

27 October 2023

Mayor and Councillors

Kaipara District Council
Private Bag 1001
Dargaville 0340

Cc Chief Executive, Kaipara District Council

Request for Council to revoke its decision to cancel the Council's emission accounting contract and to stop development of Kaipara's climate policy

1. Following the presentation made on behalf of Lawyers for Climate Action New Zealand Inc ('LCANZI') in Public Forum at the Kaipara District Council's meeting on 25 October 2023, LCANZI would like to make its position clear by way of this letter.
2. LCANZI is a non-profit group of over 300 lawyers. We advocate for legislation and policies to ensure Aotearoa New Zealand meets or exceeds its commitment under the Paris Agreement to achieve net zero carbon emissions as soon as possible and no later than 2050.

(1) Background

3. First, we would like to acknowledge the significant work and leadership of the Kaipara District Council ('Council') on climate mitigation and adaptation over the years. In particular, we would like to acknowledge:
 - the then Mayor, Dr Jason Smith, signing the Local Government Leaders' Climate Change Declaration in 2017, supporting the urgent need for responsive local leadership to climate change. [Link](#)
 - then through its 2021-2031 Long Term Plan (LTP), the work of the Council to thoroughly consider the significant challenge of climate change to the Kaipara district and the identification of "Climate Smart" as one of six community outcomes.
 - the LTP noted that a changing climate will affect Kaipara's natural environment, its places of work and local economy, health and wellbeing, cultures as well as homes, properties, and wider communities.
 - the LTP 2021-2031 laid out the foundational steps to meet the 'Climate Smart' outcome through a range of mitigation and adaptation services
4. 60% of submissions to the LTP supported baseline funding of \$1.5M over 10 years of the climate programme. The LTP recognised legislation setting out obligations regarding climate change, such as the Resource Management Act 1991 and the Climate Change Response Act 2002.
5. In 2019, the Council began the process of measuring its organisation and district-wide emissions footprint.
6. In 2021, the Council decided to adopt corporate emissions reduction targets: to I. Reduce corporate net emissions by 30% by 2031, compared to 2018-2019 baseline; and II. Reduce corporate emissions to net zero by 2050.

7. In 2021, the Council approved the *Kaipara Ki Tua: Climate Smart Strategic Framework*.
8. In its Annual Plan 2022/2023, Council directed the staff to: • Develop a Climate Action plan • Work with the community to understand the implications of coastal hazards, • Establish and operate a Ruawai/Raupō adaptation planning community panel, and carry out Council's annual GHG emissions accounting and reporting requirements.
9. Again, as recently as 28 June 2023, when the Council adopted its Annual Plan 2023/2024, it reaffirmed the climate programme of work.

(2) Notice of Motion

10. However, more recently, at its meeting on 27 September 2023, the Council considered a Notice of Motion from Deputy Mayor Jonathan Larsen and made a decision: (a) requesting that the Chief Executive cancel the Council's emission accounting contract and stop development of Kaipara's climate policy.
11. The reasons given for the Notice of Motion were that: (1) there is no statutory requirement to carry out either of these activities; (2) the activities do not deliver any tangible benefits to Kaipara ratepayers; (3) the funds would be better spent on projects that will deliver tangible benefits.

(3) Decision-making under the Local Government Act 2002 and the Notice of Motion (27 September 2023)

12. LKANZI is very concerned that the decision of 27 September 2023 is significantly inconsistent with the Council's 2021-2031 Long Term Plan (LTP) and Annual Plan 2023/2024, both in terms of the decision itself and the reasons given for the decision.
13. The decision is also contrary to the decision-making requirements set out in sections 76 to 81 of the Local Government Act 2002 and the Council's Significance and Engagement Policy. There is especially the need for community consultation when making a decision that is significantly inconsistent with the LTP.
14. We are very concerned that the decision made through the Notice of Motion on 27 September 2023 places the Council at considerable risk of legal challenge (for example, by way of judicial review or perhaps by way of a complaint to the Auditor-General).

(4) Recommendation

15. As a consequence, LKANZI recommends that the Council seriously reconsider the decision.
16. We strongly suggest the Council consider revoking the decision in accordance with clause 24 of the Council's Standing Orders to avoid the risk of legal challenge. This can be done by way of a Report from the Chief Executive - or an elected member can move revocation of the decision at the next Council meeting.

Yours sincerely,



Dr Grant Hewison
Lawyers for Climate Action New Zealand Inc