agree that from 1 September 2024 the default setting for Governing Body workshops will be that they are open to the public unless the relevant Chairperson considers it is reasonable to close a workshop in a particular case
- b) whakaū / agree that the way the workshop will be made open to the public is by way of recording the workshop and uploading that video to the council's website.

Horopaki Context

The Ombudsman's investigation and recommendations

10. In their report, the Ombudsman indicated concern that a 2023 report by the Organisation for Economic Co-operation and Development (OECD) titled *Drivers of Trust in Public Institutions in New Zealand* found that only 45 percent of New Zealanders surveyed reported having trust in local government councillors. The Ombudsman felt that councils' conduct around meetings and workshops are likely to be key factors that contribute to the level of public trust in elected officials.
11. Using their powers under the Ombudsman Act 1975, which allows the Ombudsman to review any act or omission by a local authority – except for a decision made by a council (i.e., a decision by the Governing Body or a committee of the whole), an investigation was carried out to test concerns relating to meetings and workshops.
12. The scope of the Ombudsman's investigation was to investigate eight councils' actions and decisions in relation to meetings and workshops. Auckland Council was not one of the eight councils investigated.
13. After concluding that the appropriate use of meeting provisions and workshops is essential for openness and transparency, the Ombudsman laid out a range of recommendations to all councils, in addition to specific recommendations to the eight councils investigated, for enhancing governance and operational transparency. Although the recommendations cover various elements relating to meetings and workshops, it is the recommendations about the approach to workshops that require a political direction.
14. The Ombudsman's recommendations are arranged into five themes: Leadership and Culture; Meetings; Workshops; Accessibility and Organisation structure, staffing and capability. Attachment A provides a summary prepared by staff of the current status for each recommendations and indicates future work that will be undertaken.
15. Although the Ombudsman's report is not legally binding on the council, the Ombudsman has made it clear that this is the best practice approach, and they will be closely monitoring decisions on these matters. Therefore, to manage the risk of staff advice being considered to be unreasonable, the starting point for this advice is the best practice recommendations and not the maintenance of the status quo.
16. If the Governing Body were of the mind to maintain the status quo, staff can be directed to engage with the Ombudsman and provide reasons why we do not agree with the recommendations. This may or may not prevent any Ombudsman's investigations or likely criticism of the council.

Specific recommendations in relation to workshops

17. The Ombudsman has provided three principles of good administrative practice, which they consider should guide council workshops:
 - i) Councils have a general discretion to advertise and undertake all meetings in public, and this is consistent with the principle in the Local Government Act 2002 (LGA) that councils should conduct their business in an open, transparent, and democratically accountable manner.
 - ii) A general policy of not publicising/closing all non-decision-making meetings, such as workshops, may be unreasonable and/or contrary to law. The Ombudsman can assess this on a case-by-case basis.
 - iii) Using closed workshops to do 'everything but' make a final decision could be seen as undermining the principles in the LGA and purposes of the LGOIMA and may be unreasonable in terms of the Ombudsmen Act 1975.
18. The six key recommendations made by the Ombudsman in respect of council workshops are:
 - i) Adopt a principle of openness by default for all workshops, including a clear commitment to record a clear basis for closure where justified, on a case-by-case basis.
 - ii) Publicising times, dates, venues, and subject matters of all workshops in advance, including a rationale for closing them, where applicable.
 - iii) Clear audit trails of all workshops and internal guidance for the keeping of records of workshop proceedings.
 - iv) Publishing workshop records on the council website as soon as practicable.
 - v) Formalising a process for considering the release of information from closed workshops.
 - vi) Consider sign posting on the council website that members of the public can complain to the ombudsman in relation to the administration of workshops.
19. As recognised by the Ombudsman, workshops can be an efficient use of time, and enable staff to convey information to elected members which may be voluminous and/or complex and which does not require any decisions. Workshops also allows for staff to receive guidance from elected members to focus efforts on a range of tenable options – preventing the wasting of staff time on unrealistic options.

Current workshop practice and guidance

20. Under section 45(2) of LGOIMA, a meeting at which no resolutions or decisions are made, is not a *meeting* for the purposes of Part 7 of the LGOIMA. Therefore, there is no statutory requirement that these types of meetings be open to the public, notified in advance and have minutes taken. Auckland Council practices to date, including the holding of closed workshops, have been lawful.
21. Council has to date taken the view that any perception of predetermination or lack of transparency can be addressed through the proactive release of workshop information (where possible), restating information in subsequent open meetings and keeping records of the workshop.
22. Since 2010 workshops have been used at Auckland Council for both the Governing Body and local boards to complement the formal public decision-making meetings. All Governing Body workshops are by default closed to the public. The chairperson of a council committee may open a workshop to the public unless the matters being workshopped are considered confidential ([GB/2019/136](#)).

23. Workshops are typically used to enable discussion between elected members, and between elected members and staff on complex and wide-ranging topics. They enable questions and the understanding of issues to develop so that elected members can arrive at the public meetings prepared for debate and decision-making.
24. All requests for workshops are reviewed by staff to determine appropriateness. Staff will continue this practice and consider more critically whether a workshop is needed at all, or if the matter could or should go straight to a Governing Body or committee meeting.
25. Feedback from elected members is that workshops are effective by providing the opportunity to engage informally with each other and staff and consider that these make them better prepared for the public decision-making meetings.
26. Through each term's induction process, elected members are reminded of their obligations to be open and transparent in decision-making. It is made clear to elected members that closed workshops do not replace the decision-making meetings.

Tātaritanga me ngā tohutohu

Analysis and advice

27. In their report, the Ombudsman highlights the requirement under the LGA for a local authority to "conduct its business in an open, transparent, and democratically accountable manner" and the requirement in LGOIMA that anything taking place or provided to any meeting is "official information" and subject to the principle of availability unless there is a good reason to withhold it.
28. Except for the Governing Body's closed by default position, the council's existing practice is generally consistent with, or working towards, the Ombudsman's best practice recommendations. Current workshop and meeting management practices include:
 - i) live streaming and recording of Governing Body and Committee meetings. Some local boards also record their meetings.
 - ii) meeting agendas are posted on the council's website with as much advance notice as possible before meeting dates
 - iii) there are clear and robust practices for keeping of meeting minutes and drafting of public exclusion resolutions
 - iv) keeping workshop records and publishing them on the council's website, (as part of upcoming meeting agenda), as soon as practicable after the workshop
 - v) actively releasing confidential information as soon as practicable, when the reason for withholding has passed, and
 - vi) restating information in subsequent open meetings.
29. Following receipt of the Ombudsman's report last November, staff implemented further improvements to our operational practices including requiring all Governing Body confidential workshop agendas to include a clear statement of the reasons for confidentiality.
30. In addition, staff will ensure that the council's website makes it easier to find meeting and workshop agendas and update the council's complaints page to add workshops as being an option for the public to take any administration concerns to the Office of the Ombudsman.
31. The Ombudsman also recommends surveying constituents to establish the type of information about meetings and workshops that they would like to see on the website and undertaken an accessibility audit to identify any access issues or barriers. Staff will investigate these further.

From 'closed by default' to 'open by default'

32. While the Ombudsman acknowledges that LGOIMA doesn't require non-decision-making meetings to be open, they consider that as a matter of best practice, and so as to be consistent with the principles of transparency, openness, and accountability, workshops should be open by default.
33. If the Governing Body decides to change the default setting for workshops to open by default, staff will:
 - i) Assist the chairpersons of each meeting in reviewing the purpose and information for future workshops to determine if there are reasonable grounds to hold a closed session
 - ii) Continue to publicise all information reviewed in open session workshops and any non-confidential information reviewed in closed sessions of workshops
 - iii) Facilitate public attendance at future workshops within existing constraints, ensuring that efficiency and effectiveness are not compromised by accommodating in-person attendance
 - iv) Support and enable the livestreaming and/or recording of meetings where it is not reasonably practicable to accommodate public attendance (or large numbers of the public)
 - v) Provide any other support that is required by chairpersons and elected members.

Workshops can be closed on reasonable grounds

34. The Ombudsman's recommendations recognise that in some instances it will be reasonable to close workshops to the public and that this should be considered on a case-by-case basis. The Ombudsman notes that what might be considered reasonable is a truly open category depending on each individual case and may include situations where the reasons for withholding information under sections 6 and 7(2) of the LGOIMA might apply, as well as other situations. What is reasonable in a particular case will vary, however the decision to close a workshop should be made on the individual merits of each workshop, rather than being based on a blanket rule.
35. Staff will prepare guidance to support chairpersons in making decisions closing a workshop to the public where it is reasonable to do so. What is reasonable will depend on the particular subject matter but examples of possible grounds for deciding not to hold the workshop in public might be where topics to be discussed are confidential because they are commercially sensitive, involve discussion of personal information, or require the giving of legally privileged advice. In certain cases, it may also be reasonable to hold a workshop to enable the free and frank provision of advice.
36. The Ombudsman highlighted the requirement in LGOIMA that anything taking place or provided to any meeting is 'official information' and subject to the principle of availability unless there is a good reason to withhold it. Currently all non-confidential workshop information is proactively released, and confidential information is released as soon as the withholding reason is no longer valid.
37. With regards to content of workshops, the Ombudsman has also cautioned against using workshops to include a significant component of determination, such as a substantial narrowing of options prior to public consultation. They have noted that it is important that closed workshops not be used (or be seen to be used) to do "everything but" make a decision.
38. Of particular concern to the Ombudsman were general policies of not advertising workshops - in their view this practice is likely to be unreasonable. Staff will be advertising upcoming workshops from 1 September 2024.

Enabling public attendance

39. Accommodating the public at workshops introduces additional administrative requirements and can also lead to disruptions. Staff will prepare guidance for chairpersons and lead officers of workshops to help manage any disruptions, similar to how they would handle a council meeting. When open workshops are made available through online public observation rather than in-person attendance, the risk of disruption is eliminated.
40. The Ombudsman's recommendations are essentially about providing additional layers of transparency that are accessible to the public. The Ombudsman does consider this can also be achieved through livestreaming and recordings.
41. If the Governing Body decides to change its workshop setting to open by default, there is a combination of approaches we can deploy to meet the Ombudsman's goal of increased transparency. These approaches are flexible and can be scaled depending upon what is reasonable practicable. The pros and cons of the possible approaches are shown in the table below.

Table 1. Ways to facilitate Open workshop sessions

Approach	Pros	Cons
a) Public attend and observe the workshop <u>in person</u>	<ul style="list-style-type: none"> May appear most aligned with the Ombudsman's recommendations and any public expectations 	<ul style="list-style-type: none"> Higher degree of administrative support required – staff, security arrangements May require changes in venue: Currently, majority of workshops are held in 135 Albert St closer to the offices of Mayor and councillors - it may not be reasonably practicable to accommodate public attendance, especially large groups, unless the venue is Town Hall A change in venue (to Town Hall) may make schedules inefficient. Unlikely to reach as many people as an online recording.
b) Public observe the workshop <u>online – Livestream</u>	<ul style="list-style-type: none"> Enables openness and transparency Eliminates risk of disruption from public Accessible to more Aucklanders including those who live rural and on islands Recording can also be viewed later No travel requirements for the public (climate friendly) 	<ul style="list-style-type: none"> Some administration support required (livestreaming etc) May not be accessible to those without internet May not align with preferences of some members of the public (who prefer to attend in person)

Approach	Pros	Cons
<p>c) Public observe the workshop <u>online</u> – <u>recording to be made available after the workshop</u></p> <p><u>Recommended option</u></p>	<ul style="list-style-type: none"> • Less administrative support required (when compared to (a) and (b)) • Eliminates risk of disruption from public • Accessible to more Aucklanders including those who live rural and on islands • No travel requirements for the public (climate friendly) • Provides ability to manage risk of any inadvertent LGOIMA breach. 	<ul style="list-style-type: none"> • Some administration support required – (recording, reviewing if required) • May not be accessible by those without internet • May not align with preferences of some members of the public (who prefer to attend in person)

Logistics

42. Governing Body workshops are held either in one of two meeting rooms (Level 26 of Auckland House, and the Town Hall Reception Lounge) and online using MS Teams. Whilst the Town Hall is fitted out to cope with a large public presence and a web streaming service, Level 26 of Auckland House is not. It has limited space for the public and will need to be configured to allow for a live stream service comparable to that of the Town Hall. In addition, Auckland House requires card to access at all times so members of the public will need to be issued with a visitor’s card and escorted to the relevant floor.
43. In the first instance and to minimise cost, the use of MS Teams can be quickly deployed to enable the public to observe the workshop online.
44. Staff acknowledge that there are some practical issues to resolve when the public are present and/or live streaming services are provided such as physical security and additional media equipment. These will be managed on a workshop-by-workshop basis.

Climate impact statement

45. The decisions in this report are not expected to have any significant impact on our climate objectives or targets. Staff have not quantified the impact of increased administrative requirements or the likely impact of increased travel requirements for in-person workshop observers.
46. The MS Teams, live streaming approach alongside the uploading of audio-visual recordings on the council’s YouTube page and/or website will provide a more climate-friendly option for workshop observers.

Council group impacts and views

47. As staff are seeking a political decision from the Governing Body on its approach, there has not been comprehensive consultation with the council group.
48. Staff have acknowledged and supported the recommendations of the Ombudsman but have noted concerns about the potential for public disruption at workshop proceedings, the potential for preliminary discussions on complex or controversial issues causing misinformation about important issues and future decisions. There also appears to be a concern about the potential of exposing staff, as well as elected members, to an increased risk of harassment over ‘free and frank’ exchange of opinions and/or that this may discourage robust discussions on controversial issues. These are not necessarily reasons to close workshops but indicate areas we would need to carefully monitor.

49. The Ombudsman's investigation had canvassed a few concerns and potential risks and concluded that while there are good reasons that exist for closing workshops, they did not consider controversy, complexity or the potential embarrassment to be good reasons in themselves.
50. If the decision to open workshops is approved there will be an implementation period to ensure that staff, including our council-controlled organisations, Houkura-Independent Māori Statutory Board are properly briefed and supported.

Financial implications

51. There are financial implications of opening up the Governing Body and committee workshops but these have not been quantified and will depend on the number of open workshops that are held. Staff consider that any initial costs can be accommodated in current budgets.
52. The most cost-efficient way to enable public to observe workshops is through the use of existing technology (MS Teams) to record them. Recordings can be uploaded to the council website. Using existing technology limits any additional cost and ensures the change in approach can be managed within existing budgets.
53. Staff anticipate an increase, likely to be very small, in advertising and security costs. Again, the increase will depend on the number of open workshops the Governing Body and its committees hold.
54. There will be additional support required from the communications teams if this new approach generates increased media and promotional interest in the workshops.
55. Staff will review the operation of open workshops after a bedding in period to assess what additional resources are required so that more accurate advice can be provided in the future about the financial implications.

