

Notice of Appointment of a Crown Manager to the Kaipara District Council

Pursuant to section 258D of the Local Government Act 2002, the Associate Minister of Local Government gives notice of her appointment of

Peter David McGredy Winder

as Crown Manager to the Kaipara District Council (“Council”).

The role of the Crown Manager is to address any outstanding or future legal actions relating to the development of the Mangawhai Community Wastewater Scheme (“Scheme”), and the setting and collection of rates during and prior to the Kaipara District Council Commission’s (“Kaipara Commission”) term.

The term for the Crown Manager and the management period will commence on the day the newly elected Council is declared, following the 8 October 2016 local elections. The appointment and management period will, unless otherwise advised by written notice by the Minister of Local Government, expire on the day after the date elected members of the Council are declared, following the 2019 local election.

Terms of Reference for a Crown Manager (Under Section 258D of the Local Government Act 2002)

Background

On 30 May 2016, Cabinet agreed to the appointment of a Crown Manager to assist the Council when it returns to elected governance in October 2016.

There are current legal actions relating to the development of the Scheme and the setting or collection of rates during the Kaipara Commission’s term. These legal actions could inhibit the ability of the newly elected Council to make immediate decisions on behalf of the community and provide effective governance. Newly elected Council members would require time to become familiar with them and decide on the Council’s position, as they are complex and sensitive issues. The Crown Manager is being appointed to assist the Council by taking responsibility for any outstanding and future legal actions relating to the development of the Scheme, and the setting or collection of rates during and prior to the Kaipara Commission’s term on the Council’s behalf.

The Associate Minister of Local Government considers that the assistance of a Crown Manager is important to the success of newly elected Council members in providing effective governance. Pursuant to section 258D(1)(a) of the Local Government Act 2002, and in accordance with the Minister of Local Government’s delegation of all matters relating to the Council, the Associate Minister of Local Government appoints a Crown Manager to assist the Council.

Extent of Authority

The Crown Manager will manage outstanding and future legal actions relating to the development of the Scheme and the setting or collection of rates during and prior to the Kaipara Commission’s term on behalf of the newly elected Council, including the following matters:

- The Council’s legal action against the Council’s former Chief Executive;
- any additional legal actions against any party relating to the development or operation of the Scheme prior to 2013;
- the judicial review action against the Council challenging the legality of rates and penalties relating to the 2011/12 to 2015/16 rating years (CIV-2015-488-95);
- any additional legal actions against the Council relating to rates for the 2016/17 rating year and prior rating years; and
- any legal action that is required by the Council to collect rates due for the 2016/17 rating year and prior rating years.

The Crown Manager is therefore able to:

- make decisions relating to the legal actions within their management responsibilities, including the power to initiate and manage new legal actions, or discontinue current legal actions, that fall within their responsibilities;
- direct the Council to act, as appropriate, to address the legal actions within their management responsibilities; and
- make recommendations to the Minister of Local Government as to whether the Minister should take any further action in relation to the Council, including whether the Minister should appoint another Ministerial

body to the Council.

The Crown Manager is required to collaborate, to the extent that it is relevant, with the Northland Regional Council on challenges relating to rates set by Northland Regional Council and the collection of these rates by the Council.

The Crown Manager must act in good faith when making decisions to initiate new or discontinue current legal actions within their management responsibilities. The Crown Manager must consider the merit of initiating new or discontinuing current legal actions against the costs and resources required when making his or her decisions. The Crown Manager must consult the elected Council before he or she decides to initiate new legal actions or discontinue current legal actions.

The Crown Manager will report to the elected Council and inform, as appropriate, the Kaipara community at least six-monthly of the progress of legal matters within his or her management responsibilities. This must include any decisions he or she has made, to assure the Council and community that their interests are being looked after.

The Crown Manager may make recommendations to the elected Council following Court decisions on the legal actions within their management responsibilities.

The Crown Manager must comply with any legal obligations that would otherwise apply to the Council and ensure, as far as practicable, that the existing organisational capability of the Council is not diminished.

The Crown Manager may work with the Council's Chief Executive and any other parties, as appropriate, to resolve the legal matters within their management responsibilities. The Crown Manager may request any assistance from the Department of Internal Affairs, or other parties he or she considers necessary to fulfil these Terms of Reference.

The Council is required under section 258D(6) of the Local Government Act 2002 to:

- co-operate with the Crown Manager so that the Crown Manager may fulfil these Terms of Reference;
- comply with the directions of the Crown Manager; and
- comply with any reasonable request from the Crown Manager to provide relevant information.

The Council will make available and accessible the resources required for the Crown Manager to fulfil these Terms of Reference.

Term of the Appointment

The term for the Crown Manager's appointment and the management period starts on the day the newly elected Council is declared, following the triennial general election on 8 October 2016. The appointment and management period will, unless otherwise advised by the Minister of Local Government, end on the day after the date on which the Council is declared elected, following the triennial general election in 2019.

The Minister of Local Government may end the appointment and management period early by way of written notice if the Minister is satisfied that the appointment is no longer required. The Minister of Local Government may extend the appointment and management period by way of written notice if the Minister considers the continued appointment of the Crown Manager is still required.

Remuneration and Costs

The remuneration of the Crown Manager will be paid out of money belonging to the Council pursuant to section 258W of the Local Government Act 2002. Remuneration will be paid in accordance with the Cabinet Fees Framework at a rate of \$900.00 a day. The Crown Manager is responsible for ensuring any expenses claimed are reasonable and necessary.

Reporting

The Crown Manager must report, as appropriate, to the Minister of Local Government at least six-monthly on the progress in fulfilling his or her Terms of Reference.

The Crown Manager must provide a final report to the Minister of Local Government as soon as practicable after the management period ends. The final report must comply with section 258U of the Local Government Act 2002. In addition, the Crown Manager must report on any potential problems that remain or any new related problems that have emerged. The final report may make further recommendations to the Minister of Local Government.

Protection From Liability

Pursuant to section 258Y of the Local Government Act 2002, the Crown Manager will not be liable for any act done or omitted by him or her in good faith in the performance or intended performance of his or her functions, responsibilities and duties, or the exercise of his or her power as a Crown Manager.

Dated at Wellington this 7th day of July 2016.

HON LOUISE UPSTON, Associate Minister of Local Government.

