Notice of Meeting
A meeting of the Whangarei District Council will be held in the Council Chamber, Forum North, Whangarei on:

Thursday
25 May 2017
10.30am

Committee
Her Worship the Mayor Sheryl Mai (Chairperson)
Cr Stu Bell
Cr Crichton Christie
Cr Vince Cocurullo
Cr Tricia Cutforth
Cr Shelley Deeming
Cr Sue Glen
Cr Jayne Golightly
Cr Phil Halse
Cr Cherry Hermon
Cr Greg Innes
Cr Greg Martin
Cr Sharon Morgan
Cr Anna Murphy
OPEN MEETING

APOLOGIES

DECLARATIONS OF INTEREST
Members are reminded to indicate any items in which they might have an interest.

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Local Government Act 2002 Amendment Act 2012

Full consideration has been given to the provisions of the Local Government Act 2002 Amendment Act 2012 in relation to decision making and in particular the current and future needs of communities for good quality local infrastructure, local public services and performance of regulatory functions in a way that is most cost effective for households and businesses. Consideration has also been given to social, economic and cultural interests and the need to maintain and enhance the quality of the environment in taking a sustainable development approach.

Recommendations contained in the Council agenda may not be the final decision of Council.

Please refer to Council minutes for final resolution.
1 Public Forum

Reporting officer: C Brindle (Senior Meeting Co ordinator)
Date of meeting: 25 May 2017

1 Purpose

To afford members of the Community an opportunity to speak to Council and to report on matters raised at previous public forums when appropriate.

2 Summary

Public Forum
Standing Orders allow for a period of up to 30 minutes to be set aside for a public forum at the commencement of each monthly council meeting.
The time allowed for each speaker is 5 minutes.
Members of the public who wish to participate should send a written application setting out the subject matter and the names of the speakers to the Chief Executive at least 2 working days before the day of the meeting.

Speakers:
At the time of the agenda closure no applications to speak at public forum had been received.

Report on actions taken or comment on matters raised
Where practicable actions taken on matters raised by previous speakers are reported back to public forum.

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<th>Speaker</th>
<th>Subject</th>
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<td>Brian May</td>
<td>Various</td>
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Report
- Traffic delays due to 2 major roadworks under construction at the same time (Advocate 23 March referred)

Council acknowledges that in busy areas like those under construction any upgrade work will cause major disruption and have tried to minimise this through the works program adopted. Inevitably there will be delays and queues, we encourage everyone to avoid the area if possible by planning alternative routes and allowing extra travel time.
• Contract increases (including Mill/Nixon intersection) – refer Council agenda 23 February, page 65, Contracts approved under delegated authority – increases not commented on by elected members.

The report refers to the extension of contracts for a further year, not increases to contracts.

Mill Nixon intersection improvements – this was a variation to the original contract due to changes to the scope due to additional works being required.

• Wright Road sealing – should have been addressed by now.

Council considered the matter of dust on rural road and the extension of seal on Wright Road at it’s 23 February meeting, council has resolved the following:

“1. That Council continues to lobby NZTA and Government departments for roading subsidies that cover rural roads for safety and to mitigate dust problems.

2. That Wright and McCardle roads be classified as special needs roads by WDC as these roads attracted the Regional Development Fund (forestry subsidy made available to WDC in 20017/08), and they require attention.

3. That Council through its budgeting process consider funding to extend the seal on the above named roads commencing in 2017.”

And that Council:

“1. Endorses the proposed Dust management programme; and

2. Funds the $610,000 local share in the 2016/17 and 2017/18 financial years for sealing 205km of Wright/McCardle Road, in accordance with the approved funding application.”

• Trips to China – not the best use of ratepayer money

Council entered into a Friendly City arrangement with Haikou City in the Hainan Province in May 2014 and have been building on the relationship for the past 10 years. Encouraging and stimulating business activity and investment is a key objective.

In 2014 Northtec invited the Mayor to join a delegation to China primarily to explore international education opportunities. Her Worship, also by invitation, lead a delegation to ‘the First Haikou Sister City Mayors’ Summit late November 2014. The summit ‘consolidating Friendship for Common Growth’ brought together Mayors and delegates from Haikou’s nearly 30 international sister and friendly cities.

Her Worship’s travel and expenses were approved by Council in accordance with Council’s Travel Policy.

• Bankruptcy matter – an individual liquidated 2017, was this ever brought to council’s attention?

Council noted the comment but were unsure as to the relevance.
Hella Rally - ratepayers own the bridge - why should the ratepayer pay to attend the opening of the rally?

Council support this event, however neither Council nor Rally NZ are able to fully fund the event to make it free to spectators.

Rally NZ run this as a ticketed event as would any other organisation holding a function/event in/at a Council owned premise/venue i.e.

- White Plate Dinner held on the Canopy Bridge
- Sport Northland Events incl. Beach to Basin, Whangarei Half Marathon held on Council Roads and Town Basin
- Bernina Fashion Awards held at Forum North Expo Hall
- Lions Fireworks event held at Toll Stadium
- International Day of Families held at Forum North.

The difference being that Rally NZ puts 50% of the spectator revenue back into the community via the groups that assist with the event i.e. Rotary, Lions through marshalling, event set up and pack down. The other 50% of funds goes towards covering event costs which includes such things as equipment hire, administration costs (printed documentation such as rally guides, competitor documentation), event marketing, safety/medical (having St John on site).