Risks and mitigations

56. The Ombudsman's recommendations are non-binding. However, there may be reputational and/or political consequences arising from a failure to act where needed to respond to recommendations from the Ombudsman.
57. It is difficult to make a fair and qualified assessment of risks that may arise from open workshops at this stage. It is reasonable to anticipate increased public scrutiny on matters of interest to the community that are not yet ripe for decision-making. This can increase public knowledge and trust but may or may not lead to public misunderstanding or misinformation.
58. At the same time, staff are concerned about the potential impact on the ability to have robust discussions between staff and elected members. The risk here is that staff may feel more guarded in their advice if it is publicly available.
59. The experience of local boards that do already have open workshops suggest that in-person attendance is low. There is also a desire to ensure that we are vigilant of misinformation forming as a result, public disruption and the impact on staff. Staff consider that we can manage any risks through the ability to close a workshop session.
60. There is a risk that workshops can be called or cancelled at very short notice. This may impact on members of the public that may plan to attend. Staff will do all they can to keep advertised information about workshops current.
61. It is also open to the Governing Body to review its approach in the future if it should lead to unintended adverse consequences.

Tauākī whakaaweawe Māori

Māori impact statement

62. No decision is sought in this report that has a direct impact on Māori. However, Māori along with all Aucklanders will have the opportunity to be better informed about council operations and policy discussions that may impact them, facilitating trust, transparency, and more effective participation.

Ngā whakaaweawe ā-rohe me ngā tirohanga a te poari ā-rohe

Local impacts and local board views

63. This report did not seek the views of the local boards as the decision requested is a Governing Body matter. The Governing Body and local boards each have their own meeting practices and separate Standing Orders and are encouraged to maintain consistency in approaches.
64. Six local boards already hold open workshops. Devonport-Takapuna, Kaipātiki, Waitākere Ranges, Hibiscus and Bays, Rodney and Waitemātā currently allow public observation at their workshops. Reports from staff do indicate however that public attendance at these workshops have been low.
65. Those local boards that run open workshops have provided some feedback that the benefits of open workshops include transparency, increased community connection, boosts media and public awareness of local board business, helps local board members gain recognition, and reduces reliance on social media. In addition, there is greater access to information even if public attendance is low, people appreciate the option which fosters a better understanding of decision-making and the ability to follow topics of interest.
66. Those local boards also acknowledge that there is a risk of heightened media interest can hinder effective governance by swaying decisions based on a few vocal individuals rather than the broader community. In addition, they comment on the potential for public disruption, and say that the presence of the public can alter interactions between board members and staff leading to potential harassment of staff and reducing the willingness of staff to participate. Public interjections can derail workshop progress and disrupt important relationships, such as those with local iwi and community groups.
67. With regards to other recommendations from the Ombudsman, the current local boards' practices are generally consistent although there are some variations. For instance, only eight local boards have adopted the practice of proactively releasing all workshop materials. They are Devonport-Takapuna, Hibiscus and Bays, Kaipātiki, Puketāpapa, Rodney, Waiheke, Waitākere Ranges and Waitemātā.

Ngā koringa ā-muri

Next steps

68. If the Governing Body decides to change its approach and open workshops by default, staff recommend delaying implementation of this decision to for 1 September 2024 to enable staff will ensure that all practices, procedures, training, communications and information technology systems to support this decision are reviewed and in place.

Ngā tāpirihanga Attachments

Item 13

No.	Title	Page
A	Summary of Ombudsman's recommendations and status updates	

Ngā kaihaina Signatories

Author	Andrew Simon Pickering - Governance Support Manager
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A report on the Chief Ombudsman's investigation into local council meetings and workshops

Open for business

Te Kaitiaki Mana Tangata Aotearoa
The Ombudsman New Zealand

October 2023



A report on the Chief Ombudsman's investigation into workshop and meeting practices of eight local authorities for the purpose of compliance with the principles and purposes of the Local Government Official Information and Meetings Act 1987.

Te Kaitiaki Mana Tangata Aotearoa | The Ombudsman New Zealand

October 2023

ISBN: ONLINE 978-1-99-117608-0 PRINT 978-1-99-117608-0

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Contents

Introduction	4
Summary: What councils should do now	9
Terminology	11
Legislative context	12
Leadership and Culture	15
My expectations	15
My conclusions	16
Interactions between councils' operational and governance arms	16
Internal perceptions of openness	16
Public perceptions of openness	18
Website content	19
What councils should do now	22
Meetings	23
My expectations	23
My conclusions	26
Pre-meeting	26
During the meeting - excluding the public	27
Post-meeting	33
What councils should do now	34
Workshops	35
My expectations	35
My conclusions	37
Terminology around workshops	37
Councils' use of workshops	38
Open by default	40
Publicising upcoming workshops	41
Records of workshops	42
What councils should do now	43
Accessibility	44
My expectations	44
My conclusions	45
What councils should do now	46
Organisation structure, staffing and capability	47
My expectations	47
My conclusions	48
What councils should do now	50
Appendix 1. Relevant legislation	51
Appendix 2. Legislative history of key terms	53



Introduction

The Local Government Official Information and Meetings Act 1987 (LGOIMA) is a key tool and safeguard of New Zealand's democracy. The LGOIMA was introduced five years after the Official Information Act 1982 (OIA) turned the existing legislation—the Official Secrets Act 1951—on its head. The Official Secrets Act was based on the premise that all official information should be withheld from the public, unless good reason existed to release it. New Zealand's freedom of information legislation (both the OIA and the LGOIMA) reversed the presumption of secrecy and introduced the principle of availability—that official information should be available to the public unless there is good reason to withhold it.

The purposes of the LGOIMA are to increase the availability of information held by local authorities and to '*promote the open and public transaction of business at meetings*' to enable the public to participate in local authority decision making, to promote accountability of elected members and staff, ultimately enhancing respect for the law and ensuring the promotion of good local government in New Zealand¹

1 Link to [section 4](#) LGOIMA

INTRODUCTION

As Chief Ombudsman, I have been tasked by Parliament to monitor agencies' official information and meeting practices, resources and systems. I have jurisdiction to investigate *'any decision or recommendation made or any act done or omitted'*² by a local authority.³ One way I do this is by undertaking targeted investigations and publishing reports of my findings. I am committed to improving the operation of the LGOIMA to ensure the purposes of this important constitutional measure are realised.

Local councils in New Zealand face a challenging task: meeting high expectations of public accountability and participation, while delivering services in an efficient and effective way, as well as keeping rates as low as possible. Local democracy is built on the premise that the closer decision makers are to the population they serve, the more the people can, and should, participate directly in decisions that affect their daily lives. This is an important task for councils to get right.

Trust is at the core of the relationship between the people and their locally elected representatives. One way local government can earn trust is through transparent decision making that is open to public involvement and scrutiny. Transparency supports accountability, encourages high performance and increases public confidence. People may not always agree with council's decisions but a transparent process allows them to understand a council's reasoning, and can mitigate any suspicions of impropriety in the decision making process. Even a perception of secrecy can be damaging, as secrecy breeds suspicion.

A 2023 report by the Organisation for Economic Co-operation and Development (OECD) titled *Drivers of Trust in Public Institutions in New Zealand* found that only 45 percent of New Zealanders surveyed reported having trust in local government councillors.⁴ This is significantly lower than reported trust in the public service at 56 percent. Councils' conduct around meetings and workshops are likely to be factors that contribute to the level of public trust in elected officials.

2 Pursuant to section 13(1) and 13(3) of the Ombudsmen Act 1975.

3 'Local authority' in the context of this investigation refers to all city, district and regional councils referred to in Part 3 of Schedule 1 of the Ombudsmen Act 1975.

4 [OECD report](#) Drivers of Trust in Public Institutions in New Zealand, published in February 2023.

INTRODUCTION

I initiated this investigation on 2 August 2022 to test concerns that councils were using workshops and other informal meetings to make decisions.⁵ As outlined in my chapter on *Workshops*, final decisions and resolutions cannot lawfully be made outside the context of a properly constituted council meeting. If councils were making decisions of this nature in workshops, it would be an avoidance of their responsibilities under the LGOIMA. I also examined councils' practices around excluding the public from meetings that are regulated by the LGOIMA.

The scope of my investigation was to investigate eight councils⁶ actions and decisions in relation to both council meetings⁷ held under the LGOIMA; and workshops (or informal meetings) to which LGOIMA meeting provisions do not apply.⁸ In particular, I explored whether councils met their obligations under Part 7 of the LGOIMA in relation to council meetings, and good administrative practice in relation to workshops, briefings and informal meetings. The timeframe of matters considered in my investigation was from the electoral term beginning 12 October 2019 until 30 June 2023.

In order to investigate workshops, it was important to clearly understand what a 'meeting' is in accordance with the LGOIMA, and whether or not 'workshops' (or other informal meetings) should in fact be treated as 'meetings' under that Act.

The LGOIMA states that any meeting of a local authority, at which no resolutions or decisions are made, is not a 'meeting' for the purposes of the Act. During the course of my investigation, it became apparent that there is a lack of clarity around the definition of a 'decision'. As discussed in *Relevant Legislation*, the historical context of the drafting of section 45(2) of the LGOIMA indicates that legislators thought it was not necessary or appropriate to require deliberative meetings (such as workshops) to be notified to the public. When actual and effective decisions or resolutions are made, the meetings must be notified.

5 Link to meeting and workshop practice investigation [announcement](#).

6 My investigation considered practices from a mix of different sized councils, both urban and rural, across a variety of geographical locations. I notified eight councils across the country that I would be investigating their meeting and workshop practices: Rotorua Lakes Council, Taranaki Regional Council, Taupō District Council, Palmerston North City Council, Rangitikei District Council, Waimakariri District Council, Timaru District Council and Clutha District Council.

7 For the purpose of this investigation 'meeting' has the meaning given to it in section 45(1) of the LGOIMA.

8 Any organised or scheduled meeting attended by council staff and elected members which falls outside of the definition of a 'meeting' in section 45(1) of the LGOIMA.

INTRODUCTION

I saw no evidence in my investigation that actual and effective decisions were made in workshops, but I saw some workshop practices that are counter to the principles of openness and could contribute to a public perception that workshops are not being used in the right way.

This investigation has highlighted to me the important role that workshops play in the decision making process for councils. Provided an actual and effective decision is not made, deliberative discussion may take place in a workshop. Workshops can be an efficient use of time, in order to convey information which may be voluminous and complex to elected members, and for elected members to give council officials advice to focus their efforts on the range of tenable options. This prevents time and energy being wasted on options that aren't realistic.

However, this is not to say that all workshops should take place behind closed doors or without adequate record keeping. The principles of openness and good administrative practice apply to workshops as much as any other aspect of council business. It is crucial that these are adhered to in order to maintain public trust and avoid perceptions that councils are operating in secret. In this report, I provide guidance on what those principles are, to ensure each council's practices are consistent with good record keeping and the requirement under the Local Government Act 2002 (LGA) to *'conduct its business in an open, transparent, and democratically accountable manner'*.⁹

I expect all councils to make sure their policies and practices meet my expectations of good workshop practice. Crucially, this includes opening workshops to the public by default; closing them only where good reason exists. I acknowledge concerns raised by some councils about what they consider to be a 'growing trend' of people with strong views and/or activist groups applying undue pressure to elected members and staff. At least one elected member said they had been threatened by a member of the public. I understand there is an escalating environment of misinformation and elected members should not have to endure unreasonable or harassing behaviour. However, they should be resilient enough to withstand reasonable public scrutiny. Ensuring the public has access to accurate information should provide an antidote to misinformation. Local government will need to look at how to respond to these challenges, perhaps by leveraging new technologies, in ways that advance open government principles.

9 Link to [section 14](#) LGA

INTRODUCTION

Workshops are not the only forum in which the public may perceive councils to be conducting business behind closed doors. My investigation also looked at a variety of practices around council meetings, which are required to be open under the LGOIMA. In particular, I looked at councils' practices around public excluded portions of meetings, as well as the records kept of council meetings. I am pleased that the majority of councils I investigated now live stream council meetings, which greatly aids transparency.

Conducting a great deal of council business behind closed doors, whether through workshops or public excluded meetings, can have a damaging effect on how open the community perceives a council to be. The appropriate use of meeting provisions and workshops is at the heart of openness and transparency. As set out in the purposes of the LGOIMA and LGA, it is crucial that councils conduct their business in an open and transparent manner so the public can see democracy in action, and participate in democratic processes. Local authorities in New Zealand should be open for business.

Peter Boshier

Chief Ombudsman

October 2023

Summary

What councils should do now

Leadership and culture

- Induction training for staff and elected members must highlight the distinction between the operational and governance arms of local councils.
- Senior leaders should communicate clear and regular messages to all staff, signalling the council's commitment to conducting business in a manner that is open, transparent, and promotes accountability and public participation.
- Councils should have clear and visible public statements about their commitment to conducting business in a manner that is open, transparent, and facilitates accountability and public participation.
- Ensure pathways exist for council staff to make suggestions about meeting and workshop practices.
- Consider including a link to information about meetings and workshops prominently on the website landing page.
- Consider surveying constituents to establish the type of information about meetings and workshops they want to see on the website.

Meetings

- Review ease of access for meeting agendas, papers, and minutes on council websites (with a clear navigation path from the home page and minimal 'clicks' required).
- Make sure agendas and papers are posted on council websites with as much advance notice as possible before the meeting date.
- Review practice and internal guidance for the writing of public exclusion resolutions, ensuring:
 - the form includes all elements of the Schedule 2A form;
 - exclusion grounds are clearly identified, and section 7(2)(f)(i) is not relied on to exclude the public from meetings; and
 - the reasons for applying the named exclusion ground to the content of the agenda item are clearly set out in plain English along with how the decision to exclude the public has been balanced against public interest considerations.
- Review practice and internal guidance for the keeping of meeting minutes, ensuring that minutes reliably contain a clear audit trail of the full decision making process, including any relevant debate and consideration of options, and how individual elected members voted.
- Formalise a process for reconsidering the release of public excluded content at a time when the basis for withholding it may no longer apply.

