

REPORT

TO: GB Community Board
FROM: Chairperson
REFERENCE: E855
DATE: 1st November 2008
SUBJECT: Report for 11th November 2008 meeting

Activities, meetings and events over the past month have included:

1 October: Annual Plan/LTCCP Review Community meeting Collingwood

2 October: Annual Plan/LTCCP Review Community meeting Onekaka

3 October: Agenda setting for 14 October Community Board meeting

4-8 October: On leave

9 October: Visited new Murchison Recreation Centre - Shown around by Andrew Dodge. A most impressive facility which should stand the community in good stead for many years. The river theme mural is a most impressive acknowledgment of contributors.

9 October: Annual Plan/LTCCP Review Community meeting Upper Takaka

10 October: Annual Plan/LTCCP Review Community meeting East Takaka

14 October: Community Board Meeting, Takaka

15 October: Annual Plan/LTCCP Review Community Meeting, Pohara

16 October: Annual Plan/LTCCP Review Community Meeting, Pakawau

17 October: Attended the official opening of the new Heartlands Office, Takaka

17 October: Visited the new walkway and plantings on Rototai Road. Also observed intersection of Rototai Road and Arapeta Place. The speed limit of this section of Rototai Road needs to be reduced to 50kmph.

17 October: Attended the opening of the new Golden Bay Kindergarten in Takaka

21 October: Attended presentation of an RSA Gold Star Award to Barry Pomeroy. Spoke as a representative on behalf of the wider community congratulating Barry on his Award.

22 October: Attended DoC Community Forum Takaka - DoC updated included:

- Totaranui Homestead (Ngarata) 70% of interior restored to pre-1930 specifications.
- Te Waikoropupu Springs Management Plan – Hearing of submissions early November.
- Abel Tasman aerial possum control due soon.
- Considerable windfall damage inflicted on Heaphy, Boulder Lake, Kaituna and Abel Tasman tracks during the August storm.
- New bridges at Awaroa and Totaranui.

Agenda items included:

- Species of a Spleenwort Fern, believed extinct, recently rediscovered, photograph for identification purposes requested.
- An analysis of political party positions on Conservation urged for informed decision-making by voters.
- Fencing of Puponga Historic Pits – DoC Historian checking value for fencing.
- Cobb hinterland trap lines extended by Friends of the Cobb volunteers.
- Abel Tasman National Park Management Plan signed off and will shortly become the legal document.
- Kaihoka Lakes car park extension to be investigated.
- Government funding for road maintenance to conservation land supported.
- White bait sock nets and stands - review of whitebait regulations not currently planned.

22 October: Community Board Workshop prioritising items raised on the Annual Plan/LTCCP Review during the eight community meetings and compiling a separate list of maintenance items.

24 October: Met with Braedan Lobb, Montgomery Watson Harza and Kevin Bruning, Fulton Hogan and discussed maintenance items from Community meetings and identified those under action and those needing programming; subsequently forwarded amended list to TDC.

25 October: Attended Community Fireworks Display Collingwood. Evening had to be curtailed due to safety concerns as a result of worsening wind conditions.

26 October: Attended Bay Art Exhibition Takaka. Another wonderful display of talent across many artistic forms and materials. Congratulations are due to all participants and prize winners.

ISSUES

Annual Plan

The eight community meetings have been held and the issues raised considered and prioritized by the Board and forwarded to the Tasman District Council.

Undertaking this work is one of the key roles of community boards under s52 (d) of the Local Government Act 2002.

It was disappointing to read reported comments from the Tasman District Council Chief Executive Officer in the Nelson Mail of October 27 regarding a Community Board submission to the Annual Plan/LTCCP. Our Board has been most mindful of the cost of community requests and has made thoughtful suggestions and also previous submissions as to where savings could be made. The submissions to the 2008-09 Annual Plan for cost savings were largely unsuccessful.

It is our role to compile community requests and submit these to Council for consideration.

Mayoral Contact

Richard Kempthorne has attended the last two Board meetings. We welcome his attendance and input and he has said that he has enjoyed attending 'two really good Golden Bay Community Board meetings.'

It was therefore a surprise to read in his report to Council for the 30 October meeting that 'the Golden Bay Board appears very sound.'

Our Board does not 'appear' to be anything. We are what we are and do what we do as elected community representatives openly and transparently without fear or favour by performing our duties conscientiously and diligently.