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Report

- Issues with lack of proper process with elected member code of conduct complaints

Currently, Council are reviewing the elected member code of conduct. Two briefings with Council have been held to date. The aim is to present an updated elected member code of conduct to Council for approval in the near future. The draft Local Government New Zealand (LGNZ) code that is being used to inform the briefings defines a proper and transparent process for dealing with complaints.
2. Minutes: Whangarei District Council
Thursday 27 April 2017

Minutes of a meeting of the Whangarei District Council held in the Council Chamber Forum North on Thursday 27 April 2017 at 10.30am

Present:
Her Worship the Mayor S L Mai (Chairperson)
Crs Stu Bell, Vince Cocurullo, Tricia Cutforth, Shelley Deeming, Sue Glen, Jayne Golightly, Phil Halse, Cherry Hermon, Greg Innes, Greg Martin, Sharon Morgan and Anna Murphy

Apology:
Cr Christie

Moved: Cr Martin
Seconded: Cr Cocurullo

“That the apology be sustained.”

CARRIED

In Attendance:
Chief Executive (Rob Forlong), General Manager Community (Sandra Boardman), General Manager Finance and Corporate (Alan Adcock), General Manager Infrastructure (Simon Weston), General Manager Planning and Development (Alison Geddes), General Manager Strategy and Democracy (Jill McPherson), Governance Manager (Jason Marris), Waste and Drainage Manager (Andrew Carvell), Legal Counsel (Kathryn Candy), Financial Controller (Rich Kerr), Community Services Manager (Owen Thomas), Parks Manager (Paul McDonald), Property Manager (Mike Hibbert), Group Planner Infrastructure (Robin Rawson), Executive Assistant (Judi Crocombe) and Senior Meeting Co-ordinator (C Brindle)

Cr Morgan opened the meeting with a prayer/karakia.

Declarations of interest – Cr Morgan requested it be noted that she is the Council appointed representative on the organisations referred to in Item 6 – Whangarei Art Museum and Item 7 – Creative Northland.

Her Worship acknowledged the awarding of the QSM, for services to the community, to Walter Yovich.

1. Public Forum

Speakers:

Brian May – various subjects
Lawrence Wayne Deeming – Code of Conduct Review – A Consumer’s View
2. Confirmation of minutes of a Meeting of the Whangarei District Council held on 20 March 2017

Moved: Cr Murphy
Seconded: Cr Deeming

“That the minutes of the Whangarei District Council Meeting held on Thursday 30 March 2017, including the confidential section, having been circulated, be taken as read and now confirmed and adopted as a true and correct record of proceedings of that meeting.”

CARRIED

3. Proposed swap of reserve land, Russell Road

Moved: Cr Deeming
Seconded: Cr Morgan

“That the Whangarei District Council

a) Notes public advertisement (under Section 15 of the Reserves Act) of the application for a land swap between Lot 2 DP126790 and Lot 3 DP126790, with easements to be provided over Lots 4 and 7 DP110869;

b) Agrees that given the potential for public benefit from the proposal, that staff time will not be charged to process the application.”

CARRIED

Cr Halse abstained from voting on Item 3.

4. 2017 Local Government New Zealand Conference

Moved: Cr Deeming
Seconded: Cr Morgan

“That Council notes that;

a) the Local Government New Zealand Conference is being held 23-25 July in Auckland.

b) the Mayor, Councillors, Tricia Cutforth, Cherry Hermon, Greg Innes, Sharon Morgan, Anna Murphy and General Managers Sandra Boardman and Alison Geddes will attend and represent council at the 2017 LGNZ Conference.”

CARRIED


Moved: Cr Martin
Seconded: Cr Innes

“That Council notes the financial benchmarking data in the report.”

CARRIED
6. **Recommendation from the Community Funding Committee - Whangarei Art Museum Report**

*Moved:* Her Worship the Mayor  
*Seconded:* Cr Morgan

“That Council notes the report of the Whangarei Art Museum.”

**Amendment**

*Moved:* Cr Bell  
*Seconded:* Cr Cocurullo

“That Council notes the report of the Whangarei Art Museum; and requests the Whangarei Art Museum Trust provide to Council a full report on all of the funding applications it has lodged since 1 July 2015.”

The amendment was CARRIED and subsequently CARRIED as the substantive MOTION.

7. **Recommendation from the Community Funding Committee - Review Creative Northland Report**

*Moved:* Her Worship the Mayor  
*Seconded:* Cr Innes

“That Council notes the report on the review of Creative Northland.”

**Amendment**

*Moved:* Cr Cutforth  
*Seconded:* Cr Cocurullo

“The Council notes the report on the review of the Creative Northland and in light of it’s findings, staff re-assess Council’s funding contribution and report back to Council by June 2017.”

*Cr Hermon* foreshadowed her intention to move a further amendment and the tenor of her proposed amendment.

On the amendment being put Cr Glen called for a division:

For the amendment:  
Crs Bell, Cocurullo, Deeming, Golightly, Halse, Martin, Glen and Cutforth (8)

Against the amendment:  
Crs Hermon, Innes, Murphy, Morgan and Her Worship the Mayor (5)

Absent:  
Cr Christie

The amendment was CARRIED and subsequently CARRIED as the substantive MOTION.
8. Council priorities for Te Kārearea,

Supplementary No 1 – Item 8 was distributed separately but within the timeframe specified in LGOIMA.