What councils should do now

Workshops

- Adopt a principle of openness by default for all workshops (and briefings, forums etc.), including a commitment to record a clear basis for closure where justified, on a case-by-case basis.
- Make sure the time, dates, venues, and subject matter, of all workshops are publicised in advance, along with rationale for closing them where applicable.
- Review practice and internal guidance for keeping records of workshop proceedings, ensuring they contribute to a clear audit trail of the workshop, including details of information presented, relevant debate, and consideration of options. Councils may wish to consider consulting with Archives NZ to determine good practice in this respect.
- Publish workshop records on the council's website as soon as practicable after the event.
- Formalise a process for considering release of information from closed workshops.
- Consider adding the message that members of the public are able to make a complaint to me about the administration of workshops on a relevant section of a council's website.

Accessibility

- All councils should aim to live stream council meetings and/or audio visually record meetings and publish the recording on their website.
- Consider live streaming and/or audio visually recording workshops.
- Consider making meeting dates and times more visible to the public.
- Ensure full agendas, including reports, supporting materials, and meeting minutes are in a searchable format for screen readers.
- Undertake an accessibility audit to identify any barriers to inclusion and on completion of the audit, put in place a schedule of work to remedy any access issues or barriers to full inclusion of a wide range of people.

Organisation structure, staffing and capability

- Ensure sufficient staff have training in governance functions so that institutional knowledge does not rest with only a small number of staff, and processes for fulfilling these functions are written down and easily accessible.
- Explore ways of using existing networks in local government to bolster resilience in critical areas of meeting and workshop practice.
- Review the general training and guidance provided to staff, and consider approaching my office for assistance in improving those resources or in assisting with direct training of relevant staff.

Terminology

- When I use the term 'council' this primarily relates to the operational arm of the organisation, unless the context suggests otherwise. When I am referring to the governance function, I use the term 'elected members'.
- I undertook online surveys of staff, elected members and the public. These are referred to as my 'staff surveys', 'elected member surveys' and 'public surveys'.
- I and my staff spoke with council officials and elected members to gain their views and experiences of council meetings and workshops. I refer to those who participated in these conversations as 'staff meeting attendees' or 'elected member meeting attendees'.

Legislation referred to in this report:

- [Local Government Act 2002](#) (LGA)
- [Local Government Official Information and Meetings Act 1987](#) (LGOIMA)
- [Ombudsmen Act 1975](#) (OA)
- [Public Records Act 2005](#) (PRA)
- [Legislation Act 2019](#)
- [Official Information Act 1982](#) (OIA)

Legislative context

The purposes of the LGOIMA are to increase the availability of information held by local authorities and to promote the open and public transaction of business at meetings. This ensures people can:

- effectively participate in the actions and decisions of local authorities;
- hold local authority members and their officials to account for any decisions; and
- understand why decisions were made, which will enhance respect for the law and promote good local government in New Zealand.

The LGOIMA also protects official information and the deliberations of local authorities from disclosure but only to the extent consistent with the public interest and the need to protect personal privacy. The principle and purposes of the LGOIMA are set out in full in [Appendix 1](#).

A reference point for understanding how local government should operate in New Zealand is the Local Government Act 2002 (LGA), and in particular, the sections that set out the purpose (section 10) and principles (section 14) of local government as a whole. The most pertinent principle states that in performing its role, a local authority should conduct its business in an open, transparent and democratically accountable manner. These provisions of the LGA are also set out in [Appendix 1](#).

In light of the statutory obligations that openness, transparency, and public participation are foundational principles for local government practice - as required by both the LGOIMA and the LGA - it is not surprising that Part 7 of the LGOIMA (which regulates council meetings where decisions or resolutions are made) is quite prescriptive. Part 7 sets out what is required before, during, and after, any council meeting. I have described what part 7 of the LGOIMA stipulates in [My expectations](#) of council meetings.

The definition of a 'meeting' in section 45 of the LGOIMA is fundamental to understanding the scope of the requirements. Section 45(2) provides:

- (2) *For the avoidance of doubt, it is hereby declared that any meeting of a local authority or of any committee or subcommittee of a local authority, at which no resolutions or decisions are made is not a meeting for the purposes of this Part.*

The breadth of the exclusion in section 45(2) was determined as the result of discussion and debate that followed the commencement of the LGOIMA in 1988 and added by the Local Government Official Information and Meetings Amendment Act 1991 (1991 No 54). The legislative history of Part 7 of the LGOIMA, and this subsequent amendment, sheds helpful light on what Parliament intended to include in its coverage. The legislative history of key terms is included in [Appendix 2](#).

In my view, the legislative history illustrates that policy makers thought it was not necessary or appropriate to *require* deliberative meetings (such as workshops) to be 'notified' and held in public because:

- it is not possible or desirable to stop elected members from 'caucusing' in private (that is, discussing matters among themselves where no council staff are present);
- anything that is discussed at deliberative meetings (such as workshops) is official information (therefore the public has a right to request it);
- councils have a discretion to notify and hold deliberative meetings in public; and
- actual and effective decisions always have to be made at notified public meetings as required by the LGOIMA.

Viewed in this context, and in the context of a general expectation of openness, Part 7 of the LGOIMA with its very prescriptive rules for meetings can be seen as having a deliberately narrow application. The LGOIMA only requires meetings with these prescriptive rules where *'actual and effective decisions or resolutions are made'*.

The Ombudsmen Act 1975 (OA) allows me to review any act or omission by a local authority, except a decision made by full council.¹⁰ This allows me to examine and comment on how councils are administering meetings as defined in the LGOIMA, as well as workshops and briefings that are not regulated by the LGOIMA, either in response to a complaint or using my powers under the OA to initiate my own investigation.¹¹

As established in the above section on the LGOIMA's legislative history, councils have the discretion to notify and hold all non-decision making meetings (such as workshops) in public if they choose. I can examine the exercise (or non-exercise) of this discretion.

In examining the ways councils conduct meetings that fall outside of Part 7 of the LGOIMA, I can draw on:

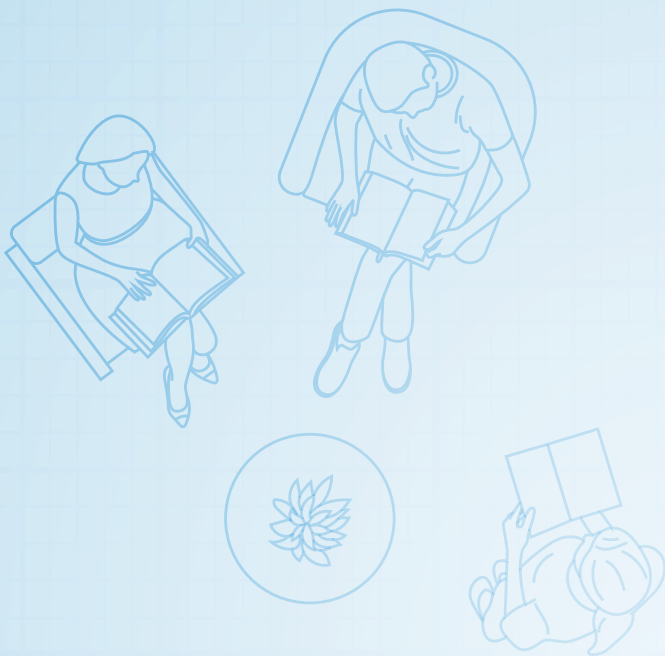
- the LGA, which requires a local authority to *'conduct its business in an open, transparent, and democratically accountable manner'*. This obligation complements the requirements in the LGOIMA to conduct decision making meetings in public; and
- the requirement that anything taking place or provided to any meeting is official information and can be requested unless there is good reason to withhold.

10 Link to [section 13\(1\)](#) of the OA

11 Link to [section 13\(3\)](#) of the OA

This provides a basis for me to adopt the following principles of good administrative practice that should guide council meetings that fall outside of Part 7 of the LGOIMA:

- Councils have a general discretion to advertise and undertake all meetings in public, and this is consistent with the principle in the LGA that councils should conduct their business in an open, transparent, and democratically accountable manner.
- A general policy of not publicising/closing all non-decision making meetings, such as workshops, may be unreasonable and/or contrary to law. The Ombudsman can assess this on a case-by-case basis.
- Using closed workshops to do 'everything but' make a final decision could be seen as undermining the principles in the LGA and purposes of the LGOIMA, and may be unreasonable in terms of the OA.



Leadership and Culture

My expectations

Achieving the principle and purposes of the LGOIMA depends significantly on the culture of a council, and the attitudes and actions of its senior leaders. Elected members, chief executives, and senior managers, should take the lead in developing an environment that promotes openness and transparency within the organisation, with external stakeholders, and importantly, with their constituents. This environment should champion positive engagement with those who want to know and understand the work a council is doing.

Councils' senior leaders must role model open and transparent behaviour by ensuring that council practices and processes around conducting meetings and workshops are transparent, and promote accountability. They should also demonstrate clear knowledge and support for their obligations set out in the LGOIMA. Council chief executives must make clear, regular statements to staff and stakeholders in support of the principle and purposes of official information legislation, and remind staff about their obligations. Consistent, clear messaging and behaviours communicate a real expectation that councils are committed to openness and transparency.

My conclusions

Interactions between councils' operational and governance arms

The word 'council' is sometimes used as a catch-all that encompasses the operational arm of the organisation as well as the governance provided by elected members. However, the distinction between the operational and governance functions should not be forgotten. Senior leaders, staff, and elected members, must carefully tread this line in their interactions.

Elected members have a reasonable requirement to be aware of operational issues, but there should be a clear delineation between operations and governance. Elected members should not cross the line into directing or influencing operations. A commonality in the investigated councils that were perceived as open, by staff and the public, were respectful relationships between the operational and governance arms of the organisation. Staff and elected members must have a clear understanding of the responsibilities and limits of their, and each others' roles. Councils should ensure these lines are clearly drawn in their induction training for elected members and for council staff.

Internal perceptions of openness

I surveyed the staff of the eight councils under investigation in order to gather their perspectives of the agencies' overall commitment to a strong culture of openness and public participation in meetings and workshops. The results were encouraging. Across the eight councils, an average of 81 percent of staff survey respondents perceived their council to be strongly or moderately pro-openness and public participation in meetings and workshops, as shown in the table below:¹²

What is your impression of your council's overall commitment to a strong culture of openness and public participation, in meetings and workshops?

	Strongly or moderately pro-openness and public participation	'It is silent on the issue' or 'I don't know'	Strongly or moderately anti-openness and public participation
Highest percentage at an individual council	97%	15%	17%
Lowest percentage at an individual council	68%	3%	0%
Average across eight councils	81%	11%	8%

¹² Percentages are rounded to the nearest whole number.

It is important for senior leaders to communicate clear and regular messages to all staff, signalling the councils' commitment to conducting business in a manner that is open, transparent, and facilitates accountability and public participation. Senior leaders can actively promote a culture of openness in their regular communications via, for example:

- statements published on intranet pages;
- as standing items in internal meetings; and
- in high-level statements including written guidance.

Promoting an open culture through a variety of methods may help ensure that the message is received by all staff.

In councils that appeared to have a strong culture of openness, staff expressed that the Chief Executive played a key role in establishing and building that culture:

The understanding about openness and transparency has been driven by our CE [Chief Executive]... When the CE is leading that culture, it filters down to [our] leadership team and onwards to elected members.

The Chief Executive has no qualms regarding communicating issues to all staff however difficult they might be.

I think we've got a very exceptional CE and [their] views filter down to [their] immediate staff as well.

...the current CEO is more open and transparent than I have ever seen...

...new CE is all about getting ideas from everyone in the council.

While messaging is important, senior leaders must follow their words with action. Failing to do so risks undermining their own messages. For example, senior leaders should ensure there is sufficient capacity and capability to execute governance functions, which I discuss further in [Organisation structure, staffing and capability](#). They should also ensure their council has robust practices and policies in place around meetings and workshops which facilitate and emphasise openness. I will speak about this in more detail in the [Meetings](#) and [Workshops](#) sections.

It is important that councils establish mechanisms for staff to give feedback and suggestions to senior leaders about council practices. It is staff who give effect to councils' policies and practices, so they can help make sure these are fit-for-purpose. Councils that are open to staff feedback also appear to have an open and transparent culture.

Public perceptions of openness

The public's perception of a council's openness is heavily influenced by how easy people find it to participate in elected members' decision making; and by how easy it is to find records of the key proceedings related to those decisions. More generally, the public's experience of navigating council websites to find information relevant to them, and the helpfulness of a council's overall messaging about accessibility and openness, are also key to this perception.

All of the councils under investigation gave assurances that workshops were not used to make decisions. All of the council staff and elected members spoken to during the course of my investigation were very clear that decisions could only be made in meetings held under Part 7 of the LGOIMA. However, the public's perception of council decision making processes do not appear to always align with councils' own confidence in the integrity of their processes. Many respondents to my public survey expressed concern about the reasons used to exclude the public from meetings, and about some councils' practices around workshops:

*Not enough debate. It all seems to have been decided beforehand.
Too much 'public excluded' with very little explanation.*

Seems a level of predetermination occurs [in workshops].

...there seems to be a disproportionate number of public excluded meetings—behind closed doors.

I understand the need for information sharing and discussion, but I feel workshops often take it beyond that and reduce the ability for the public to have input on issues until it's too late.

These views were expressed, to varying degrees, about all of the councils under investigation. It is understandable that the public is sceptical when their elected members meet behind closed doors, particularly where the reasons for closing the meeting or workshop are not made sufficiently clear, and little or no information about what took place in a closed meeting or a closed workshop is made available after the fact. This inevitably breeds suspicion.

While councils may have confidence in the integrity of their processes, I urge them to understand it is in the public interest not only that decisions are made appropriately but *they must be seen to be made appropriately*. Councils must ensure that their processes leave no room for perceptions to develop that decisions are being made in workshops, or that workshops are being used to 'debate out' issues to the extent that a decision has been made in all but name, and just need to be 'rubber stamped' in the council meeting. Does this mean that all workshops and meetings must be open without exception? No.

There will be occasions where there is good reason to close meetings, parts of meetings¹³, or workshops. Where this is the case, councils must be scrupulous in:

- ensuring that the occurrence of closed workshops are made public (i.e. even if a workshop is closed, the public should still be aware it is happening. If the public is unaware of a workshop, they will be unable to request, under the LGOIMA, information about it);
- publishing their reasons for closing the meeting or workshop;¹⁴
- keeping adequate records of the content of closed meetings and workshops; and
- releasing information about workshops and closed meetings where possible.

I will speak more about **meeting** and **workshop** practices in their respective chapters below.

