



## **NOTICE OF MEETING**

**Notice is hereby given of the Inaugural Meeting  
of the Bluff Community Board  
to be held in the Bluff Municipal Chambers,  
Gore Street, Bluff on  
Wednesday 30 October 2019 at 7.00 pm**

Mr R Fife  
Mrs G Henderson  
Mr G A Laidlaw  
Nr N Peterson  
Ms T Topi

CLARE HADLEY  
CHIEF EXECUTIVE

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<h2 style="margin: 0;">BLUFF COMMUNITY BOARD</h2> <h3 style="margin: 0;">INTEREST REGISTER</h3>
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ELECTED MEMBERS		
NAME	ENTITY	INTERESTS
<b>Cr Allan Arnold</b>	Invercargill City Council Ziff's Café Bar Ltd Buster Crabb Ltd Ziff's Tour Ltd Ziff's HR Ltd Ziff's Trust NZMCA Southland Aero Club Invercargill Club Invercargill East Rotary	Councillor Executive Director Executive Director Executive Director Executive Director Trustee Administrator Member Member Member Member
<b>Cr Peter Kett</b>		
<b>Raymond Fife</b>	Bluff Community Board Bluff Charitable Trust Bluff Maritime Museum	Board Member Chairman Chairman
<b>Gloria Henderson</b>	Bluff Community Board	Board Member

Bluff Community Board - Interest Register

<b>ELECTED MEMBERS</b>		
<b>NAME</b>	<b>ENTITY</b>	<b>INTERESTS</b>
<b>Graham Laidlaw</b>	Bluff Community Board	Board Member
<b>Noel Peterson</b>	Bluff Community Board	Board Member
<b>Tammi Topi</b>	Bluff Community Board	Board Member

**TO: BLUFF COMMUNITY BOARD**  
**FROM: CLARE HADLEY – CHIEF EXECUTIVE**  
**MEETING DATE: WEDNESDAY 30 OCTOBER 2019**

<b>ELECTION OF CHAIR AND DEPUTY CHAIR</b>
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**SUMMARY**

A voting system needs to be adopted for the election of the Bluff Community Board Chair and the Deputy Chair. The Chair and Deputy Chair then need to be elected.
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**RECOMMENDATIONS**

**That the “Election of Chair and Deputy Chair” report be received; and**

**That the Bluff Community Board, for the purpose of electing or appointing persons under Clause 25 of Schedule 7 of the Local Government Act 2002, adopt either system A or System B; and**

**That a member is appointed Chair of the Bluff Community Board; and**

**That a member is appointed Deputy Chair of the Bluff Community Board.**

**IMPLICATIONS**

1.	<i>Has this been provided for in the Long-term Plan/Annual Plan?</i> No.
2.	<i>Is a budget amendment required?</i> No.
3.	<i>Is this matter significant in terms of Council’s Policy on Significance?</i> No.
4.	<i>Implications in terms of other Council Strategic Documents or Council Policy?</i> Not applicable.
5.	<i>Have the views of affected or interested persons been obtained and is any further public consultation required?</i> No.
6.	<i>Has the Child, Youth and Family Friendly Policy been considered?</i> Not applicable.

## VOTING SYSTEM

Clause 25 of Schedule 7 of the Local Government Act 2002 establishes voting systems for the election or appointment of a chairperson and deputy chairperson. This requirement relates to both the Chair and Deputy Chair of the Bluff Community Board.

The clause states that:

- (2) ... a local authority or a committee (if the local authority has so directed) must determine by resolution that a person be elected or appointed by using one of the following systems of voting:
  - (a) the voting system in subclause (3) (**system A**):
  - (b) the voting system in subclause (4) (**system B**).
- (3) System A—
  - (a) requires that a person is elected or appointed if he or she receives the votes of a majority of the members of the local authority or committee present and voting; and
  - (b) has the following characteristics:
    - (i) there is a first round of voting for all candidates; and
    - (ii) if no candidate is successful in that round there is a second round of voting from which the candidate with the fewest votes in the first round is excluded; and
    - (iii) if no candidate is successful in the second round there is a third, and if necessary subsequent, round of voting from which, each time, the candidate with the fewest votes in the previous round is excluded; and
    - (iv) in any round of voting, if 2 or more candidates tie for the lowest number of votes, the person excluded from the next round is resolved by lot.
- (4) System B—
  - (a) requires that a person is elected or appointed if he or she receives more votes than any other candidate; and
  - (b) has the following characteristics:
    - (i) there is only 1 round of voting; and
    - (ii) if 2 or more candidates tie for the most votes, the tie is resolved by lot.