Moved: Cr Murphy  
Seconded: Cr Cutforth

“That Council;

(a) agrees to base its priorities for Te Kārearea, on the concept of “fairness to all”

(b) confirms the Whangarei District Council priorities below for discussion at the May Te Kārearea meeting:

Council Draft Priorities

8 points - Effective 2-way communication
6 points - Hihiaua Cultural centre
5 points - Focus on youth (joint initiative)
4 points equal
- Sincere early engagement (e.g. LTP/Rates Review/Blue Green Strategy)
- Explore co-governance models so we are ready (Management plans - areas)
3 points equal
- Water Quality issues (e.g. Otuihau)
- Cultural competency training (translation)
- Maori Commissioners (RMA) training/resource
- Working with under resourced communities
- National symposium on Maori representation and local government
2 points equal
- Joint effort to promote the district
- Possible transfer of land Otangarei Marae/Takahiwai
- Creating an understanding of council processes
- Maori housing/healthy homes
1 point equal
- Council protocol for mihi whakatau meetings etc.
- Understanding the history of significant areas to Maori in the District
- Observing the relevant legislation more than we do now
- Support Marae on same basis as community halls

Other Priorities
- Pilots for local Hapu to be contractors (e.g. Mokau Otangarei)
- Investigate employing more Maori staff at WDC
- Water Ownership and Management
- Papakaianga housing – making it happen
- Using Hapu Environmental Management plans better
- Waiata for councillors (appropriate for circumstance)
- Fixing naming mistakes
- Heritage trails Blue/Green -shared stories
- More in Maori language week/Matariki."
Amendment

Moved: Cr Deeming
Seconded: Cr Cocurullo

“That recommendations a) and b) be adopted, excepting that ‘Marae with a Civil Defence function be supported on the same basis as community halls’.”

On the amendment being put Cr Glen called for a division:

For the amendment:
Crs Bell, Cocurullo, Deeming, Hermon, Golightly, Halse, Martin and Glen (8)

Crs Cutforth, Innes, Murphy, Morgan and Her Worship the Mayor (5)
Absent:
Cr Christie

The amendment was CARRIED and subsequently CARRIED as the substantive MOTION

A ten minute break was taken from 12.20pm to 12.35pm following Item 8.

Exclusion of the public

Moved: Cr Deeming
Seconded: Cr Hermon

“That the public be excluded from the following parts of 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 are as follows:

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<tr>
<th>General subject of each matter to be considered</th>
<th>Reason for passing this resolution in relation to each matter</th>
<th>Ground(s) under Section 48(1) for passing this resolution</th>
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<td>Good reason to withhold information exists under Section 7 Local Government Official Information and Meetings Act 1987</td>
<td>Section 48(1)(a)</td>
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<td>C.2 Trustee Appointment</td>
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<td>C.3 Property Transaction</td>
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<td>C.4 Property Transaction</td>
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<td>C.5 Contract Extension</td>
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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 the relevant part of the proceedings of the meeting in public, are as follows:
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<td>C.2</td>
<td>To protect the privacy natural persons</td>
<td>Section 7(2)(a)</td>
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<tr>
<td>C.3</td>
<td>To enable the Committee to carry on without prejudice or disadvantage negotiations</td>
<td>Section 7(2)(i)</td>
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<td>C.4</td>
<td>To enable the Committee to carry on without prejudice or disadvantage negotiations</td>
<td>Section 7(2)(i)</td>
</tr>
<tr>
<td>C.5</td>
<td>To enable the Committee to carry on without prejudice or disadvantage negotiations</td>
<td>Section 7(2)(i).&quot;</td>
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CARRIED

The meeting closed at 1.24pm

Confirmed this 25th day of May 2017

Her Worship the Mayor Sheryl Mai (Chairperson)
3 Northland Events Centre Trust - Amendment to Deed

Reporting officer: Kathryn Candy (Legal Counsel)
Date of meeting: 25 May 2017

1 Purpose

To approve the amendments to the Northland Events Centre Trust Deed.

2 Recommendation/s

That Council approves the amendment to clause 28 of the Northland Events Centre Trust Deed as listed below:

Unless otherwise exempted, the Trust shall have a statement of intent which complies with the Local Government Act 2002 (LGA 02). In settling, and at any time amending, the statement of intent in terms of Section 64 LGA 02 the Trustees shall ensure that the Trust retains its charitable status. Any statement of intent required is to be delivered to the Settlor for approval in terms of Section 65 LGA 02.

The objectives outlined in any statement of intent required must be implemented by the Trustees, be consistent with and not extend the purposes of the Trust.

3 Background

The Northland Events Centre Trust is a Council Controlled Organisation which is currently an exempt organisation under section 7 of the Local Government Act 2002 (LGA). This means that it is not required to have a Statement of Intent.

4 Discussion

Clause 28 of the Trust Deed requires that the Trust have a Statement of Intent. This clause is an anomaly and doesn’t reflect the current legislative requirements. The Trust can be an exempt organisation and therefore not required to have a Statement of Intent.

The Trust engaged Graeme Mathias from Thomson Wilson to redraft clause 28 and the amended clause is attached. The effect of the amendments is that the Trust must have a Statement of Intent unless it is an exempt organisation, which is in line with the requirements of the LGA.

If, in the future, Council changes the status of the Trust to non-exempt, the Trust will be required to produce a Statement of Intent.

Under the Trust Deed Council must approve any amendments to the Trust.
5 **Significance and engagement**

The decisions or matters of this report do not trigger the significance criteria outlined in Council’s Significance and Engagement Policy, and the public will be informed via agenda publication on the website.