Website content

I consider the content of a council's website to be one indicator of their culture. Councils must ensure they deliver clear and consistent messaging to the public about their commitment to openness and transparency. A visible and explicit statement should exist on councils' websites affirming this commitment in its work.

Information about meetings

The majority of respondents to my public survey said they found it difficult to access information about meetings on council websites. One respondent said:

Information is not easily accessible as there is no 'tab' on the front page for the meetings, you actually have to put 'meeting' in the search bar to get direction to it.

This accords with my assessment of council websites. Of the eight councils under investigation, only three had a visible link to 'meetings' on the landing pages, and none of these were displayed very prominently. On the websites of the other five councils, information about meetings was one mouse click away from their landing pages under the very broad heading 'Council' or 'Your council' which, according to my survey, users do not appear to find intuitive:

¹³ Section 48 of the LGOIMA recognises this.

¹⁴ Except where explaining the harm might, itself create a prejudice to the protected interest.

How easy or difficult is it to navigate the Council's website to find information about the Council's Meetings?

	'Somewhat' or 'very' easy	Neither easy nor difficult	'Somewhat' or 'very' difficult	I don't know
Highest percentage at an individual council	27%	42%	60%	11%
Lowest percentage at an individual council	0%	7%	43%	0%
Average across the eight councils under investigation	19%	22%	53%	6%

I consider it is good practice for councils to clearly signpost information about meetings on their landing pages.

My survey also asked respondents what additional information, if any, they would like to see councils publish about meetings on their websites. There were a range of answers, with some of the common themes from respondents being:

- meeting agendas should be published more than two days in advance;¹⁵
- more information about why meetings or parts of meetings, were closed;
- more details in minutes, such as which elected members voted for and against resolutions; and
- easy-to-read summaries of key information and updates on key projects.

Councils may find it useful to do their own surveys of constituents and website users about the type of information about decision making and council proceedings the public would like to find on their websites.

¹⁵ Section 46A(1) of the LGOIMA states that the public may inspect within a period of **at least** two working days before every meeting, all agendas and associated reports circulated to members of the local authority and relating to that meeting.

Councils are required under Part 7 of the LGOIMA to notify the public of the occurrence of meetings¹⁶ and to make available meeting minutes¹⁷ and agendas.¹⁸ When the LGOIMA passed into law in 1987, councils would publicly notify meetings through advertising in newspapers, and meeting minutes and agendas would be available at councils' public offices. Nowadays, councils advertise meetings on their websites as well as in local newspapers, and minutes and agendas are often made available on councils' websites.

I asked public survey respondents how easy or difficult it was to find information about when meetings occurred; and how easy or difficult they found it to access meeting minutes and agendas. Their responses are in the table below:

How easy or difficult is it to	'Somewhat' or 'very' easy	Neither easy nor difficult	'Somewhat' or 'very' difficult	I don't know
Find out when a public meeting of the Council is being held	27%	22%	47%	4%
Obtain a copy of the meeting agenda prior to a public Meeting of the Council	18%	15%	52%	15%
Obtain a copy of the Meeting minutes following a public meeting of the Council	17%	15%	50%	17%

Councils can do more to make the occurrence of meetings visible to the public, and to increase access to minutes and agendas. As noted above, website users may find it easier to find information about meetings if prominently displayed on the landing page of councils' websites. Councils may also wish to consider how they can use social media platforms to promote awareness of meetings and workshops.

16 Link to [section 46](#) of the LGOIMA

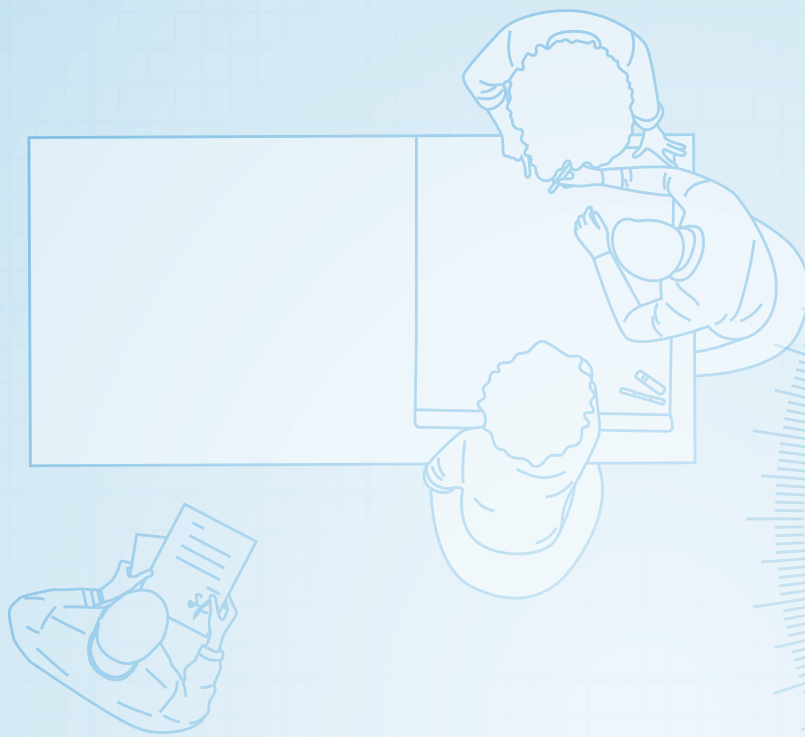
17 Link to [section 51](#) of the LGOIMA

18 Link to [section 46A](#) of the LGOIMA

What councils should do now

- Induction training for staff and elected members must highlight the distinction between the operational and governance arms of local councils.
- Senior leaders should communicate clear and regular messages to all staff, signalling the council's commitment to conducting business in a manner that is open, transparent, and promotes accountability and public participation.
- Councils should have clear and visible public statements about their commitment to conducting business in a manner that is open, transparent, and facilitates accountability and public participation.
- Ensure pathways exist for council staff to make suggestions about meeting and workshop practices.
- Consider including a link to information about meetings and workshops prominently on the council's website landing page.
- Consider surveying constituents to establish the type of information about meetings and workshops they want to see on the council's website.

A range of additional suggestions specific to meetings, workshops, and accessibility improvements, are included in the following sections. I believe implementing these will improve the public experience and perception of council engagement and openness.



Meetings

My expectations

As outlined in [Appendix 1: Relevant legislation](#), Part 7 of the LGOIMA sets out a number of specific requirements for council meetings to meet the Act's overarching purpose to '*promote the open and public transaction of business at meetings of local authorities*'.¹⁹

The Working Group on Official Information in Local Government²⁰ specifically considered that a standalone Act applying the principles of the Official Information Act 1982 to local authorities was the most appropriate legislative course of action. Importantly, the new Act was designed to incorporate meetings to supersede the Public Bodies Meetings Act 1962.

The key requirements of Part 7 are:

- every local authority must publicly notify all 'meetings' that are scheduled to take place each month, but failing to do so does not invalidate any meeting;²¹

19 Link to [section 4\(a\)](#) of the LGOIMA

20 Report of the Working Group on Official Information in Local Government, June 1986: a report to the Minister of Local Government and the Minister of Justice by the Working Group on Official Information in Local Government.

21 Link to [section 46](#) of the LGOIMA

MEETINGS

- agendas and reports are publicly available at least two days in advance;²²
- meetings are open to the public, unless there is good reason for excluding them;²³ and
- minutes of a meeting must be made accessible to members of the public.²⁴

Meeting minutes should represent a full and accurate record of the content of local authority meetings. Minutes should not just record the final decision taken by elected members, but details of any debate or discussion preceding and informing the decision. In addition to aligning with principles of openness and accountability, recording the content of discussion and debate is a safeguard against any perception that decisions have been taken prior to the meeting, and are merely being 'rubber stamped' in the meeting setting. Though it is not a legislative requirement, I consider it is good administrative practice, and in the interests of accountability, to record the names of elected members who voted 'for' and 'against' resolutions and motions.

Where good reason exists to exclude the public from a meeting, this must be effected by way of a resolution.²⁵ This may apply to the whole or a relevant part of a meeting. A resolution to exclude the public is a decision made by full council (elected members), with their decision typically being informed by advice given by council staff. In considering how councils administer meetings, I do not have jurisdiction to consider decisions taken by full councils (committees of the whole).²⁶ However, in relation to decisions by full councils, I can review the reasonableness of any advice provided by officials or employees (on which the decisions were based).

Section 48 of the LGOIMA states that a local authority may exclude the public from meetings where good reason exists under sections 6 or 7 of the LGOIMA, though it specifically excludes section 7(2)(f)(i).²⁷ That is, a council cannot close a meeting to the public to have a 'free and frank' discussion. This is because local authority meetings are precisely where elected members are expected to hold their free and frank discussion and debate in full view of the public.

22 Link to [section 46A](#) of the LGOIMA

23 Link to [section 48](#) of the LGOIMA

24 Link to [section 51](#) of the LGOIMA

25 Link to [section 48](#) of the LGOIMA

26 Link to [section 13\(1\)](#) of the OA

27 Link to [section 7\(2\)\(f\)\(i\)](#) of the LGOIMA. This section allows for information to be withheld where it is necessary to maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to members or officers or employees of any local authority.

MEETINGS

Councils considering the application of a clause or clauses of section 7(2) of the LGOIMA to exclude the public from a meeting, must also consider the extent of any public interest in the release of the information (the matters to be discussed). For example, there will always be a public interest in meetings being open to the public to promote accountability, transparency, and public participation. If it is considered that the public interests favouring release in a particular case outweigh the identified need to withhold the information, then the clause(s) in section 7(2) of the LGOIMA cannot be relied on as good reason to exclude the public.

This weighing of competing interests is known as 'the public interest test'.²⁸ I expect that where the advice of council staff is for elected members to hear an item in a public excluded meeting, this advice should include the officials' assessment of public interest considerations in hearing the item in an open session. Council staff should also document how they formulated their advice. In making their decision, elected members should weigh these competing interests, and record their considerations, as well as their final decision. Public interest considerations can be recorded by councils in the Schedule 2A form discussed below, and I consider it would be beneficial to adopt this practice.

A resolution to exclude the public must be put forward at a time when the meeting is open to the public.²⁹ In other words, elected members must make the decision to go into a public excluded part of a meeting in front of the public. The meeting is then closed in accordance with standing orders. The resolution to exclude the public must be made in the form set out in Schedule 2A of the LGOIMA³⁰, and must include:³¹

- the general subject of any matters to be considered while the public is excluded;
- the reasons for passing a resolution (with reference to the particular provision relied on); and
- the actual ground in section 48(1) relied on.

The general subject of matters to be considered should be detailed enough to give the public a clear sense of the matter being discussed, in the interest of being as open as possible about the work a council is conducting.

28 Link to Ombudsman guide [Public interest: A guide to the public interest test](#).

29 Link to [section 48\(4\)](#) of the LGOIMA

30 Link to [Schedule 2A](#) of the LGOIMA

31 Link to [section 48\(3\)](#) of the LGOIMA

MEETINGS

I expect the reason for passing a resolution should contain specific details about the harm the agency is trying to avoid, rather than simply reciting the clause from section 6 or section 7(2) as it is written in the LGOIMA. Councils can allow for specified people to remain while the public is excluded if they have knowledge that would assist. In that case, the resolution must state the particular knowledge they possess, and how it is relevant to the matter under consideration.

The public can request information heard in the public excluded part of a meeting under the LGOIMA. I expect that council guidance makes clear that if a LGOIMA request is made for information heard in a public excluded meeting, such a request must be considered on its individual merits and based on the circumstances at the time of the request; it may not be refused under the LGOIMA merely on the basis the information was earlier heard in a public excluded meeting.

It is also good practice to ensure there is a process for re-visiting public excluded parts of meetings to determine if any of the information heard in a public excluded part of a meeting can subsequently be released, when the reasons for withholding the information no longer apply.

Finally, I expect that councils will organise their structure and resources so they meet their legal obligations under Part 7 of the LGOIMA and good administrative practice generally, in a way that is fit for purpose considering their particular size and responsibilities.

My conclusions

To aid clarity, I have organised my conclusions by the different phases of a meeting: pre-meeting; during the meeting; and post-meeting. For each phase, there are mandatory requirements prescribed by the legislation and there are also good practice elements (where non-compliance is not in breach of the law but may be the subject of adverse comment or opinion by an Ombudsman as part of an investigation). I have covered both elements in my commentary for each phase, with footnotes identifying the relevant statutory provision for each mandatory element.

Pre-meeting

All meetings (gatherings at which elected members make decisions on behalf of their community) must be publicly notified in accordance with section 46 of LGOIMA, and all agendas and papers must be available to any member of the public at least two working days before the date of that meeting.

As outlined in [Information about meetings](#), when the LGOIMA passed into law in 1987, councils would publicly notify meetings through advertising in newspapers, as that is what the LGOIMA specifically

MEETINGS

requires. However, now councils advertise meetings on their websites as well as in local newspapers and website prominence is likely to be the most effective way of reaching the greatest number of constituents.

Although I did not identify any particular issues with the publication of agendas at the councils I investigated, a number of public survey respondents wanted agendas and associated reports published on a council's website as early as possible, with the statutory minimum of two working days prior to the meeting sometimes allowing insufficient time to prepare (particularly in cases where the associated material for the meeting is lengthy). Comments from my survey of members of the public included:

The agendas are published only two days prior to a meeting and often contain a lot of material. They should provide the agendas much earlier so that the material provided can be digested properly before a meeting. Only the most determined can do so.

One of the main problems is that meeting agendas are published really late, with never sufficient time for the public to review the content and to think about potential submissions or deliberations. The agendas are often over 100 pages long, often with highly technical information, that is difficult to navigate and understand. There is seldom time to review the agenda and associated materials properly let alone seek technical advice before the meetings.

Although the LGOIMA states agendas are to be published within a period of least two working days before every meeting, this should not be the goal. I encourage councils to release documents with enough time to allow ample preparation for meeting participants (which will benefit both attendees from the public as well as elected members themselves).

During the meeting - excluding the public

The practice of excluding members of the public from any part of a council meeting is an exception to the usual presumption of openness emphasised by both the LGOIMA and the LGA. The stipulations in the LGOIMA are reasonably detailed and exacting.

