

# APPENDIX 2: POLICY ON THE FUNCTIONS AND ROLES OF COUNCIL AND COMMUNITY BOARDS

## 1. PURPOSE

This policy outlines the purpose and functions of Council and Community Boards, and how the two will work together to serve and strengthen all communities in Hutt City in order to achieve the outcomes identified as a priority for their future well-being and to create a better City.

## 2. PREAMBLE

2.1 The Council acknowledges the purpose of local government as set out in the Local Government Act 2002 (LGA), namely:

- to enable democratic local decision-making and action by, and on behalf of, communities; and
- to meet 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.

Good quality, in relation to local infrastructure, local public services, and performance of regulatory functions, means infrastructure, services and performance that are:

- efficient;
- effective; and
- appropriate to present and anticipated future circumstances

2.2 The Council acknowledges that its statutory role, as set out in the LGA 2002, is to:

- give effect to the above purposes, in relation to the local authority's district or region.<sup>1</sup>

2.3 The Council acknowledges that the LGA states that the local authority must act in accordance with the following principles:

- conduct its business in an open, transparent, and democratically accountable manner

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<sup>1</sup> Section 11

- give effect to its identified priorities and desired outcomes in an efficient and effective manner:
- make itself aware of, and have regard to, the views of all of its communities
- take account of:
  - I. the diversity of the community, and the community's interests, within its district or region
  - II. the interests of future as well as current communities; and
  - III. the likely impact of any decision on the interests referred to in subparagraphs (i) and (ii) above:
- provide opportunities for Māori to contribute to its decision-making processes
- collaborate and co-operate with other local authorities and bodies as it considers appropriate to promote or achieve its priorities and desired outcomes, and make efficient use of resources
- undertake any commercial transactions in accordance with sound business practices by periodically:
  - I. assessing the expected returns to the authority from investing in, or undertaking, a commercial activity; and
  - II. satisfying itself that the expected returns are likely to outweigh the risks inherent in the investment or activity
- a local authority should ensure prudent stewardship and the efficient and effective use of its resources in the interests of its district or region; and
- in taking a sustainable development approach, a local authority should take into account:
  - I. the social, economic, and cultural interests of people and communities; and
  - II. the need to maintain and enhance the quality of the environment; and
  - III. the reasonably foreseeable needs of future generations

2.4 The Council acknowledges the role of a Community Board as set out in the Act, which is to:

- a) represent and act as an advocate for the interests of the community
- b) consider and report on all matters referred to it by the territorial authority, or any matter of interest or concern to the community board
- c) maintain an overview of services provided by the territorial authority within the community
- d) prepare an annual submission to the territorial authority for expenditure within the community
- e) communicate with community organisations and special interest groups within the community
- f) undertake any other responsibilities that are delegated to it by the territorial authority

**The Council therefore recognises the following functions and roles:**

2.5 Councillors are elected to Council to govern the affairs of the City and the interests of all the city's residents.

2.6 Community Boards are elected to represent the resident communities and business communities of their specific community.

2.7 The role of Council therefore, is to exercise its role of governance for all electors of the city. In matters affecting individual communities however, the Council will:

- Delegate to Community Boards those decision-making functions expressly prescribed under the LGA;

- Delegate to Community Boards other decision-making functions, which may properly be identified as the province of a specific community;
  - Entrust to Community Boards the oversight of specific functions or projects, which are, or should be, the exclusive concern of a specific community;
  - Recognise that the recommendations made to the Council by Community Boards, represent the views of the local community. The Council will accord such recommendations consideration and respect and will not, in the matters which affect a specific community, without good cause, override the recommendations of a Community Board.
- 2.8 Councillors appointed to Community Boards are full members of the Community Board, and sit on the Community Board as a Community Board member, not a Councillor.
- 2.9 In matters which affect communities, the views of the community will be represented to the Council by the chair of the Community Board, or a designated deputy. The Council will ensure that in all matters of procedure and process, including standing orders, the ability of communities and Community Boards to represent their views to Council is facilitated.
- 2.10 The Council will ensure that the CEO is provided with all the necessary resources to support the efficient functioning of Community Boards, as is required under the provisions of the Act.
- 2.11 In carrying out its role and responsibilities Council operates within the following parameters:
- Council is charged under the Local Government Act with making decisions for the benefit of the whole city.
  - Council will from time to time be required to make decisions with which individual communities may disagree.
  - Council is bound by the Local Government Act in terms of how, when and with whom it consults.
  - Council can legitimately form its own view on the preferences of communities within the city and may choose to undertake its own consultation with those communities.
  - Council and Community Boards are bound to follow statutory processes, even where those vary with community expectations.

### 3. ENSURING THE EFFECTIVE OPERATION OF THIS POLICY

- 3.1 In accordance with Section 38, Schedule 7, Part 2 of the LGA Council will ensure that the CEO is provided with adequate resources to ensure the effective implementation of this policy.

## 4. EXPLANATORY NOTE: ROLE AND RESPONSIBILITIES OF COUNCIL, WARDS, COMMUNITIES AND REPRESENTATION

### 4.1 Role of Council

The role of a Council is set out in section 11 of the Local Government Act, and is to:

- Give effect in relation to its district or region, to the purpose of local government stated in section 10 of the Act;
- Perform the duties and exercise the rights conferred on it by or under the Act and any other enactment.

The function of Councillors is to ensure that that role is carried out. The manner in which they are to carry out those functions is set out in the oath of office, namely:

“...faithfully and impartially, and according to the best of my skill and judgement, execute and perform, in the best interests of [region or district], the powers, authorities, and duties vested in, or imposed upon, me as [mayor or chairperson or member] of the [local authority] by virtue of the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, or any other Act”.

#### 4.2 Responsibilities of Council

In carrying out its responsibilities Council:

- is bound by the Resource Management Act in the formulating the District Plan and processing resource consents.
- is bound by the Building Act in processing building consents.
- is bound by the Rating Act in how it sets and collects rates.
- must balance heritage, development and private property rights when developing and reviewing policies and plans under the Resource Management Act.

#### 4.3 Wards

The manner in which a person is elected to a Council is set out in the Local Electoral Act.

Representation must be fair and effective, and a means of achieving this is to divide the local authority district into area, or wards, such that each Councillor is elected by a roughly equal number of electors.

A Councillor is therefore elected primarily to exert governance in the best interests of the city. Although the Councillor may have been elected by the electors of the ward, any role as a representative of the ward is secondary. The primary responsibility is to the city, not to the ward.

#### 4.4 Communities

Although the word “community” is used very extensively throughout the Local Government Act, its use is very varied and broad. To all intents and purposes the word is left without definition, except for one specific place, where Schedule 6 allows for the constitution of a “community” and such a “community” may elect a Community Board.

The Local Electoral Act however is very specific, and states that for it a “community” means a community constituted under Schedule 6 of the LGA. A ward is not a community. A ward is an electoral device.

#### 4.5 Representation

The LGA is clear that the role of a Councillor is to look after the affairs of the whole city, and the role of a Community Board is to represent the interests of its community.

To put this another way, the role of the Councillor must be city-focussed and the role of the Community Board member must be community-focussed. A Councillor may be appointed to a Community Board and will operate as a full member of that Community Board. But that Councillor does not represent the Council on the board. Equally, the appointed Councillor does not represent the Community Board at the Council table. The role of the appointed Councillor is best explained as one of information intermediary: bringing a broader city-wide perspective to the Community Board, and conveying local community perspective to the Council table.