6 **Attachments**

Clause 28 of the Trust Deed
Northland Events Centre Trust Deed – Clause 28

Current wording:

28.0 **Statement of Intent**

28.1 The Trustees shall have a Statement of Intent which complies with the Local Government Act 2002. In settling and amending the statement of intent in terms of Section 64 of the Local Government Act, the Trustees shall ensure that the Trust retains its charitable status. The statement of intent is to be delivered to the Settlor for approval in terms of Section 65 of the Local Government Act.

The objectives outlined in the statement of intent must be, and be implemented, consistent with the purposes of the Trust, and cannot extend them.

Amended Wording:

28.0 **Statement of Intent**

28.1 Unless otherwise exempted the Trust shall have a statement of intent which complies with the Local Government Act 2002 (LGA 02). In settling, and at any time amending, the statement of intent in terms of Section 64 LGA 02 the Trustees shall ensure that the Trust retains its charitable status. Any statement of intent required is to be delivered to the Settlor for approval in terms of Section 65 LGA 02.

28.2 The objectives outlined in any statement of intent required must be implemented by the Trustees, be consistent with and not extend the purposes of the Trust.

Tracked Changes:

28.0 **Statement of Intent**

28.1 Unless otherwise exempted the Trustees shall have a Statement of Intent which complies with the Local Government Act 2002 (LGA 02). In settling, and at any time amending, the statement of intent in terms of Section 64 LGA 02 of the Local Government Act, the Trustees shall ensure that the Trust retains its charitable status. Any statement of intent required is to be delivered to the Settlor for approval in terms of Section 65 LGA 02 of the Local Government Act.

28.1 The objectives outlined in any statement of intent required must be, and be implemented by the Trustees, be consistent with and not extend the purposes of the Trust, and cannot extend them.
4 Submission to Land Transport (Vehicle User Safety) Amendment Bill

Reporting officer: Shireen Munday (Policy & Bylaws Analyst)
Date of meeting: 25 May 2017

1 Purpose
To present a draft submission to the Land Transport (Vehicle User Safety) Amendment Bill for approval.

2 Recommendation/s
That Whangarei District Council
a) approves the draft submission provided in Attachment 3 to the Land Transport (Vehicle User Safety) Amendment Bill.
b) delegates the authority to approve the final format and wording of the submission to Her Worship the Mayor and the Chief Executive, to accommodate any feedback provided at this meeting.

3 Discussion
The activity of ‘window washing’ for donation at road intersections in both the Whangarei District and other locations in New Zealand has had a substantial media profile in recent times.

One of the key problems Council faces relating to complaints about window washing lies in the regulatory mechanisms available to Council. While Council can regulate against window washing through a bylaw, the only option for enforcement activity is prosecution. This is a costly exercise for ratepayers.

An associated issue is the matter of jurisdiction. Most complaints received over the last twelve months relate to the four State Highway intersections within Council’s urban area. Council has no ability to enforce its bylaws on a road not under its control.

Council staff, the New Zealand Police and the New Zealand Transport Agency (NZTA) have been working together to see if a solution to the issue can be developed.

Options include a delegation from NZTA to Council, so that Council can enforce its own bylaws on the State Highway within the District, or NZTA making its own bylaw and contracting Council’s enforcement contractor to undertake enforcement activities on the State Highway. In each case, however, the only enforcement action possible is prosecution.
The high-profile nature of this topic has led to the introduction of a private members Bill to Parliament in December 2016. The Bill had its first reading on 12 April 2017 and is now at the Select Committee stage, with submissions being invited until 1 June 2017.

The Bills Digest is provided in Attachment 1; the Bill is provided in Attachment 2.

The purpose of the Bill is to put in place an enforcement regime against window washing. It does this by amending the Land Transport Act 1998, the Land Transport (Road User) Rule 2004 and the Land Transport (Offences and Penalties) Regulations 1999.

The proposed rule is:

“A road user must not use a road to wash or offer to wash a vehicle, or any part thereof, in a manner that may be unsafe, that may intimidate or cause a nuisance to any person, or may cause an obstruction to vehicles.”

The effect of this rule is that it would allow the New Zealand Police, as enforcement officers under the Land Transport Act 1998, to issue infringement offences (instant fines) for $150 for window washing activities.

Staff have reviewed the Bill. Staff consider that in principle a New Zealand-wide approach is appropriate and that the power to issue ‘instant fines’ will provide a much-needed ‘tool in the toolbox’.

However, the wording of the Bill is modelled on the Auckland Council Public Safety and Nuisance Bylaw. Verbal feedback from Auckland Council staff is that they have had difficulties in achieving successful prosecutions due to the clause wording. The Bill also does not expressly define that the activity in question is limited to window washing where a donation or payment is expected. As such, it may accidentally capture domestic car washing activities in the road reserve.

Attachment 3 is a draft submission of Council to the Bill. The document expresses general support for the Bill but that some changes to the wording are recommended to support clarity and enforceability and that the outcome needs to be a clear and cost-effective solution for Council.

4 Significance and engagement

The decisions or matters of this report do not trigger the significance criteria outlined in Council’s Significance and Engagement Policy, and the public will be informed via the publication of this agenda item and the associated minutes on Council’s website.

5 Attachments

Attachment 1 - Land Transport (Vehicle User Safety) Amendment Bill 2016 (Member’s Bill – Jami-Lee Ross): Bills Digest No 2450

Attachment 2 - Land Transport (Vehicle User Safety) Amendment Bill

Attachment 3 – Draft Whangarei District Council Submission to the Land Transport (Vehicle User Safety) Amendment Bill
Land Transport (Vehicle User Safety) Amendment Bill 2016  
(Member's Bill – Jami-Lee Ross)

Date of Introduction: 8 December 2016
Member: Jami Lee Ross
Select Committee: As at 8 February, 1st Reading not held.