A primary requirement is that public exclusion may only be made by way of formal resolution of elected members at the meeting itself. It is important that elected members take this responsibility seriously and carefully consider the advice of council officials. The resolution must:

MEETINGS

- Be put at time when the meeting is open to the public, with the text of the resolution being available to anyone present.³²
- Be in the form set out in Schedule 2A of the LGOIMA.³³
- Only exclude on one of the grounds set out in section 48(1).³⁴
- State reasons for the resolution, including the interests it is protecting in the case of section 6 or 7 withholding grounds.³⁵
- Where exceptions to the exclusion are made for particular individuals, the resolution must detail their relevant expertise to the topic for discussion.³⁶

To gain an understanding of councils' use of reasons to exclude the public from meetings, my investigators reviewed a number of examples of resolutions to exclude the public. The reviews found that three of the eight councils investigated had excluded the public from some meetings citing section 7(2)(f)(i) (free and frank expression of opinions) as the reason. However, section 48(7)(a)(1) of the LGOIMA specifically states that section 7(2)(f)(i) cannot be used as a good reason to exclude the public from meetings.

I wrote to those councils to raise my concerns as soon as I identified this practice. Each council advised me that they had ceased the practice of using 'free and frank' to exclude the public from meetings, and put systems in place to prevent this error from happening again. For instance, one council said it had tightened its practices in relation to reviewing the reasons to exclude the public from meetings. Another council said it had corrected its workflow system (InfoCouncil) to align with the requirements of the LGOIMA. The third council provided additional training and support to its governance team, as well as updating its agenda template.

While I was pleased with these actions, I am concerned that unchecked errors were allowed to occur and potentially embed into councils' practices. I urge all councils to make sure this is not occurring at any of their meetings. Most councils cited eligible withholding grounds in their exclusion resolutions, but lacked records about how those grounds were applied to the specific topic for discussion (described in more detail below). This makes it difficult to scrutinise the quality of the advice on which the resolution was based.

My surveys of the public and of elected members showed a sharp disparity in their perceptions of the clarity, robustness, and appropriateness, of the reasons for public exclusion.

32 Link to [section 48\(4\)](#) of the LGOIMA

33 Link to [section 48\(3\)](#) of the LGOIMA

34 Link to [section 48\(1\)\(a\)](#) of the LGOIMA

35 Link to [section 48\(3\)\(b\) and \(c\)](#) of the LGOIMA

36 Link to [section 48\(6\)](#) of the LGOIMA

What is your experience/view of the Council's use of public excluded Meetings?³⁷

	The reasons for excluding the public are always clear, robust and in line with LGOIMA	The reasons for excluding the public are always clear, but are not always in line with LGOIMA	The reasons for excluding the public are often unclear, or do not align with LGOIMA	I don't know/ Other
Elected member survey responses	80%	10%	5%	5%
Public survey respondents	7%	6%	62%	25%

As shown in table above, 80 percent of elected member respondents considered the reasons for exclusion to be clear, robust and appropriate, whereas 62 percent of public respondents were of the opposite opinion.

It seems elected members generally consider they are excluding the public in a robust and principled way. However, it appears that councils are not communicating the reasons for these decisions to those they are excluding in a way that is clear to them. This is best addressed by ensuring that public exclusion resolutions are documented properly and a clear rationale for exclusion is easily accessible—and I deal with this next.

Record keeping - public exclusion resolutions

Of the eight councils I investigated, four were using the form in Schedule 2A of the LGOIMA for exclusion resolutions, while the other four were using their own templates.

While the LGOIMA states that the Schedule 2A form should be used, the Legislation Act 2019 allows minor variations to forms prescribed by legislation,³⁸ and I consider that the content of the form is more important than the layout. I take no issue with councils using a template form of their own design, providing that it contains the same prompts to enter information as detailed in the Schedule 2A form:

- a prompt to include the general subject matter for each item;
- a prompt to enter the grounds under section 48 for excluding the public;

³⁷ Respondents to my survey of the public were asked for their *view* of the council's use of public excluded meetings; elected members were asked about their *experience*.

³⁸ Link to [section 52](#) of the Legislation Act 2019

MEETINGS

- a prompt to enter the plain English reason for excluding the public; and
- wording around allowing specific people to remain, if they have knowledge that would assist the agency, while the public is excluded.

Whatever form a council uses, it needs to meet these minimum requirements and the form should clearly identify the specific exclusion ground, and also explain in plain English how the council has applied that ground to the meeting content under consideration.

I do not consider it good practice to cite a section number under the 'Ground' field and simply quote the text of that section in the 'Reason' field. Instead, both the section number and its text should appear under 'Ground'. The 'Reason' field should be used to explain, in plain English and in reasonable detail, the reason(s) for excluding the public (that is, how the LGOIMA ground applies to the information held or created) and weighing this against any countervailing public interest arguments for non-exclusion.

This should not be too difficult. By excluding the public by means of a section 7 ground, a council is obliged to both determine specifically how the ground applies to the agenda item, and how it has balanced the public interest in the information being shared against the need to withhold it. While ultimately, the public interest balancing question should be assessed by the body conducting the meeting (essentially, the elected members), it is reasonable to expect that their decision is informed by advice from council officials that includes public interest considerations. The details of the ultimate decision should be included in the meeting minutes, with the preceding advice from council staff also included in a council's records.

A smooth process relies on councils having clear and consistent guidance for staff about the records they should create and maintain for public exclusion decisions. This includes documenting the rationale for advice to elected members on public excluded meetings. The guidance should outline the requirement to apply the public interest test, and should include the following:

- that the public interest factors must be weighed when relying on section 7(2) of the LGOIMA to hear an item in a public excluded meeting; and
- factors that affect the public interest in favour of opening a meeting, such as:
 - the policy or decision-making process involved and the stage it has reached;

MEETINGS

- the ability of the public to be informed, influence that process or decision and/or hold the officials involved to account;
- the level of public interest or debate;
- the level of any disquiet, speculation or controversy;
- the extent of information in the public domain;
- the significance of the issue to the public or the operations of the council; and
- the amount of public money involved.

When updating guidance, councils may wish to refer to my guide titled *'Public interest: a guide to the public interest test'*.³⁹

My investigation revealed significant variation in the way councils fill out the Schedule 2A form, and few would meet my expectations of good practice. Not one gave an actual, plain English reason for excluding the public from a meeting, rather, most are simply clipping wording from the legislation or using a vague term such as 'commercial sensitivity' as full rationale for public exclusion, with no attempt to apply the exclusion ground to the facts of the affected agenda item.

The opportunity to use the Schedule 2A form to record information about the public interest considerations is also going unrealised. When the evidence of thoughtful application of exclusion rationale is so starkly absent from the resolution itself, the public may well wonder how robust the determinations were. Addressing these deficiencies must be a priority if councils are to improve public trust in the process.

Record keeping - minutes

Ombudsmen have consistently supported a full audit trail for advice that contributes to decisions made by an agency. This also ensures council practices are consistent with sections 17(1) and 17(2) of the Public Records Act 2005 (PRA)⁴⁰ which respectively, require councils to:

- create and maintain full and accurate records of affairs in accordance with normal, prudent business practice; and
- maintain records in an accessible form to enable use for subsequent reference.

In addition to complying with the relevant legislation, sound record keeping discipline in meetings will also benefit councils by promoting transparency and openness, and improving business practices in general.

39 Link to Ombudsman guide [Public interest: A guide to the public interest test](#).

40 Link to [sections 17\(1\) and 17\(2\)](#) of the Public Records Act 2005

Keeping good meeting records:

- helps ensure transparency of council decision making by providing a complete and clear record of reasoning;
- provides a reference for councils in the event of issues around decision making processes that may arise internally or externally;
- provides an opportunity to create a repository of knowledge about how councils make decisions, and so develop a consistent approach.

My review of the meeting minutes of the councils I investigated showed that some included very little detail about any discussion, debate, or questioning, that may have taken place. I do not expect that a verbatim transcript is taken at a meeting but simply recording the final decision taken by elected members is plainly inadequate.

Local Government New Zealand (LGNZ)'s guidance for minute taking⁴¹ includes the following pointers for good practice:

- minutes should be a clear audit trail of decision making;
- less is best;
- someone not in attendance will be able to understand what was decided; and
- anyone reading in 20 years' time will understand them.

I agree with this guidance, with two important comments:

1. A '*clear audit trail of decision making*' is more than simply recording the decision itself. It entails clearly documenting the path by which the decision was made, including how options were considered and how the decision ensued from the deliberation.
2. '*Less is best*' should be interpreted as a prompt to maintain clarity and succinctness, rather than sacrificing elements of the decision making audit trail.

Minutes should record both the final decision and key details of any debate or discussion preceding and informing the decision. In addition to aligning with the principles of openness and accountability, recording the content of discussion and debate is a safeguard against any perception that decisions were made prior to the meeting, and are merely being 'rubber stamped' in the meeting setting. Though it is not a legislative requirement, as outlined earlier, I consider it good practice, in the interest of accountability, to record the names of elected members who voted 'for' and 'against' resolutions and motions.

41 Link to [The guide to LGNZ standing orders](#), Ko Tātou LGNZ, 2022, p 35.

Councils' internal guidance and training material should also include clear instructions for staff to record advice and decision making processes around public excluded meetings. This includes taking notes of relevant internal meetings and documenting any verbal conversations held in relation to council decisions on public excluded meetings. These, and other relevant records (such as emails), should be documented in a manner that makes them easily accessible.

Any review and update of guidance material should also be accompanied by training and messaging to staff about the importance of comprehensive record keeping to comply with the law and promote the transparency of council's practices and accountability to the public.

Post-meeting

Making minutes publicly accessible

All the councils within my investigation published meeting minutes on their websites. I reiterate that I expect that meeting minutes should also comprise a full and accurate record of the meeting. As noted under *Leadership and culture*, a number of public survey respondents consider that the minutes are not always easy to find. This may be addressed, as I noted, by making information about meetings more prominent on council websites.

Revisiting public excluded material for release

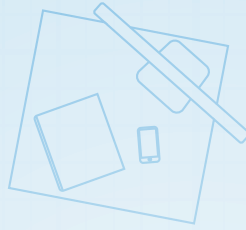
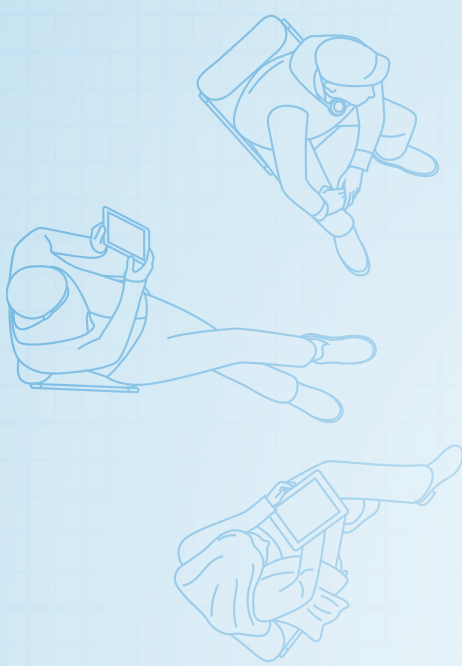
A powerful way to increase the public's trust in Councils and to improve transparency is to establish a consistent practice of reconsidering public excluded information for release at a point when the reason for withholding information no longer applies. Mutual trust between the public and their representatives will likely improve if the public knows why the information was protected. This way the public can see that a council is making efforts to be as open as possible.

I appreciate this may not be at the top of mind for council staff as they juggle the multiple demands of busy meetings schedules. However, I consider it integral to sound practice, and should not be unduly burdensome when integrated into a well-designed process.

Practice in this area was mixed among the councils I reviewed, with most examples of post-meeting review of information being ad hoc rather than consistent. However, I was encouraged that most of the eight councils have either begun scheduling later reviews for public excluded information, or have agreed to consider adding this step to their standard meeting processes.

What councils should do now

- Review how easy it is for the public to access meeting agendas, papers, and minutes on council websites (this should include a clear navigation path from the home page and minimal 'clicks' to reach it).
- Make sure agendas and papers are posted on council websites with as much advance notice as possible before the meeting date and certainly no later than the minimum requirement of two working days.
- Review practice and internal guidance for the writing of public exclusion resolutions, ensuring:
 - the form includes all elements of the Schedule 2A form;
 - exclusion grounds are clearly identified, and section 7(2)(f)(i) is not relied on to exclude the public from meetings; and
 - the reasons for applying the named exclusion ground to the content of the agenda item are clearly set out in plain English along with how it has been balanced against public interest considerations.
- Review practice and internal guidance for the keeping of meeting minutes, ensuring that minutes reliably contain a clear audit trail of the full decision making process, including any relevant debate and consideration of options, and how individual elected members voted.
- Formalise a process for reconsidering the release of public excluded content at a time when the basis for withholding it may no longer apply.



Workshops

My expectations

The LGOIMA does not define or regulate workshops (or other informal meetings),⁴² but *The Guide to LGNZ Standing Orders* states that workshops are best described as *'informal briefing sessions where elected members get the chance to discuss issues outside of the formalities of kaunihera meeting'*.⁴³ It is common for councils to conduct workshops about complex or technical issues on which elected members will later be required to debate and make decisions.

The purpose of workshops should be to prepare elected members with the appropriate background and knowledge to make robust decisions for their communities, and to allow interrogation, discussion and deliberation among and between elected members and council staff. As outlined in the earlier section [Legislative context](#), workshops are part of the educative and deliberative phases of councils' decision making process. However, final decisions and resolutions cannot lawfully be made outside the context of a properly constituted meeting.

42 For the purpose of this investigation, 'workshops, briefings and informal meetings' mean any organised or scheduled meeting attended by Council staff and elected members which fall outside the definition of 'meeting' in section 45(1) of the LGOIMA.

43 Link to [The guide to LGNZ standing orders](#), Ko Tātou LGNZ, 2022

WORKSHOPS

Because workshops cannot lawfully be used to make actual and effective decisions, and are not conducted under the LGOIMA, the legal requirements in the LGOIMA that relate to council meetings—such as requirements to notify the public, to take minutes, and to exclude the public only under certain defined circumstances—do not apply to council workshops. Nonetheless, councils have a general discretion to advertise and undertake workshops that fall outside of Part 7 of the LGOIMA, in public. While it may be reasonable to close a workshop in a particular case, I consider that a general policy of not advertising workshops or having all workshops closed to the public, is likely to be unreasonable. It is my expectation and a requirement of the LGA, that *'...a local authority should conduct its business in an open, transparent and democratically accountable manner...'*⁴⁴

As a matter of good practice, workshops should be closed only where that is reasonable. What might be considered reasonable is a truly open category depending on each individual case, and may include situations where the reasons for withholding information under sections 6 and 7(2) of the LGOIMA might apply, as well as other situations. What is reasonable in a particular case will vary, however the decision to close a workshop should be made on the individual merits of each workshop, rather than being based on a blanket rule.

