

Mayor and Councillors
COUNCIL

8 AUGUST 2019

Meeting Status: **Public**

Purpose of Report: For Decision

COUNCIL - EXTRAORDINARY VACANCY

PURPOSE OF REPORT

- 1 The purpose of this report is to seek a decision from the Council about how to deal with an extraordinary vacancy on the Council, pursuant to the provisions of the Local Electoral Act 2001. (Appendix 1)

DELEGATION

- 2 The Council has the authority to consider this matter under the provisions of the Local Electoral Act 2001.

BACKGROUND

- 3 Under Schedule 7 of the Local Government Act 2002 a person's office as member of a local authority is vacated if the person, while holding office as a member of the local authority. Disqualification does not take effect if there is an appeal against the conviction, until the appeal is determined. (Appendix 2)
- 4 David Scott ceased to be a Councillor of the Kāpiti Coast District Council on 26 June 2019. This followed the dismissal of his appeal against a conviction for an offence punishable by a term of imprisonment of 2 years or more.

ISSUES

Issues and Options

- 5 Because the vacancy has occurred less than 12 months before the date of the next triennial election, 12 October 2019, a by-election is not required to fill the vacancy.
- 6 Instead, the Council has the option to either
 - (a) resolve to leave the vacancy unfilled (Recommended option)OR
 - (b) resolve to appoint a suitably qualified person from the community for fill the vacancy until the October 2019 Local Body Election.
- 7 Should the Council resolve to appoint a suitable person from the community that person would be named in a resolution to be passed at this meeting. Following this meeting the resolution and reasons for the appointment would be publicly advertised. Within 30 days of the public notification the Council would be required to meet again and by resolution, confirm the appointment of the person, who would then be declared as 'elected' to the Council.

- 8 There now being only 65 days remaining in the triennium the option to appoint a person from the community is not recommended.

CONSIDERATIONS

Policy considerations

- 9 There are no policy considerations.

Legal considerations

- 10 There are no further legal considerations.

Financial considerations

- 11 There are no financial considerations.

Tāngata whenua considerations

- 12 There are tāngata whenua considerations.

SIGNIFICANCE AND ENGAGEMENT

Significance policy

- 13 This matter has a moderate degree of significance under Council's Significance and Engagement Policy.

Engagement planning

- 14 An engagement plan is not needed to implement this decision.

Publicity

- 15 Should members choose to make an appointment that resolution must be publicly notified.

RECOMMENDATIONS

- 16 That the Council notes that an extraordinary vacancy has been created pursuant to clause 5 Schedule 7 of the Local Government Act 2002 effective from 26 June 2019.

- 17 That the Council resolves that:

a) The extraordinary vacancy should be left vacant for the remainder of the 2016-2019 Triennium, as per clause 117(3)(b) of the Local Electoral Act 2001;

OR

(b) That [name], being a suitably qualified person in the community, be appointed to the vacancy, pursuant to provision 117(3)(a) of the Local Electoral Act 2001, and that this decision be publicly notified.

Report prepared by **Approved for submission** **Approved for submission**

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ATTACHMENTS

Appendix 1 Extract from Local Electoral Act 2001

Appendix 2 Extract from Local Government Act 2002

APPENDIX 1

Local Electoral Act 2001

Clause 117 – Extraordinary vacancy in local authority or local board or community board

[...]

(2) If a vacancy occurs in the office of a member of a local authority or in the office of an elected member of a local board or community board 12 months or less than 12 months before the next triennial general election, the chief executive of the local authority concerned must notify the local authority or local board or community board of the vacancy immediately.

(3) On receiving notice under subsection (2), the local authority or local board or community board must, at its next meeting (other than an extraordinary meeting) or, if that is not practicable, at its next subsequent meeting (other than an extraordinary meeting), determine by resolution-

(a) that the vacancy will be filled by the appointment by the local authority or local board or community board of a person named in the resolution who is qualified to be elected as a member; or

(b) that the vacancy is not to be filled.

(4) If for any reason the person specified in the resolution is unavailable, or otherwise unable to be notified of the appointment, a further vacancy occurs in that office.

APPENDIX 2

Local Government Act 2002, Schedule 7
Local authorities, local boards, community boards, and their members
Part 1 Provisions relating to local authorities and their members

Vacation of office by members

1 Disqualification of members

(1) A person's office as member of a local authority is vacated if the person, while holding office as a member of the local authority,—

(a) ceases to be an elector or becomes disqualified for registration as an elector under the [Electoral Act 1993](#); or

(b) is convicted of an offence punishable by a term of imprisonment of 2 years or more.

(2) If subclause (1)(b) applies,—

(a) the disqualification does not take effect—

(i) until the expiration of the time for appealing against the conviction or decision; or

(ii) if there is an appeal against the conviction or decision, until the appeal is determined; and

(b) the person is deemed to have been granted leave of absence until the expiration of that time, and is not capable of acting as a member during that time.

(3) A person may not do an act as a member while disqualified under subclause (1) or while on leave of absence under subclause (2).