Published: 8 February 2017  
by John Mc Soriley BA LL.B, Barrister  
Legislative Analyst  
P: (04) 817-9626 (Ext. 9626)

Caution: This Digest was prepared to assist consideration of the Bill by members of Parliament. It has no official status, although every effort has been made to ensure accuracy, it should not be taken as a complete or authoritative guide to the Bill. Other sources should be consulted to determine the subsequent official status of the Bill.

Purpose

The aim of this Bill is to amend the Land Transport Act 1998 (the Act) and two sets of regulations, the Land Transport (Road User) Rule 2004, and the Land Transport (Offences and Penalties) Regulations 1999, “to put in place an enforcement regime against window washing.”

Background

The explanatory note to the Bill states: “Some local authorities have attempted to stop this practice of [car window washing] by way of a bylaw; however, the legislation enabling a local authority to create bylaws does not generally allow a local authority to make offences against a bylaw an infringement offence.”

“By making the washing of vehicles in a way that is unsafe, intimidating, or causing a nuisance an infringement offence, enforcement authorities will have greater ability to stop and penalise individuals for such behaviour.”

2 Ibid.
Main Provisions

Purpose
The Bill provides that its purpose "is to provide for greater safety of road users by prohibiting the washing of vehicles in a manner that may be unsafe, that may intimidate or cause a nuisance to any person, or may cause an obstruction to vehicles" (Clause 3 of the Bill, the "purpose clause").

Rules concerning road user behaviour
Section 153 of the Act provides that without limiting the general power to make rules under Section 152, "ordinary rules" (i.e. for general application in contrast to emergency rules) may:

- set out standards and requirements concerning road user behaviour, including standards and requirements concerning the conduct of drivers, pedestrians, and other persons using roads;
- regulate traffic of all classes (including vehicular, pedestrian, and animal traffic), and prohibit traffic or a class of traffic, either absolutely or conditionally, on a specified road or specified class of road;
- set out standards and requirements concerning the use of vehicle safety equipment by drivers, and passengers in or on vehicles;
- regulate the movement of animals on roads.

The Bill provides that ordinary rules may also be made to "regulate or prohibit road user behaviour that poses a safety hazard, threat of a safety hazard, or nuisance to any other road user" (Clause 4(2) amending Section 153 of the Act by inserting new paragraph (ei)).

Washing of vehicles
The Bill provides that a road user must not use a road to wash or offer to wash a vehicle, or any part thereof, in a manner that may be unsafe, that may intimidate or cause a nuisance to any person, or may cause an obstruction to vehicles (Clause 5, inserting new part 12 of the Land Transport (Road User) Rule 2004, new clause 12.1 ("Washing of vehicles")).

Offence and penalty
The Bill prescribes for the offence described above an infringement offence with the infringement fee for an individual being the sum of $150 and the maximum penalty on conviction for an individual being the sum of $1,000 (Clause 6 amending the Land Transport (Offences and Penalties) Regulations 1999 to provide penalties for committing an offence of washing vehicles in certain circumstances created by new part 12 of the Land Transport (Road User) Rule 2004, new clause 12.1 ("Washing of vehicles")).
Land Transport (Vehicle User Safety) Amendment Bill
Member's Bill

Explanatory note

General policy statement
The washing of vehicle windows has been a long-running problem in parts of New Zealand where motor vehicle users have been subjected to intimidation and safety hazards caused by groups of people soliciting money in exchange for washing car windows.

Some local authorities have attempted to stop this practice by way of a bylaw; however, the legislation enabling a local authority to create bylaws does not generally allow a local authority to make offences against a bylaw an infringement offence. By making the washing of vehicles in a way that is unsafe, intimidating, or causing a nuisance an infringement offence, enforcement authorities will have greater ability to stop and penalise individuals for such behaviour.

This Bill proposes using the existing infringement regime established under the Land Transport Act 1998, which is well known to the New Zealand Police, by amending that Act, the Land Transport (Road User) Rule 2004, and the Land Transport (Offences and Penalties) Regulations 1999, to put in place an enforcement regime against window washing.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 provides that the Bill comes into force on the day after the date on which it receives the Royal assent.

Clause 3 provides that the purpose of the Bill is to provide for greater safety of road users by prohibiting the washing of vehicles in certain circumstances.

Clause 4 amends the Land Transport Act 1998 to provide for the Minister of Transport to make rules to regulate or prohibit road user behaviour that poses a safety hazard, threat of a safety hazard, or nuisance to any other road user.
Clause 5 amends the Land Transport (Road User) Rule 2004 to provide that a road user must not use a road to wash or offer to wash a vehicle, or any part thereof, in a manner that may be unsafe, that may intimidate or cause a nuisance to any person, or may cause an obstruction to vehicles.