The Bluff Community Board need to determine which method of voting it wishes to use in electing a Chair and Deputy Chair and then appoint a Chair and Deputy Chair for the 2019-2022 Triennium.

**TO: BLUFF COMMUNITY BOARD**  
**FROM: CHIEF EXECUTIVE**  
**MEETING DATE: WEDNESDAY 30 OCTOBER 2019**

**STATUTORY RESPONSIBILITIES OF MEMBERS**

**SUMMARY**

The proper conduct of elected members and the business of Council are subject to a number of different pieces of legislation.  
This report provides a high level explanation of some of those pieces of legislation as required by the *Local Government Act 2002*.

**RECOMMENDATIONS**

**That the “Statutory Responsibilities of Members” report be received.**

**IMPLICATIONS**

1.	<i>Has this been provided for in the Long-term Plan/Annual Plan?</i> No.
2.	<i>Is a budget amendment required?</i> No.
3.	<i>Is this matter significant in terms of Council’s Policy on Significance?</i> No.
4.	<i>Implications in terms of other Council Strategic Documents or Council Policy?</i> Not applicable.
5.	<i>Have the views of affected or interested persons been obtained and is any further public consultation required?</i> No.
6.	<i>Has the Child, Youth and Family Friendly Policy been considered?</i> Not applicable.

## 1. LEGISLATIVE CONSIDERATIONS

- 1.1 The Local Government Act 2002 Schedule 7 clause 21(5)(c) requires at the first meeting of the Council following a triennial general election, that a general explanation be given by the Chief Executive of:
- The *Local Government Official Information and Meetings Act 1987*;
  - Other laws affecting members, including:
    - The appropriate provisions of the *Local Authorities (Members' Interests) Act 1968*
    - Section 99, 105 and 105A of the *Crimes Act 1961*
    - The *Secret Commissions Act 1910*
    - the *Financial Markets Conduct Act 2013*
- 1.2 In addition information on the *Health and Safety at Work Act 2015* has also been included in this report

## 2. DISCUSSION

### The Local Government Official Information and Meetings Act 1987

- 2.1 The purpose of the *Local Government Official Information and Meetings Act (LGOIMA)* is to promote the open and public transaction of business at meeting of Council, in order to:
- enable more effective participation by the public in actions and decisions of Council; and
  - promote the accountability of local authority members and officials.
- 2.2 The fundamental principle of availability is embodied in LGOIMA and provides that information should be made available to the public unless there is good reason for withholding it. Other purposes of the Act are to:
- make information held by the Council freely available to the public;
  - provide access by members of the public to their personal information;
  - protect information and enable the deliberations of local authorities to be held in private where reason under the Act exists for doing so.
- 2.3 The Council must consider all requests by the public for information, taking account of those principles. The decision on whether to withhold or release such information lies with the Chief Executive. Members of the public may challenge any decision to withhold information, by making an Official Information Request to the Chief Executive. If the Chief Executive declines to release the information, then the member of the public can apply to the Office of the Ombudsman to have the information released. Reasons for withholding information are specified in section 6 and 7 of the Act.
- 2.4 The Act also contains provisions relating to the conduct of Council meetings, additional to those contained in Schedule 7 of the *Local Government Act 2002* and in the Council's Standing Orders. This applies to all Committees of Council. These provisions provide as follows:
- All Council meetings are to be publicly notified (section 46);
  - Members of the public can obtain Council meeting agendas, including all reports and other information that has been provided to elected members for consideration and decision at the meeting (section 46A), except for information that is confidential under the provisions of LGOIMA;



- Members of the public, including the media, have the right to attend Council meetings (section 47), unless the public have been excluded on one of the grounds specified in the Act (section 48).
- 2.5 The Act requires the Chairperson of the meeting to maintain order at the meeting. The Chairperson has the ability to require members of the public to leave the meeting if the Chairperson believes the behaviour of any member of the public is likely to prejudice the orderly conduct of the meeting.

#### Notice required for meetings

- 2.6 The *Local Government Act* 2002 Schedule 7, Clause 19 provides for notice of meetings to be given as follows:
- 14 days notice must be given of all ordinary meetings unless advance schedules of meetings are adopted;
  - Special meetings can be held on three working days notice or on 24 hours notice if a Council resolution is passed or a requisition is prepared in line with Council's Standing Orders.

