



**Simpson  
Grierson**

27 October 2010

**Partner Reference**  
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For: Vyvien Maffey

### Using a macron above the 'a' in Kapiti when referring to the Council

1. We refer to your email today. A ratepayer has emailed all of the Council's elected members about the use of the macron above the 'a' in Kapiti. The ratepayer alleges that if the elected members sign their declarations of office with the word 'Kapiti' macronised, they will not be legally appointed. The signing of the declarations will occur at the members' inauguration on Wednesday 27 October 2010.
2. You have asked us to urgently advise on the legal status of documents where the Council uses a macron above the 'a' in Kapiti.

### The Council's formal legal name has no macron

3. In general, where the Council is required to use its legal name (eg: because legislation requires it), Kapiti should be spelt without a macron. This is because the Local Government Act 2002 (LGA) provides the legal names for all territorial and regional authorities. Section 23(3) of the LGA provides that "*A territorial authority that is a district council must be described as the "[name of district] District Council"*". The name of the Council is set out in Part 2 of Schedule 2 of the Local Government Act 2002 as "*Kapiti Coast District Council*", without a macron.
4. As discussed in our letter dated 14 October 2010, although section 3 of the Māori Language Act 1987 provides that Māori is an official language of New Zealand and section 4 sets out the right to speak Māori in certain legal proceedings, the Act does not alter the legal name of the Council as set out in the LGA.
5. In situations where it is not necessary to use the formal legal name, the Council has the discretion to spell Kapiti with a macron. Such an approach is essentially like using a trading name.

### Risks if the Council were to use a macron

6. In our opinion, if the Council were to use a macron in Kapiti in a document where it is required to use its legal name, it is very unlikely that a court would overturn the document or the action or decision authorised by that document. Previous case law

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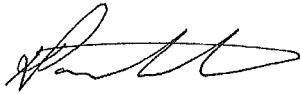
indicates that the judiciary is reluctant to overturn local authority decisions on minor immaterial breaches.

7. However, in our opinion, it is quite possible that the Council will face litigation over this issue, given the ratepayer's conviction regarding this matter.

**Macron use in elected member declarations**

8. Clause 14(3) of Schedule 7 of the LGA requires a member's written declaration to include the name of the "local authority". Consequently, this is a situation where the Council is required to use its legal name (ie 'Kapiti' without a macron). However, if the Council were to use a macron, the risk analysis discussed above would apply.
9. We are happy to discuss this matter further with you and consider specific situations of potential macron use as they arise.

Yours faithfully  
SIMPSON GRIERSON



Kathryn McLean / Kylie Panckhurst  
Senior Associate / Solicitor