Even where it is reasonable to close a workshop, I encourage councils to be mindful of the public perception of secrecy this may create, and mitigate this risk through ensuring the public has access to sufficient and timely information about the purpose and content of workshops. The legislative history of the LGOIMA makes it clear that full and accurate records of workshops are expected to be kept. Consistent with the guiding principle and purposes of the LGOIMA, the public can request this information under Part 2 of that Act. It is also a requirement of the PRA (see [Appendix 1](#) and [Appendix 2](#)).⁴⁵ Keeping full and accurate records of workshops is a safeguard against the perception that decisions are being made outside a local authority meeting; and, being able to request access to this information allows members of the public to meaningfully engage with the work of councils.

Information arising from workshops can be requested under the LGOIMA although, ideally, councils would proactively release information generated in workshops.⁴⁶ Creating records of workshops is good administrative practice, and it promotes a council's accountability and transparency. Councils should adopt a standard

44 Link to [section 14](#) of the LGA

45 Link to [section 17\(1\)](#) of the PRA

46 Even if no record is made at the time, information held in an official's memory as to what transpired at a workshop can also be requested under the LGOIMA, and it is preferable to have a contemporaneous account of what happened.

approach to recording information about workshops/forums and ensure this is embedded in its guidance on record keeping for workshops.

All workshop attendees should be aware that workshops cannot be used for making an actual and effective 'decision', and take care when discussion and deliberation in a workshop could carry elected members too far down a path toward a decision. For example, where council staff present a range of options to elected members in a workshop, and those options are narrowed down significantly, it could give the appearance of a 'decision' being made in the workshop in all but name. There may then be a perception that the corresponding decision made in the public council meeting is a 'rubber stamp' of earlier workshop discussions. In particular, using a closed workshop to do 'everything but' make a decision could be seen as undermining the principles of the LGOIMA and the LGA, which I may view as unreasonable.

As Chief Ombudsman, I can review the reasonableness of any act or omission by a local authority under the OA.⁴⁷ This includes whether it is reasonable for a council to advise or decide to not advertise or close workshops, or using closed workshops to do 'everything but' make a final decision.⁴⁸ I expect councils to make it clear to the public that they can complain to me about workshops.

Some councils draw a distinction between 'workshops' and 'briefings' with the former being open to the public and the latter; closed. Other councils may refer to the same type of informal briefing session between elected members and staff using different terminology entirely, such as a 'forum' or 'hui'. Irrespective of the title(s) a council chooses to give informal briefing sessions, the same requirements to conduct business in a transparent and accountable manner, and to keep full and accurate records, apply to all.

My conclusions

Terminology around workshops

The terminology used for workshops is an area that can cause confusion. Many councils define workshops in their standing orders based on a template developed by LGNZ, which defines workshops as follows:

Workshop in the context of these Standing Orders, means a gathering of elected members for the purpose of considering matters of importance to the local authority at which no decisions

47 Link to [section 13](#) of the OA

48 This refers to council staff, not a decision of full council.

WORKSHOPS

*are made and to which these Standing Orders will not apply, unless required by the local authority. Workshops may include non-elected members. Workshops may also be described as briefings.*⁴⁹

One council organised what it termed 'non decision making meetings' regularly and used the terminology of 'briefing' or 'workshop' to differentiate whether a specific topic for discussion within the meeting would be open to the public (workshops) or closed to the public (briefings). This distinction between 'workshops' and 'briefings' is one that is also adopted by LGNZ in its guidance for standing orders and is widely used by councils throughout New Zealand.

In addition to 'workshops' and 'briefings', a number of other terms have been adopted by councils at different times for non-decision making meetings. One council that held all its workshops in private was aware of the negative public perception that had developed around the use of the term 'workshops'. To address this, the council changed its terminology to 'forums', rather than amending the actual practice of closing workshops to the public. While councils are able to use their own terminology, creating different terms for what is essentially the same thing—a meeting of elected members and staff to progress council business, at which no decision making occurs—risks distraction and confusion. The guidelines for good practice in this report apply to any workshop, briefing, forum, hui, wānanga, or whatever else a council calls the gatherings of elected members and council officials used to transact council business.

Councils' use of workshops

All councils that were part of my investigation used workshops to some degree. A number of staff and elected member meeting attendees commented that workshops were a key part of the decision making process for elected members and used for 'direction setting'. Workshops are used by elected members to discuss policy options put forward by staff in order to eventually make a decision in a local authority meeting. This includes adding, removing or amending options, and ensuring elected members have the information needed to make an informed decision on a topic. Workshops may also involve elected members giving feedback to staff where they might require further information to support their consideration of a particular option.

⁴⁹ Nearly all councils have incorporated into their standing orders this definition, or the following variation: *Workshops, however described, provide opportunities for members to discuss particular matters, receive briefings and provide guidance for officials. Workshops are not meetings and cannot be used to either make decisions or come to agreements that are then confirmed without the opportunity for meaningful debate at a formal meeting.*

A chief executive I spoke with during my investigation said there were different stages to get to a final decision in a formal council meeting. If there was a complex, contentious decision to be made, it will need *'pre-work and pre-thinking'* with multiple layers of workshops and consultations in order to reach the final decision. Staff will not be writing the final decision report for the formal council meeting *'all in one go'* because it takes time, and revisions will be made as it develops. Multiple workshops may be held on a topic in order to explore the options, with the most realistic and reasonable ones being included in the report which goes to the full council meeting for a final decision.

Some councils appeared to give their view on *'direction setting'* with a show of hands and indicated that there was *'some degree of straw polling'* in order to narrow options down. Examples of comments from my surveys of both staff and elected members include:

...workshops have been a valuable avenue to get a fuller understanding of issues and ask the dumb question if needed. Differences of opinion may occur and be discussed/debated but full deliberation and decision making is made at the full Council meeting.

...[workshops] can be used as a gauge for staff to structure formal advice to Councillors for decision-making at the Committee phase. Workshops are critical.

Workshops provide staff with the opportunity to spend more time with elected members to improve their understanding on a topic. Often formal meetings don't have the time allocated for this to occur. They are also a good way to build trust and rapport between staff and councillors, and allows for open and honest feedback in a less formal setting than a meeting.

Councillors over a period of months or years will have a myriad of matters that require at the very least a working knowledge of the issue under consideration. ...workshops serve a meaningful part of the process where Councillors can better understand the issues and this will lead to stronger debate and better decisions.

Provided an 'actual and effective decision' is not made, I consider this type of deliberative process may appropriately take place in a workshop. However, a perception is likely to grow that the council is not operating transparently, if the following occurs:

- workshops are regularly conducted behind closed doors;
- the fact that they are occurring, and the rationale for closing the workshop, is kept out of public awareness;
- full and accurate records are not kept or are withheld from the community without explicit and robust rationale.

I also caution against workshops including a significant component of determination, such as a substantial narrowing of options prior to public consultation. At several councils I investigated, a range of options would occasionally be narrowed down at workshops so staff would not waste time and resources pursuing options that the elected members were not willing to consider. A meeting attendee said there was '*some degree of straw polling*' in order to narrow down the options for decision, typically to four or five options. The risk is that such straw polling may be perceived by the public as decision making. Good records of workshops and making the records available to the public would go some way to alleviating this perception.

Councils should be mindful of the public perceptions that may develop where council business is conducted behind closed doors. Even when the reasons for conducting a closed workshop are entirely legitimate, secrecy inevitably breeds suspicion. While it may not be the reality that the council is wrongfully keeping information from the public, even the perception of such may result in reduced public trust and diminished public participation in council processes. Councils can reduce this risk by opening workshops to the public where possible and by publishing information from workshops, as I will discuss further below.

Open by default

I was pleased that the majority of councils open workshops, or had begun to open their workshops from the start of the 2022 electoral term.

My view is that the principle of 'open by default' should be followed for all meetings and workshops.⁵⁰ I understand there may be occasion to close, either partially or fully, a particular workshop. However, councils should start from a position of openness, and then consider specific reasons why any proceedings may need to be closed and whether those reasons are compelling.

The principle of 'open by default' is also supported by *The Guide to LGNZ Standing Orders*:⁵¹

Please note, when deciding to hold a workshop or briefing the first question that should be considered is whether there is a convincing reason for excluding the public. The default position should be to allow public access.

50 The 'open by default' principle is also consistent with section 4 of LGOIMA 'to promote the open and public transaction of business at meetings of local authorities'.

51 Link to [The guide to LGNZ standing orders](#), Ko Tātou LGNZ, 2022, p 41

WORKSHOPS

I accept that, in some cases, there may be a need to protect some of the information presented in such a workshop where good reason exists. In such a case, I expect that councils would endeavour to present material in such a way that the public could have access to as much information as possible. This might be achieved through providing the protected information (such as names/costings) to elected members in advance and ensuring this information doesn't enter the discussion held in public.

Some of the councils I investigated advised me that they needed to hold closed workshops to provide training/background to elected members on complex issues—the intent being to ensure elected members are equipped to make a robust decision on the matter at hand. I absolutely support the use of workshops to educate elected members and to facilitate better decision making. However, it seems evident to me that, where there is benefit to elected members to understand an issue in order to make a decision, it is equally beneficial to allow the public access to the same information so they can better understand the eventual decision.

Another reason put forward by councils for closing workshops was to provide elected members a 'safe space' to ask 'silly questions' out of the public eye. I do not accept this argument. Councillors are elected to public office, a position that demands accountability. They should be prepared for a level of scrutiny and even reasonable criticism from those they represent. The questions and concerns councillors have are no doubt shared by many of their constituents. It may be valuable for the answers to these 'silly questions' to be heard by the public.

This is not to say that no good reasons exist to close workshops, only that I do not consider controversy, complexity, or the potential for embarrassment, to be good reasons in themselves. Difficult or contentious issues are often the very ones that warrant the greatest level of transparency. The determination to close a workshop should always be made on the basis of what best serves the public interest, and the rationale for that determination should be as open as possible.

Publicising upcoming workshops

It is important that details (time, dates, venue, and subject matter) of open workshops are publicised in advance so that members of the public can attend, and for transparency about the business the council is conducting. As a matter of good practice, councils should maintain awareness of community groups with a particular interest in topics for upcoming workshops and consider contacting them directly to encourage their attendance and contribution. This is in keeping with the principles of inclusiveness included in the LGA.

It is equally important that *closed* workshops and their subject matter are publicised, along with a suitably detailed reason for closing them. This maintains transparency and allows for members of the public to request under the LGOIMA information about the closed workshop, while also clearly identifying and safeguarding against harms to council deliberations that legitimately need to be conducted in confidence.

I saw very little evidence of consistently sound practice about publicising the timing and subject matter of closed workshops, along with the rationale for closing them. For instance, at least one council advised me that they held 'open workshops' yet they did not tell the public they were happening. It is difficult to imagine how a council could consider a workshop to be 'held in public' when the public doesn't know about it. I am encouraged that several of the councils under investigation are now advising the public about closed workshops, their topics, and the reason they are being held in a closed session.

Records of workshops

Many councils did not keep records of workshops. Councils would commonly explain that this was because decisions are not made in workshops and records were not required. This is not only incorrect, but counter to the principles of openness and public participation in the LGOIMA and the LGA, respectively; and may constitute a breach of the PRA. It does not matter if no decisions are made, it is good administrative practice to keep a record. How can the public, the Ombudsman or even the council *itself* look back at how council business was undertaken without having record of the information elected members were given and the discussions that resulted?

The baseline is the requirement under the PRA to '*create and maintain full and accurate records in accordance with normal, prudent business practice*'. LGNZ's standing orders guide suggests:⁵²

A written record of the workshop should be kept and include:

- *time, date, location, and duration of workshop*
- *people present, and*
- *general subject matter covered.*

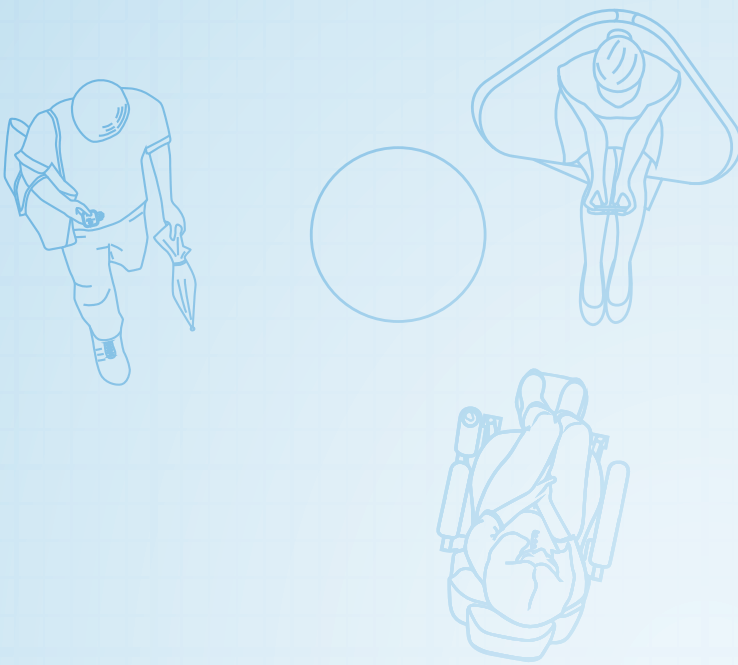
My view is that the detail in the first and third of these bullets should be publicised before the workshop even occurs as explained in the previous section. The record made during the workshop should include all these elements, plus details of the discussion that contribute to a clear, concise and complete audit trail.

52 Link to [The guide to LGNZ standing orders](#), Ko Tātou LGNZ, 2022, p 41.

I expect each council to adopt a standard approach to ensuring that full and accurate records are created and maintained for workshops. It is important to note that this process does not have to be as detailed as taking meeting minutes. Nor is there an expectation of a verbatim transcript of workshops. However, councils must make sure a full and accurate record is kept which should encompass not just the information presented to elected members but any substantive, deliberative discussion or debate around that material. Councils should make records publicly accessible as soon as practicable after the workshop. Where the workshop was not open to the public, councils should implement a system for revisiting those records and releasing information when and if the reason for presenting and discussing material out of public view, no longer applies.