Clause 6 amends the Land Transport (Offences and Penalties) Regulations 1999 to provide penalties for committing an offence of washing vehicles in certain circumstances.
Jami-Lee Ross

Land Transport (Vehicle User Safety) Amendment Bill
Member’s Bill

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Part 12

Washing of vehicles

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The Parliament of New Zealand enacts as follows:

1 Title
This Act is the Land Transport (Vehicle User Safety) Amendment Act 2016.

2 Commencement
This Act comes into force on the day after the date on which it receives the Royal assent.

3 Purpose
The purpose of this Act is to provide for greater safety of road users by prohibiting the washing of vehicles in a manner that may be unsafe, that may intimidate or cause a nuisance to any person, or may cause an obstruction to vehicles.
4 Amendment to Land Transport Act 1998
(1) This section amends the Land Transport Act 1998.
(2) After section 153(d), insert:
   (e) regulate or prohibit road user behaviour that poses a safety hazard, threat of a safety hazard, or nuisance to any other road user.

5 Amendment to Land Transport (Road User) Rule 2004
(1) This section amends the Land Transport (Road User) Rule 2004.
(2) After clause 11.19, insert:

Part 12
Washing of vehicles

12.1 Washing of vehicles
A road user must not use a road to wash or offer to wash a vehicle, or any part thereof, in a manner that may be unsafe, that may intimidate or cause a nuisance to any person, or may cause an obstruction to vehicles.

6 Amendment to Land Transport (Offences and Penalties) Regulations 1999
(1) This section amends the Land Transport (Offences and Penalties) Regulations 1999.
(2) In Schedule 1, under the heading “Land Transport (Road User) Rule 2004 (61001):”, after the item relating to clause 11.17, insert:

12.1 Washing of vehicles 1,000 — 150 —
The following is the submission of Whangarei District Council (WDC) to the Land Transport (Vehicle User Safety) Amendment Bill (the Bill).

**Submission**

Having reviewed the Bill, WDC makes the following comments and recommendations:

- WDC supports the proposed approach of the Bill, which is to "put in place an enforcement regime against window washing".

- Historically, most complaints about window washing in the Whangarei District relate to four State Highway intersections within the urban areas of Whangarei. These areas are under the control of the NZTA rather than WDC. Complainants to Council have expressed extreme frustration at 'being given the runaround' regarding which authority to make a complaint to. Understandably, the complainants do not care under whose control the road in question is. The Bill, if enacted, would provide a clear and consistent message and approach for all affected parties; local authorities, the New Zealand Transport Agency, New Zealand Police and concerned community members.

- WDC agrees that the current regulatory tools available to local authorities are very limited and that an infringement regime (the ability to issue 'instant fines') would allow for a more immediate and less costly approach in addressing the problem, when and if it occurs.

- WDC considers the Bill may however have unintended consequences. As currently worded, individuals who are washing their own cars outside their property, but on the road reserve, may be inadvertently captured.

- WDC is concerned that the enforcement of the rule may be problematic in that there may be a requirement to prove that the activity was undertaken ‘in a manner that may be unsafe’, ‘may intimidate or cause a nuisance’ or ‘may cause an obstruction’. This requires judgement to be made by the enforcement officer. WDC requests that the standard be an objective one rather than a judgement and requests serious consideration of the wording of the proposed Rule.

- The matter raised in the Bill provides an example of problems councils often experience. Many community members have complained that WDC is not appropriately or sufficiently enforcing our current bylaw clause on window washing. Currently the only enforcement mechanism available to
Council is prosecution. During the first reading of the Bill, it was highlighted to Parliament that a typical fine for window washing prosecution is $200 to $400 but that the cost to local authorities for taking the prosecution can be up to $5000. This creates a considerable disincentive to taking enforcement action. If council is to be fair and consistent, then we would need to prosecute all offenders. The costs to ratepayers of doing so quickly mount up and become difficult to justify based on the harm caused by window washers. Such financial imbalances are not dissimilar for prosecutions taken on other bylaw matters.

Many councils find it extremely difficult to find a balance between the cost to the community for a prosecution, against the community’s desire to see appropriate enforcement of their bylaws. Noting that bylaws are generally developed in response to perceived problems raised by; and after formal consultation with; our communities. There is a clear expectation that when a bylaw is being breached, councils can, and should, take timely action to stop the breach occurring.

Having certain matters included in bylaws creates an expectation of the community that the problem will cease to exist, or at least be significantly reduced, through associated enforcement actions. It could be argued that it may be preferable to have no bylaw clause on a matter, rather than to create community expectations that a problem can be effectively addressed through day to day enforcement activities.

The Bill proposes a mechanism, within the existing legislative environment, which would allow infringement offences to be issued by the New Zealand Police.

In researching the identified problem of window washing, WDC staff identified that a solution may be found in Rule 11.6 of the Land Transport (Road User) Rule 2004. The Rule states:

“A pedestrian or rider of a mobility device or wheeled recreational device must not remain on the roadway, including a pedestrian crossing or school crossing point, longer than is necessary for the purpose of crossing the roadway with reasonable dispatch.”

The associated offence and penalty is set out in the Land Transport (Offences and Penalties) Regulations 1999. Schedule 1 of the Regulations provides that upon summary conviction for a breach of Rule 11.6, a person is liable to a maximum fine of $35.

WDC strongly recommends that in giving consideration to the Bill, this should include a clear focus on the intended practical outcome(s) of any amendments. This is to ensure they will be ‘fit for purpose’, will not result in significant costs in undertaking enforcement activities, and will provide our communities with confidence that their concerns can be effectively addressed.

This submission was approved by a resolution of Council at the Council meeting held on 25 May 2017.

WDC is happy to be heard in support of this submission if that would assist the committee.
5 Local Government Chief Officers Group Conference

Reporting officer: Her Worship the Mayor Sheryl Mai
Date of meeting: 25 May 2017

1 Purpose

The purpose of this report is to advise the Chief Executive will be attending the Local Government Chief Officer’s Group Conference 5 – 7 July 2017.