#### Agendas

- 2.7 All business dealt with at the meeting will be listed on the agenda for the meeting.
- 2.8 Items that are not on an agenda for a meeting may be dealt with if the meeting resolves to do so and the chairperson explains in the public part of the meeting why the item is not on the agenda and why consideration of it cannot be delayed to a subsequent meeting (section 46A(7)).

#### Public Excluded Business

- 2.9 Section 48 of LGOIMA outlines the reasons for which the public may be excluded from Council meetings.
- 2.10 A meeting must be open to the public when a resolution to exclude the public is passed, and the resolution must indicate the general subject matter to be considered. Where it is proposed that a person be allowed to remain after the public has been excluded, such provision must be incorporated into the resolution stating the names of the persons concerned and the reasons for their remaining.

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

- 2.11 The *Local Authorities (Members' Interests) Act* 1968 deals with the positions of elected members who may have an interest in contracts to be let by the Council. It also prohibits elected members from voting or taking part in any matter in which they have a direct or indirect financial interest.
- 2.12 The purpose of the Act is to ensure that elected members follow high ethical standards in their public obligations so that the public can have confidence that their decisions are taken entirely properly, without any suspicion of improper interests influencing their actions.

- 2.13 Elected members must be careful that they maintain a clear separation between their personal interests and their duties as elected members. This is also to ensure that people who fill positions of authority carry out their duties free from bias (whether real or perceived). Elected Members therefore need to familiarise themselves with the provisions of the Act which concerns financial interests, and with other legal requirements concerning non-financial conflicts of interest including the Council policy on conflicts of interest.
- 2.14 Section 3 of the Act restricts elected members, and their spouses or partners, from having entered into contracts for payment by the Council exceeding \$25,000 (including gst), except with the express approval of the Office of Auditor General.
- 2.15 Section 6 of the Act restricts elected members from discussing or voting on issues in which they have, directly or indirectly, a pecuniary interest, other than an interest in common with the public.
- 2.16 The penalty for these offences can lead to automatic disqualification from office.
- 2.17 The Act also applies to the pecuniary interests of elected member's business activities. A member is deemed to have a pecuniary interest in a matter before Council where the member, or the members spouse or partner holds:
- more than 10% of the issued capital in a company; and
  - a pecuniary interest in, and/or is a director of an incorporated company that is involved in a contract with the Council.
- 2.18 Where a matter is raised at a Council meeting in which a member has a pecuniary interest, the member is prohibited from discussing and voting on the matter, and must declare a conflict of interest. It is advised that, at the very least, the member withdraw from the table. Best practise would be to leave the room for the duration of that matter, especially where it is public excluded.
- 2.19 It is important to note that it is the responsibility of the elected member to ensure compliance with this Act. The publication from the Controller and Auditor General 'Guidance for members of local authorities about the Local Authorities (Members Interests) Act 1968' can be found at [www.oag.govt.nz/2010/lamia](http://www.oag.govt.nz/2010/lamia) and can be provided by request.
- 2.20 Please speak to the Chief Executive about any concerns you may have over a possible conflict of interest.

**The Crimes Act 1961 (Sections 99, 105 and 105A)**

- 2.21 The *Crimes Act* 1961 provides that elected members and employees of a local authority commit a crime if they corruptly accept or obtain any bribe for themselves or any other person in respect of an act done or omitted in their official capacity. A bribe is defined as meaning any money, valuable consideration, office or employment, or any benefit, whether direct or indirect.
- 2.22 Members and employees also commit a crime if they corruptly use any information acquired by them in their official capacity, to obtain an advantage or a pecuniary gain for themselves or any other person.
- 2.23 These provisions apply to all 'officials', which by definition includes any member or employee of any local authority.

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

#### **The Secret Commissions Act 1910**

2.25 Under the *Secret Commissions Act 1910* it is unlawful for an elected member (or officer) to:

- corruptly give, or accept a gift, or other consideration in relation to the Council's affairs or business;
- use information gained in their capacity for their or another person's monetary gain or advantage;
- present a false receipt to the Council;
- advise a person to enter into a contract with a third party and receive a gift or inducement as a result.

2.26 If convicted of any offence under this Act a person can be imprisoned for up to two years, or fined up to \$1,000, or both.

2.27 A conviction would therefore trigger the provisions of the *Local Government Act 2002* that would result in the removal of the member from office.

#### **Financial Markets Conduct Act 2013**

2.28 The *Financial Markets Conduct Act 2013* imposes on elected members the same responsibilities as company directors whenever Council offers securities (debt or equity) to the public.