What councils should do now

- Adopt a principle of openness by default for all workshops (and briefings, forums etc), including a commitment to record a clear basis for closure where justified, on a case-by-case basis.
- Make sure the time, dates, venues, and subject matter, of all workshops are publicised in advance, along with rationale for closing them where applicable.
- Review practice and internal guidance for the keeping of records of workshop proceedings, ensuring they contribute to a clear audit trail of the workshop (including details of information presented, relevant debate and consideration of options). Councils may wish to consider consulting with Archives NZ to determine good practice in this respect.
- Publish workshop records on the council's website as soon as practicable after the event.
- Formalise a process for considering release of information from closed workshops.
- Consider adding a message on a relevant section of council websites stating that members of the public are able to make a complaint to me in relation to the administration of workshops.



Accessibility

Accessibility of meetings and workshops is not guaranteed by unlocking the doors, issuing invitations, and publishing the records. If some members of the public are unable to get to the door, if they cannot access the record as published, then they are excluded as surely as if they were physically barred. Universal design in access to public spaces, and publication mechanisms built to maximise reach to all, are essential if a public body is to be truly representative and inclusive of all.

My expectations

The United Nations Convention on the Rights of Persons with Disabilities (Disability Convention) is an international human rights agreement that New Zealand signed up to in 2007.⁵³ The purpose of the Disability Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities. As Chief Ombudsman, I have a role as an Independent Monitoring Mechanism partner, under the United Nations Convention on the Rights of Persons with Disabilities.

53 [Link to the United Nations Convention on the Rights of Persons with Disabilities \(Disability Convention\)](#)

Councils should take all practicable steps to remove barriers to full participation in their processes. Public meetings and workshops should be made as accessible as possible to the public, keeping in mind those people with disabilities as well those with other challenges to attending meetings. This might include living a long distance from where meetings take place or being unable to attend because of the time the meeting is held.

Ideally, all councils would livestream and audio visually record their meetings, and publish the recording after the meeting. Keeping a record in this way benefits the community by making the meetings accessible to those who are not able to attend in-person. Another benefit of livestreaming is that it provides an accurate record of the public portion of the meeting is immediately available.

My conclusions

I am pleased the majority of councils investigated are now livestreaming meetings, and those that are not have committed to live streaming or considering it in the near future. Live streaming, audio visual recording meetings, and publishing the records, can increase the transparency of meetings to the public.

Councils should also consider audio visually recording workshops and either making the recordings publicly available or letting the public know they can be requested. As discussed in [Workshops](#), the public may perceive decisions are being made behind closed doors if workshops are not open to the public. If councils take the additional measure of live streaming or audio visually recording workshops (and publishing the recording), transparency and public participation in local government will likely improve.

There are other ways councils can make meetings more accessible. For instance, meeting agendas, associated reports and minutes should be published in a searchable format, rather than 'image only' (such as scanned PDF or JPEG). Image only formats are not accessible for blind and low vision individuals using screen readers, or those with learning disabilities using read aloud applications. It also limits the ability to search documents using keywords. Ideally searchable PDF documents will also be accompanied by accessible Microsoft Word versions and the public advised that they can ask for other accessible formats if required.

Meetings and workshops should be advertised widely and on as many mediums as possible to reach a diverse range of people. Some councils advertise meetings on their website, on social media, and in their local newspapers. As discussed in [Leadership and culture](#),

ACCESSIBILITY

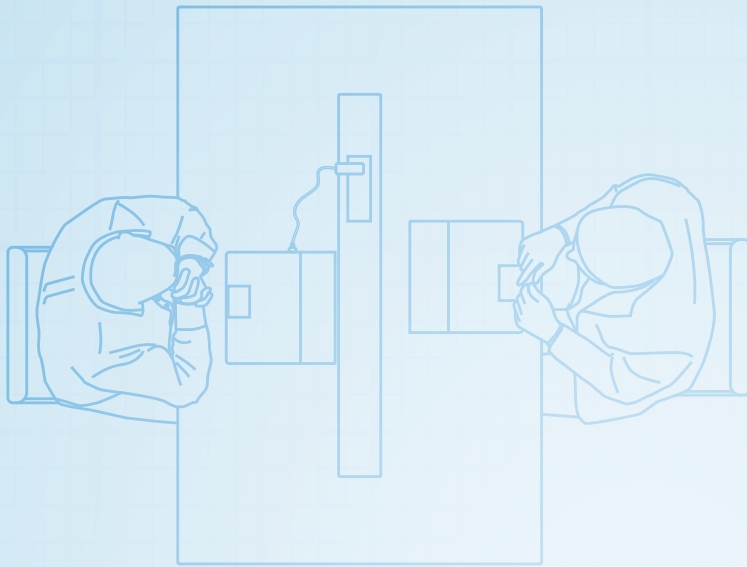
councils should make sure that the links to meetings are in a prominent place on their websites' home pages. I have suggested a number of councils consider additional ways of making meeting dates and times more visible to the public.

I was pleased that there was a range of other accessibility measures in place. For instance, one council's website utilises ReadSpeaker, a text-to-speech aid which allows text to be read aloud. Another council uses NZ Relay, which is a telecommunications service for people who are deaf. The majority of council chambers are wheelchair accessible, although one public survey respondent said that one council appeared to be physically difficult to access. Disabled people have the right to take part in all aspects of community life, on an equal basis with others. Public meetings, and all public spaces, need to be accessible. To ensure appropriate accessibility and public participation, I suggested the council undertake an accessibility audit by a suitable provider to identify barriers to inclusion.

Ultimately, making spaces such as meetings and workshops accessible, and welcoming to as many people as possible means that a diverse group of people are able to participate as fully as possible in council business. Ideally, this will encourage diverse voices to participate in local government, which should lead to a council that is more representative of the community as a whole.

What councils should do now

- All councils should aim to live stream council meetings and/or audio visually record meetings and publish the recording on their website.
- Consider live streaming and/or audio visually recording workshops.
- Consider making meeting dates and times more visible to the public.
- Ensure full agendas, including reports, supporting materials, and meeting minutes, are in a searchable format for screen readers.
- Undertake an accessibility audit to identify any barriers to inclusion and on completion of the audit, put in place a schedule of work to remedy any access issues or barriers to full inclusion of a wide range of people.



Organisation structure, staffing and capability

I am aware that it will take some effort to fully meet expectations of good administrative practice for meetings and workshops, and that councils are juggling competing demands with limited resources. I recognise that an important way to meet and sustain the reasonable standard I expect is through the building of organisational capacity, capability and resilience, which is especially challenging for small councils. Nonetheless, organisational stewardship that fosters long-term strength and institutional integrity is fundamental to any democratic institution of whatever size.

My expectations

I expect councils to organise their structure and resources to meet their legal obligations under Part 7 of the LGOIMA in a way that is relevant to their particular size and responsibilities. I also expect councils to make sure there is sufficient awareness of the LGOIMA and meeting administration across the organisation, and to provide coverage for key staff when they are away or if a staff member leaves.

I expect the LGOIMA function to be appropriately resourced, with roles and responsibilities clearly defined, and with resilience arrangements in place. This ensures staff are able to draw on specialist expertise when required. Sufficient resilience could involve building the skill set of a group of senior staff, combined with regular training, good resources and guidance material.

My conclusions

I identified organisational resilience as an issue in some of the councils I investigated. Business continuity and legislative adherence may be at risk during periods where councils are overwhelmed with work or when experienced staff members leave or are temporarily absent. There was a correlation between the size of the council and organisational resilience. I was not surprised to find that the smaller councils had less governance staff and weaker resilience measures.

Each of the councils identified as having issues in this area employed under 200 staff members and either did not have a team responsible for the administration of meetings and workshops, or had a very small team. They each had one or two staff members with specialist knowledge of the LGOIMA and provided advice to the chief executive regarding meetings or workshops. There is a risk that when those staff members are away or leave a council, especially if their departure is unexpected, their institutional knowledge is lost. This effect is amplified in a small council where the absence or departure of just one staff member can have a disproportionately large impact.

I also identified specialist knowledge as an issue, particularly for smaller councils. Two of the three small councils only had one key staff member providing advice to the chief executive about items to be heard in the public excluded portion of meetings. I am concerned that where there is only one subject matter expert at the senior leadership level this will not provide adequate flexibility to allow a council to respond to short term shocks. If the COVID-19 pandemic has demonstrated anything, it is the importance of preparation.

Regular training and accurate guidance should ensure staff know enough about the legislation to make correct decisions, and not simply rely on what others have done before them, or on using standard templates. I acknowledge that templates are useful for consistency of practice. However, it is important that templates are supported by guidance and training, especially for those who do not have specialist or legal knowledge; and that templates are updated to reflect changes in practice or legislation.

I identified a number of councils as having good organisational resilience. The LGOIMA function was appropriately resourced in these councils and they were able to draw on specialist expertise when required. A number had dedicated governance and democracy teams that were responsible for administering council meetings and taking minutes.

One council in particular demonstrated that bolstering its governance team could lead to increased transparency by making improvements to practices such as releasing documents heard in the public excluded portion of meetings. The council underwent a significant internal culture shift, which included increasing the number of staff in its Governance and Democracy team and legal oversight. A number of staff survey respondents and staff meeting attendees said the strengthening of this team led to improvements in transparency.

I acknowledge that a lack of organisational resilience is a common issue among smaller councils, and it takes resources to establish formal training and guidance. I encourage councils to consider taking advantage of the expertise and existing resources of other councils within its networks, and outside of them, in order to share and develop good meeting and workshop practices. Bolstering specialist expertise and organisational resilience, including through training and resources such as guidance and process documents, will provide an extra layer of protection.

One staff meeting attendee from a smaller council said that if they have a 'curly' issue, they talk to one of their network contacts in another council. They said their surrounding councils meet up to four times a year to discuss issues and work collaboratively. The meeting attendee said the council works hard to strengthen networks. I am pleased that some of the smaller councils are taking advantage of the resources available to them and working in a collaborative way. I encourage other councils to share resources and reach out to networks if their organisational resilience or specialist knowledge is lacking.

Councils should ensure there is sufficient resilience in their structure to respond to contingencies such as staff absences or departures. Organisational risk can be reduced by investing in regular LGOIMA training and resources such as guidance, policies, and process documents, to assist them to carry out their responsibilities, particularly if a key staff member is away. I encourage councils to ensure that regular training is delivered to staff and elected members on these topics. Some staff and elected members may be proficient in these areas but I urge councils to train staff and not rely on individuals' knowledge and past experience alone. Good training and guidance provide staff with additional tools to utilise when they encounter a complex or unique problem in relation to meetings and workshops.

What councils should do now

- Ensure sufficient staff have training in governance functions so that institutional knowledge does not rest with only a small number of staff, and processes for fulfilling these functions are written down and easily accessible.
- Explore ways of using existing networks in local government to bolster resilience in critical areas of meeting and workshop practice.
- Review the general training and guidance provided to staff, and consider approaching the Ombudsman for assistance in improving those resources or in assisting with direct training of relevant staff.

Appendix 1. Relevant legislation

The LGOIMA sets out the principle and its overall purposes as follows:

4 Purposes

The purposes of this Act are—

- (a) *to increase progressively the availability to the public of official information held by local authorities, and to promote the open and public transaction of business at meetings of local authorities, in order—*
 - (i) *to enable more effective participation by the public in the actions and decisions of local authorities; and*
 - (ii) *to promote the accountability of local authority members and officials,—*

and thereby to enhance respect for the law and to promote good local government in New Zealand:...

5 Principle of availability

The question whether any official information is to be made available, where that question arises under this Act, shall be determined, except where this Act otherwise expressly requires, in accordance with the purposes of this Act and the principle that the information shall be made available unless there is good reason for withholding it.

Section 10 and 14 of the Local Government Act 2002:

10 Purpose of local government

- (1) *The purpose of local government is—*
 - (a) *to enable democratic local decision-making and action by, and on behalf of, communities; and...*

14 Principles relating to local authorities

- (1) *In performing its role, a local authority must act in accordance with the following principles:*
 - (a) *a local authority should—*
 - (i) *conduct its business in an open, transparent, and democratically*

- accountable manner; and*
- (b) *a local authority should make itself aware of, and should have regard to, the views of all of its communities; and*
 - (c) *when making a decision, a local authority should take account of—*
 - (i) *the diversity of the community, and the community's interests, within its district or region; and*
 - (ii) *the interests of future as well as current communities; and*
 - (iii) *the likely impact of any decision on each aspect of well-being referred to in section 10:*
 - (d) *a local authority should provide opportunities for Māori to contribute to its decision-making processes:*
 - (e) *a local authority should actively seek to collaborate and co-operate with other local authorities and bodies to improve the effectiveness and efficiency with which it achieves its identified priorities and desired outcomes;*

...

(2) *If any of these principles, or any aspects of well-being referred to in section 10, are in conflict in any particular case, the local authority should resolve the conflict in accordance with the principle in subsection (1)(a)(i).*

The Public Records Act 2005 sets out a fundamental obligation of all public sector organisations in section 17:

17 Requirement to create and maintain records

- (1) *Every public office and local authority must create and maintain full and accurate records of its affairs, in accordance with normal, prudent business practice, including the records of any matter that is contracted out to an independent contractor.*
- (2) *Every public office must maintain in an accessible form, so as to be able to be used for subsequent reference, all public records that are in its control, until their disposal is authorised by or under this Act or required by or under another Act. . .*

Appendix 2. Legislative history of key terms

Part 7 of the LGOIMA has its origins in the Public Bodies Meetings Act 1962.⁵⁴ In 1986, officials recommended to Ministers that this Act be incorporated into a new piece of legislation to deal with access to local authority information and meetings, and this became the LGOIMA.⁵⁵

Accordingly, in the Local Government Official Information and Meetings Bill⁵⁶ as introduced, the definition of 'meeting' largely mirrored the wording from the 1962 Act:⁵⁷

'Meeting', in relation to any local authority, includes any annual, biennial, triennial, ordinary, special, or emergency meeting of that local authority, and also includes any meeting of the representatives of 2 or more local authorities, and any meeting of a committee or a subcommittee of a local authority other than a special committee or subcommittee without power to act:

This definition was carried into the LGOIMA as enacted in 1987.

The Hansard debates discussing the Bill, as reported back from Select Committee, contains a useful statement from the Minister for Local Government, at Second Reading:⁵⁸

The intent of clause 44 is that all council meetings, and any council committee meetings which have a decision making role, will be covered by Part VII. The meetings of the full council, and the meetings of a council committee that has decision making powers, will be open to the public unless that council or the council committee determines to go into closed session.

This supports the view that, at the time, the intent was:

- All full council meetings be notified and open, *whether or not a decision was being made at the meeting* [emphasis added].
- The meetings of any committees of the full council only have to be notified and open where the committee is exercising a power of decision.