2 Recommendation/s

That Council notes the Chief Executive is to attend the Local Government Chief Officer’s Group Conference in Adelaide for the period 5 to 7 July.

3 Background

The Local Government Chief Officer’s Group Conference is being held over three days, 5 to 7 July in Adelaide.

In consultation with the Chief Executive, the Chief Executive Review Committee recommend the Chief Executive attend the conference.

4 Considerations

4.1 Financial/Budget

Council has an annual budget for professional training and development.

4.2 Significance and engagement

The decisions or matters of this report do not trigger the significance criteria outlined in Council’s Significance and Engagement Policy, and the public will be informed via report publication on the website.
6 Future Management of Maungakaramea Recreation Reserve

Reporting officer: Aubrey Gifford
Date of meeting: 25 May 2017

1 Purpose

To determine the Whangarei District Council’s involvement on the future of the Maungakaramea Recreation Reserve.

2 Recommendation

That Council agrees to the vesting of the Maungakaramea Recreation Reserve in the Whangarei District Council.

3 Background

Crown acquisitions for public reserves in Maungakaramea began in the early 1920’s. The front part of the reserve was acquired in about 1953, and the rear part of the reserve was vested upon subdivision in 1982. This latter addition to the reserve was subsequently classified Recreation Reserve, and the Maungakaramea Recreation Society Incorporated, (the Society) duly appointed to control and manage the reserve in October 2010.

This land is Crown Land administered by the Department of Conservation (DOC).

The Whangarei District Council (Council) acquired an additional area of 2699 square metres in 2009. This land remains in Council ownership.

4 Discussion

The Maungakaramea Recreation Reserve (the Reserve) is an area of approximately 5.6 hectares, and comprises the equivalent of 4 grass sportsfields (2 cricket ovals in summer) an artificial surface for courts sports and hockey training, two club buildings, and the community hall.

The Society wants to have more formal arrangements for managing other users and tenants on the reserve. There are no formal leases for these tenants (the Sports Complex, Mid Western Rugby being the main ones). Hence there are no specific conditions in place to assist the Society in managing the Reserve, especially when a contentious issue may arise.
The Society would like to be able to formalise the arrangements with the current tenants by offering sub-leases under the Reserves Act which the Council can facilitate. The Council can also formalise a head lease under the same act for the Society. These leases can then highlight clearly the responsibilities of the parties so that there is no argument over who must do what.

Under DOC’s administration, any such agreements would have to be issued as concessions under the Conservation Act.

The Council currently has no responsibility regarding the administration of the Reserve.

4.1 Financial/budget considerations

The Council does provide assistance to the Society by way of grants. Current grants to the Society are:

- Community Halls Maintenance Grant (current year $4,385, max. $5000).
- Resident and Ratepayer Administration grant ($700 per year).
- Rural Mowing Grant ($7,000 per year).
- Sportsfield Renovation Operations through the Sportspark Maintenance Contract (variable but up to $5000 per year).

Staff foresee a continuation of the current situation where the Society would continue to control and manage, utilising the existing assistance given by the Council. There will be some financial implications for the Council in an administrative role, but this should be only relatively minor, particularly after the original leases are in place.

Coming under the Council’s administration does open more external funding opportunities to the Society, and Council may be asked in the future to assist with seed funding for development. Staff are not aware of any planned development at this point in time.

4.2 Procedure

The Society has resolved to request that DOC vest the Reserve in the Council. It sees that the provision of sports parks is a core business of the Council, and says it will widen the scope when seeking external funding for future development. They consider that it will also simplify administration for the Society.

The letter from the society requesting the vesting was sent to DOC in August last year, and the Society has received a reply from DOC’s Senior Manager for Statutory Land Management, Mr Ashbridge, saying that vesting is the preferred option as this would confer leasing powers on the Council. (See attachment). The other option noted in the letter is for DOC to appoint the Council to control and manage the Reserve, but this option will not enable the Society to achieve the control it seeks.

Mr Ashbridge forwarded the letter also to DOC’s Whangarei Operations Manager, requesting that he discuss the management issues with Council Staff and obtain the Council’s agreement to accept the vesting of the Reserve.

Staff have met with DOC representatives in Whangarei, the Chairman of the Society and Councillor Deeming recently. At that meeting the issues were outlined as above, and the DOC officers acknowledged that the Recreation Reserve was not their core business and that they would support the vesting of this reserve in the Council. They also said they would recommend that the costs associated with the process would be covered by DOC.

DOC has now asked for Council to accept the vesting. If the recommendation is adopted, then DOC will proceed to implement the vesting by the statutory process required.
5 Significance and engagement

The decisions or matters of this Agenda do not trigger the significance criteria outlined in Council’s Significance and Engagement Policy, and the public will be informed via Agenda publication on the website or Council News.

6 Attachments

Letter from DOC to the Society dated 2 September 2016.
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2 September 2016

Maungakaramea Recreation Society Inc
PO Box 114
Maungakaramea Postal Centre
NORTHLAND

Attention: Craig Gurr

Dear Craig

FUTURE MANAGEMENT OF MAUNGAKARAMEA DOMAIN

I refer to your letter of 11 August 2016 advising of difficulties the Society is having in managing the Maungakaramea Domain; and requesting that consideration be given to having the reserve vested in the Whangarei District Council.