2.29 Elected members may be personally liable if investment documents such as a disclosure statement contain untrue statements and may be liable for criminal prosecution if the requirements of the Act are not met.

2.30 The Act also prohibits any elected member who has information about a listed company that is not generally available to the market, from trading in that company's shares or from disclosing that information.

2.31 The penalties for certain offences under this Act (false or misleading statements in disclosure documents – 10 years; or insider trading – 5 years) are such that if an elected member were convicted, that conviction would result in ouster from office.

2.32 Invercargill City Council does not offer any debt or equity to the public, only institutional investors.

#### **Health and Safety at Work Act 2015**

2.33 The *Health and Safety at Work Act 2015* made a significant change to New Zealand's health and safety legislation. A key principle of the Act is that workers and other persons should be given the highest level of protection against harm to their health, safety, and welfare from hazards and risks arising from work or from specified types of plant as is reasonably practicable.

- 2.34 The Act allocates duties to those people who are in the best position to control risks to health and safety as appropriate to their role in the workplace, and for the person conducting a business or undertaking (PCBU) (i.e. the Council) to ensure, as far as is reasonably practicable, the safety of workers and others who may be impacted by the work the business undertakes.
- 2.35 One of the significant changes is the introduction of “Officers”, which refers to any person occupying a position in relation to the business or undertaking, that allows the person to exercise significant influence over the management of the business or undertaking. Typically this refers to directors (or those holding equivalent governance roles), Chief Executive Officers, and it may also extend to other senior staff if they are held to exercise significant influence.
- 2.36 In the Council context elected members are Officers, as is the Chief Executive, and we consider that Group Managers are also Officers.
- 2.37 The Act exempts certain office holders from liability. This includes Councillors who, when acting in that capacity, are exempt from prosecution for failing to fulfil the duty of an Officer.
- 2.38 An important change in the new Act is the increased obligation on Officers to undertake due diligence. This obligation includes taking the steps set out in section 44 to:
- a) acquire, and keep up-to-date, knowledge of work health and safety matters; and
  - b) gain an understanding of the nature of the operations of the business or undertaking of the PCBU, and generally of the hazards and risks associated with those operations; and
  - c) ensure that the PCBU has available for use, and uses, appropriate resources and processes to eliminate or minimise risks to health and safety from work carried out as part of the conduct of the business or undertaking; and
  - d) ensure that the PCBU has appropriate processes for receiving and considering information regarding incidents, hazards, and risks and for responding in a timely way to that information; and
  - e) ensure that the PCBU has, and implements, processes for complying with any duty or obligation of the PCBU under this Act; and
  - f) verify the provision and use of the resources and processes referred to in paragraphs (c) to (e).
- 2.39 The duties of the Officers and of the PCBU are independent of each other. This means if a PCBU has failed to meet its duty but the Officers exercised due diligence then they would not be personally liable for the health and safety failings.

### **3. OPTIONS**

The presentation of this information is required under the *Local Government Act 2002*. It is recommended that this report be received.

### **4. RISK**

Failure to understand and comply with the requirements of the identified legislation exposes the Council and potentially members to claims for loss.

**TO: BLUFF COMMUNITY BOARD**  
**FROM: CLARE HADLEY – CHIEF EXECUTIVE**  
**MEETING DATE: WEDNESDAY 30 OCTOBER 2019**

<b>MEETING DATES FOR REMAINDER OF 2019</b>
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**SUMMARY**

Meeting dates for Council and Bluff Community Board for the remainder of 2019 need to be set and then publicly advertised.
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**RECOMMENDATIONS**

That the “Meeting Dates for Remainder of 2019” report be received; and

That the following times and dates are approved for meetings for the remainder of 2019:

- 7pm, Monday 18 November 2019 – Bluff Community Board meeting

**IMPLICATIONS**

1.	<i>Has this been provided for in the Long-term Plan/Annual Plan?</i> No.
2.	<i>Is a budget amendment required?</i> No.
3.	<i>Is this matter significant in terms of Council’s Policy on Significance?</i> No.
4.	<i>Implications in terms of other Council Strategic Documents or Council Policy?</i> Not applicable.
5.	<i>Have the views of affected or interested persons been obtained and is any further public consultation required?</i> No.
6.	<i>Has the Child, Youth and Family Friendly Policy been considered?</i> Not applicable.

**MEETING DATES**

The following are the recommended dates and times for each required meeting:

- 7pm, Monday 18 November 2019 – Bluff Community Board meeting

A schedule of meeting dates for the 2020 calendar year will be prepared and provided for Council adoption at the final Council meeting of the 2019 year.