54 Link to the [Public Bodies Meetings Act 1962](#).

55 Report of the Working Group on Official Information in Local Government, June 1986: a report to the Minister of Local Government and the Minister of Justice / by the Working Group on Official Information in Local Government.

56 Link to [Local Government Official Information and Meetings Bill](#).

57 Clause 44

58 Second Reading of Local Government Official Information and Meetings Bill, Hansard, page 10250, 7 July 1987.

However, not long after the LGOIMA came into force, proposals to amend the definition of 'meeting' were considered by officials and Ministers. Papers prepared by the Department of Internal Affairs and the legislative history help illustrate the intended scope of section 45(2). A paper for a 'Local Government Consultative Group' in April 1988 discussed problems being posed by 'informal gatherings' taking place in councils:

Since the Act came into force the Minister has correspondence received considering the activities of the local authorities in holding "informal gatherings" of all their Councillors, with officers present, to discuss council business (such as the estimates and relations with citizen/ratepayer groups) but with no formal agenda or minutes taken. The question was raised in correspondence whether this procedure is an attempt to circumvent the provisions of Part 7 of the Act.

The Mayor of Hamilton City Council wrote seeking the views of the Chief Ombudsman at the time who, in reply, noted:

There is a distinction between a 'meeting of a Council' and 'a meeting together of councillors', the latter not being in any way ... controlled or regulated provided no attempt is made to conduct Council business which is only authorised to be done at a properly constituted meeting of the Council or its subcommittees.

The Chief Ombudsman at the time went on to say that any information arising from an informal gathering, even though it may not be contained in any official document, is clearly official information and therefore subject to disclosure in terms of the legislation.

The Minister at the time went on to comment:

It is the view of the Minister that the conduct of 'informal gatherings' or caucusing within local authorities is legitimate and LGOIMA recognises this. However the potential does exist for local authorities to use 'informal gatherings' to reduce the level of open debate and in this way be deliberately secretive in its activities to an extent which is not in keeping with the spirit of the legislation. This is particularly of concern where the 'informal gathering' happens to consist of all of the elected members of a local authority with senior officers also present. While not wanting to affect the rights of elected members to caucus, it is felt that some action must be taken to clarify in the minds of elected members and the public, the difference between a meeting of the Council and a meeting of councillors.

In 1989, the Minister of Local Government, Hon Michael Bassett, established a 'Working Party on LGOIMA' in response to concerns that some local authorities were conducting business of direct concern to the public committee or closed sessions. The Working Party's final report stated:

... it may not be clear whether or not recommendatory and purely deliberative meetings are covered in the definition of the word 'meetings' in the Act.

The Working Party noted that some submissions held that meetings of working parties and similar groups which make recommendations to parent authorities and committee, and informal meetings of councillors, ought to be open to the public. Such groups could make decisions or recommendations that could be rubber stamped by local authorities. In such circumstances decisions could be made without issues being fully debated in public.

While it appreciated the above argument, the Working Party also recognised the truth of a comment contained in a British report [the Committee of Inquiry in to the Conduct of Local Authority Business]:

It is a simple reality, which no legislation can alter, that politicians will develop policy options in confidence before presenting the final choice for public decision. We do not think that is unreasonable. If the law prevents them from conducting such discussions in private in formal committees then they will conduct them less formally elsewhere ... It is unsatisfactory to force policy deliberation out of the formal committee system into groupings of indeterminate status. It is also unnecessary. No decisions can be taken by a local authority without it eventually being referred to a decision making committee or the Council, where there will be full public access to the meeting and documentation. Given this basic safeguard, we can see no benefit in applying the Act also to deliberative committees. We would not in any way wish to discourage individual local authorities from opening deliberative committees to the public and press if that is appropriate to their particular circumstances, but do not believe they should be required by law to do so.

The Working Party concluded that the availability of information arising from 'working parties', similar groups and informal meetings, coupled with the need for recommendations to be confirmed at a public meeting was sufficient protection of the public's interest. In addition local authorities have discretion to open informal meetings to the public if they wish.

The Working Party was also concerned that it may not be clear under the present definition of 'meeting' whether or not recommendatory and purely deliberative meetings are covered by Part 7 ... The Working Party sought advice from the Department

of Affairs. It was advised that the current legislation was unclear on this point. There is no legal convention or definition which makes it clear whether the discussion of a function is in fact part of the exercise or performance of that function.

The Working Group did not specifically recommend a change to the definition of 'meeting' in the LGOIMA, but its preference *not to include* deliberative meetings in scope of Part 7 is relatively clear from the excerpts above. It appears that the Department of Internal Affairs did recommend to the Minister that the definition of meetings should be amended to make it clear that 'deliberative' meetings are not covered by Part 7.

The Local Government Law Reform Bill 1991 (62-1)⁵⁹ that was then introduced, which contained a clause that inserted a new subclause into section 45 of the LGOIMA to *'make it clear that any meeting of a local authority that is solely deliberative in nature is not subject to Part VII of the principal Act.'*⁶⁰ The wording proposed was:

(2) For the avoidance of doubt, it is hereby declared that any meeting of a local authority that is solely deliberative in nature and is a meeting at which no resolutions or decisions are made is not a meeting for the purposes of this Part of this Act.

This clause was amended at Select Committee to remove *'that is solely deliberative in nature and is a meeting.'* The Departmental Report stated that *'The words "solely deliberative" are unnecessary as meetings which do not make resolutions or decisions are "solely deliberative".'*

There was limited debate in the House about this provision (it being one small aspect of a much larger set of local government reforms), but one comment from an opposition MP at second reading is consistent with the tenor of the policy discussions outlined above:⁶¹

We have seen in the Dominion as recently as 19 June 1991 that the [...] Council has come in for some criticism. No notification of a meeting was sent to the news media, but the council held a meeting. But was it a meeting? That is the real point. Council meetings are meetings at which decisions are made. To try to stop councils from getting together outside of the decision-making process to discuss ideas would be a very backward step.

On 1 October 1991 the change came into force.

Two pieces of correspondence from the then Minister (Hon Warren Cooper) expanded on the intention in enacting section 45(2):

59 Link to [Local Government Law Reform Bill 1991 \(62-1\)](#).

60 From the Explanatory Note to the Bill.

61 George Hawkins, Labour MP, Manurewa, Local Government Reform Bill, Second Reading, Hansard, 20 June 1991.

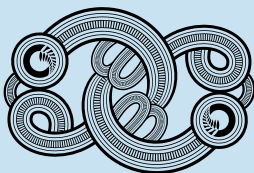
[section 45(2)] ... is not new, but rather a clarification of an existing provision. The previous definition of meeting was ambiguous and it was felt that it was unfair to expect councils to comply with the provision when they were not clear on what they were complying with. Meetings at which no resolutions or decision are made are not subject to the Act for two reasons. Firstly, it is inevitable that local authority members will sometimes initially discuss matters in private. It is better that they can do so at formal meetings which all members may attend than at private meetings to which some members may not be invited. Secondly, decisions cannot be made at such meetings. Any meeting which does require a resolution, even if that resolution is only recommendatory, is subject to Part 7 and must be publicly notified and open to the public. Local authorities therefore can only decide to hold meetings that do not comply with Part 7 of LGOIMA where they are certain, in advance of the meeting, that they will not be making decisions or recommendations.⁶²

And:

While local authorities are not required to publicly notify informal meetings it is at their discretion to do so and you might like to suggest to the Deputy Mayor that these meetings be publicly notified ... In any case, any information generated from informal meetings is official information under LGOIMA and may be requested under that Act.⁶³

62 Undated letter to G Liddell.

63 Letter dated 13 November 1991 to Secretary of the Te Atatu Residents and Ratepayers Association.



Ombudsman
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AUCKLAND REGIONAL AMENITIES FUNDING BOARD

Report

29 October 2024

To: Auckland Regional Amenities Funding Board Directors

From: Bree Torkington, Advisory Officer

Subject: 2025-2026 Administrative Budget, Board Remuneration, and Draft Funding Plan

Purpose

The purpose of this report is to propose the administrative budget and remuneration for 2025-2026 for incorporation into the draft 2025-2026 Funding Plan and provide information about the Draft Funding Plan process.

Executive Summary

The Draft 2025-2026 Funding Plan is being prepared ready for publication on/about 16 December 2024. An administration budget and board member remuneration rates for 2025-2026 need to be set so these figures can be included in the Draft 2025-2026 Funding Plan.

After the 5 November 2024 meeting, the Advisory Officer will need to incorporate these figures and the proposed grant allocations to the specified amenities into the 2025-2026 Draft Funding Plan, to enable the Draft Funding Plan to be reviewed and approved for publication.

Recommendations

That the Auckland Regional Amenities Funding Board:

- a) Approve the overall draft administrative budget of \$377,350 for 2025-2026 to be incorporated in the draft funding plan
- b) Approve the proposed rates of board member remuneration for 2025-2026 as:

Financial year	2025-2026		2024-2025		Increase	
	EACH	TOTAL	EACH	TOTAL	EACH	TOTAL
Members (8)	\$19,250	\$154,000	\$18,500	\$148,000	\$750	\$6,000
Deputy Chair	\$29,000	\$29,000	\$27,750	\$27,750	\$1,250	\$1,250
Chair	\$38,850	\$38,850	\$37,000	\$37,000	\$1,850	\$1,850

- c) Instruct the Advisory Officer to send details of the proposed board member remuneration to Auckland Council for consideration and approval
- d) Instruct the Advisory Officer to incorporate the administrative budget, board member remuneration and proposed grant allocations into the Draft 2025-2026 Funding Plan
- e) Note that the closing dates for submissions on the Draft 2025-2026 Funding Plan is 5PM on Tuesday, 4 February 2025.

Administrative Budget for 2025-2026

The administrative costs cover the Board Member remuneration (honorariums), Advisory Officer fees, and all other administrative costs as detailed below. The Administration expenses include subscriptions, advertising, meeting expenses, and ancillary expenses.

The draft budget for 2025-2026 is lower than forecast in the 2024-2025 Funding Plan, and allows for:

- Increases in board member remuneration
- The separation of the Advisory Officer and accounting functions - which is expected to result in cost savings
- Rationalisation of administrative expenses, resulting in cost savings
- The inclusion of catering, which was not previously charged for.

The board currently holds sufficient retained earnings to cover any unbudgeted items of expenditure should these arise.

	Budget 2024-2025	Budget 2025-2026	Budget 2026-2027	Budget 2027-2028
Income				
Levies for Admin Costs	\$378,750	\$377,350	\$388,850	\$400,550
Total Income	\$378,750	\$377,350	\$388,850	\$400,550
Expenses				
Audit fees	\$11,500	\$12,000	\$12,500	\$13,000
Legal fees	\$38,000	\$39,000	\$40,000	\$41,000
Accounting fees		\$15,500	\$16,000	\$16,500
Advisory Officer	\$68,000	\$40,000	\$41,200	\$42,500
Consultants	\$36,000	\$37,000	\$38,000	\$39,000
Board member fees	\$212,750	\$221,850	\$228,650	\$235,550
Administration expenses	\$12,500	\$12,000	\$12,500	\$13,000
Total Expenses	\$378,750	\$377,350	\$388,850	\$400,550
Net Deficit (funded from retained earnings)				

Review Board Member Remuneration (honorariums) for 2025-2026

The honorariums paid to Funding Board members must be reviewed annually in accordance with the provisions of the Auckland Regional Amenities Funding Act. The Draft 2025-2026 Funding Plan must provide details of the proposed levels of remuneration to be paid to board members.

The honorariums for directors of the Funding Board must be approved by Auckland Council. The rates proposed for 2025-2026 are lower than those forecasted for that year in the 2024-2025 Funding Plan. This is as the Funding Plan had allowed for year-on year increases – however no increase occurred for 2024-2025. The proposed board member remuneration for 2025-2026 is:

Financial year	2025-2026		2024-2025		Increase	
	EACH	TOTAL	EACH	TOTAL	EACH	TOTAL
Members (8)	\$19,250	\$154,000	\$18,500	\$148,000	\$750	\$6,000
Deputy Chair	\$29,000	\$29,000	\$27,750	\$27,750	\$1,250	\$1,250
Chair	\$38,850	\$38,850	\$37,000	\$37,000	\$1,850	\$1,850

This equates to an annual cost of \$221,850 (2024-2025/2023-2024: \$212,750).

The table below sets out the movements in honorarium rates since 2019:

Year	Member	Deputy Chair	Chair	Comments
2024-2025	\$18,500	\$27,750	\$37,000	Held at 2023-2024 rates
2023-2024	\$18,500	\$27,750	\$37,000	
2022-2023	\$18,000	\$27,000	\$36,000	Equal to the level it would have been had the rate increased by \$500 pa since 2020-2021
2021-2022	\$16,500	\$24,750	\$33,000	held for second time as part of further budget constraints
2020-2021	\$16,500	\$24,750	\$33,000	prior to last minute COVID related changes to levy / grants and remuneration - Council had approved rates of \$17,500 / \$26,260 / \$35,000
2019-2020	\$16,500	\$24,750	\$33,000	

The Funding Board has, and continues to, operate in a fiscally prudent manner and strives to minimise its costs wherever possible. If approved by Auckland Council, the rates would be payable from 1 July 2025.

Auckland Council has previously requested that the honorariums be reviewed and adjusted annually, rather than every two or three years. Honorariums were not increased for a period of three years due to the impacts of COVID-19.

It is necessary for the board to adopt a level of remuneration to recommend to Auckland Council for consideration and approval, and for these rates to be detailed in the Draft 2025–2026 Funding Plan when it is published for public consultation in December 2024.

Draft 2025-2026 Funding Plan

The maximum levy for 2025-2026 to be included in the funding plan will be based on a calculation representing 2% of the Auckland Council total rates revenue for the year ended 30 June 2024. Auckland Council recently published this rate income information in its 2024 annual report as \$2,534 million. The maximum levy is therefore \$50.68 million.

Under the provisions of the Act, the Draft 2025-2026 Funding Plan is to be published seeking public submissions on the proposed grant allocations and any other matters raised in the plan. It is proposed that the Draft 2025-2026 Funding Plan be published on/about 16 December 2024 and remain open for public submissions until 5PM on 4 February 2025.

Following the submission period, the Funding Board will meet on 11 February 2025 to consider the written submissions and receive any oral submissions that submitters may wish to make to the Board.

The Draft 2025-2026 Funding Plan is currently in draft form only. Following the meeting on 5 November, additional information (the administration budgets, remuneration details, provisional grant allocations and any conditions (if applicable)), will be incorporated into the plan prior to it being further considered and adopted by the board in late November, then published in December 2024.