There are several reserves in the same category as Maungakaramea, and some years ago the Department approached Council with a proposal that administration be transferred to the Council, as we consider it appropriate that such reserves, containing local community assets (halls, sports grounds, recreational facilities) be managed by Council; particularly in situations where the facilities are directly associated with the social and cultural activities of the local community.

The transfer of administration to Council may be either by way of a vesting under section 26 of the Reserves Act, or by an appointment to control and manage under section 28 of the Act; vesting being the preferred option as this confers ownership, and leasing powers.

I am forwarding your letter to Geoff Woodhouse, our Operations Manager at Whangarei, with a request to discuss the management issues with Council staff; and hopefully obtain Council’s agreement to accept either the control and management or vesting of the reserve.

Thank you for bringing the situation to our attention.

Yours faithfully

Barry Ashbridge
Senior Advisor (Statutory Land Management)
Hamilton Office
DDI (07) 8581051
Email: bashbridge@doc.govt.nz

Department of Conservation - Te Puna Atawhai
Private Bag 3072, Hamilton 3240
Telephone (07) 858-1090

DOCOM-2865503
Recommendation for extension of contract – CON12006: Chip seal and Asphaltic Resurfacing

Reporting officer: Kevin Barry (Roading Projects Engineer)
Date of meeting: 25 May 2017

1 Purpose

To extend the contract period for the Chip seal and Asphaltic Resurfacing contract (CON12006) and to increase its contract value.

2 Recommendation

That Whangarei District Council;

a) approves the extension of the Chip seal and Asphaltic Resurfacing contract (CON12006) for a further 12 months from 1 July 2017 to 30 June 2018; and

b) approves the contract value to be increased by the sum of $4,200,000 bringing the total contract value to $23,081,318.31 (excluding GST).

3 Background

The contract involves resurfacing with chip seal and asphalt covering the entire Whangarei District Council (WDC) sealed network.

The contract was let for an initial three-year period in 2012 and makes provision for extending after three years for a further two years (1+1). The second of the one year extensions were approved by Council in August 2016.

NZ Transport Agency (NZTA) has approved the extension of the WDC maintenance and resurfacing contracts for a sixth year from 1 July 2017 to 30 June 2018, to allow for the Northland Transport Alliance (NTA) to develop a new procurement strategy and a plan on how maintenance contracts can best be delivered in Northland for future years.

Performance appraisals have also been conducted throughout this contract period by Council staff in accordance with the contract specifications. The Contractor, Downer NZ Ltd, achieved a satisfactory performance rating and have advised Council that they wish to have the reseals contract extended for a further one year.

On this basis, it is recommended that Downer NZ Ltd be granted a one year extension of the existing Chip seal and Asphaltic Resurfacing contract until 30 June 2018.
4 Financial Authority

Council issues a financial authority to spend up to the value of the tendered sum when awarding a contract. If that financial authority is exceeded, then staff are required to return to council to have the contract reapproved for a new or additional financial authority to cover the remaining obligations of the contract.

The current approved value for Contract 12006 (Chip seal and Asphalitic Resurfacing) will be exceeded before the end of this financial year due to additional works undertaken for the Parks Department under this contract. As a result, additional funding has been included in this variation request to cover contract payments to the end of this financial year (2016/17). This additional funding will be provided by the Parks Department.

If Council approves the roll over as requested, then the final value of this contract, including the additional values detailed above, will increase by $4,200,000 (excluding GST). This amount is broken down as follows ($4,000,000 for Chip seal and Asphalitic Resurfacing for the 2017/18 financial year + $200,000 for the resurfacing of carparks for the Parks Department for the 2016/17 and 2017/18 financial years).

The current approved contract value for Contract 12006 is $18,881,318.31 (excluding GST). These contracts are measure and value contracts and the actual payments to the contractor are based on the quantity of works completed at the tendered schedule of rates.

These works are completed within the council’s approved budget and NZTA subsidy funding in any one year.

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<td>Current approved value of the contract (5 years)</td>
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<td>One year extension (including carparks for Park Dept)</td>
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<td>The proposed new value of this contract</td>
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5 Significance and Engagement

The decisions or matters of this Agenda do not trigger the significance criteria outlined in Council’s Significance and Engagement Policy.
RESOLUTION TO EXCLUDE THE PUBLIC

That the public be excluded from the following parts of 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 are as follows:

1. The making available of information would be likely to unreasonably prejudice the commercial position of persons who are the subject of the information. {Section 7(2)(c)}

2. To enable the council (the committee) to carry on without prejudice or disadvantage commercial negotiations. {Section 7(2)(f)}.

3. To protect the privacy of natural persons. {Section 7(2)(a)}.

4. Publicity prior to successful prosecution of the individuals named would be contrary to the laws of natural justice and may constitute contempt of court. {Section 48(1)(b)}.

5. To protect information which is the subject to an obligation of confidence, the publication of such information would be likely to prejudice the supply of information from the same source and it is in the public interest that such information should continue to be supplied. {Section 7(2)(c)(i)}.

6. In order to maintain legal professional privilege. {Section 2(g)}.

7. To enable the council to carry on without prejudice or disadvantage, negotiations {Section 7(2)(l)}.

Resolution to allow members of the public to remain

If the council/committee wishes members of the public to remain during discussion of confidential items the following additional recommendation will need to be passed:

Move/Second

"That permitted to remain at this meeting, after the public has been excluded, because of his/her/their knowledge of Item .

This knowledge, which will be of assistance in relation to the matter to be discussed, is relevant to that matter because ."

Note:

Every resolution to exclude the public shall be put at a time when the meeting is open to the public.