Present members have a combined Community Board service of 28 years.

I'm sure Richard would have found the other 42 Golden Bay Community Board formal meetings held over the past 4 years to have been similar in nature to the two that he has attended.

Burning of Plastics

A resident has called concerned about TDC policy which permits the burning of plastics. The caller referred to a Ministry of Health publication which advises the main way for Dioxin to be ingested is through the consumption of animal products particularly fat. Burning plastic is identified as one way whereby Dioxin is released into the environment.

It is therefore recommended:

“That the Golden Bay Community Board responds to concerns by writing to Tasman District Council and the Ministry of Health enquiring about a possible link between the burning of plastics and the concentration of Dioxin in animal fats and whether policy changes are required in order to mitigate this risk.”

Agenda Setting

There has been a request for Community Board agendas to be set 12 -14 days before a Board meeting. We have been successfully setting the agenda 8 days before each Board meeting and this has resulted in the necessary time-lines being met. Where an agenda setting day falls on a public holiday we do set the agenda earlier.

It is therefore recommended:

“That the Golden Bay Community Board continues to set the agenda for the Board meetings 8 days before the meeting date extending this where necessary to accommodate public holidays”.

Targeted Rate

Following the Local Government Commission confirmation that *“We are on record as saying we believe community boards are a part of governance structure for the district as a whole and therefore their administration should be funded across the district not just the community concerned. In order to ensure this, we believe a legislative amendment is necessary. We recommend Clause 39 of Schedule 7 be amended to clarify, for the purpose of funding the administrations of community boards, that the ‘general revenues’ of the district precludes the levy of targeted rates.”* and its subsequent recommendation that legislation be clarified, our Board wrote to the Tasman District Council Chief Executive Officer on 18 August.

Despite there being Council meetings in the interim the request wasn't raised before Council until 30 October. The Agenda and Chief Executive Officer report on the issue was not received by me until 29 October.

I am advised that the report was not accessible on the TDC website until 29 October either. This provided very little time or opportunity to consider it as intended by Standing Order 2.15.8.

The report contains several errors of fact including a misquote of the LGC recommendation. An e-mail was sent to Council via Cr Riley which included the following....

"Dear Noel, I have this evening (29 October) received the Agenda for the Full Council meeting to be held tomorrow 30 October. On reading the staff report regarding requests to rescind the targeted rate on communities with Community Boards there are some matters of fact which are incorrect and need to be drawn to the attention of Councillors.

As a Golden Bay Ward Councillor would you please advise Council of the following comments on the Report prior to any decisions being taken.

The headings used are those used in the Report.

Background

As previously raised, the legal opinions used by Council are flawed. i.e.

- 1) The opinion of Fletcher Vautier and Moore failed to cover the provisions of the LGA 2002 Schedule 7 Clauses 38 and 39 1), 2) and 3) at all. The opinion is therefore grossly deficient. Both the Rating Act and the Local Government Act **must** be considered in concert.
- 2) The opinion of Simpson Grierson obtained by Marlborough District Council when it sought to counter efforts by Picton residents to establish a Community Board there, attempts to adopt a definition of 'General Revenues' into the LGA 2002 which is not there and which it is not entitled to do. Their opinion is flawed from its item 3.3 onwards. I.e. We don't have a 'particular activity delegated to the Board' i.e. Takaka Firewells for which a targeted rate can be charged as per their definition.
- 3) Local Government Commission references have previously been quoted selectively in part when the whole of the references must be used in concert in order to gain a full understanding of their position.
- 4) The contrary legal opinion obtained by the Golden Bay Community Board from Warwick Heal, a most experienced Local Government Barrister, is not mentioned.

Local Government Commission

1) The Commission's Review of the LGA 2002 recommends that the law 'be clarified'. Another way to do this is through a Declaratory Judgment. Council has opposed 'clarification' whilst the Community Boards support it. The Report suggests that 'Local Government' would likely oppose clarification. Why? Justice opposed is justice denied.

2) It is to 'expressly preclude' NOT..... 'to express the preclude' As quoted in the Report.

The specific recommendation is:

"Clause 39 of schedule 7 to expressly preclude the levying of targeted rates for the purpose of funding the administration of community boards."

3) Community Boards serve the interests of the whole district through their efforts in the Wards. For example when we attend the TDC stand at the A& P Show we do so as representatives of TDC. The same when we serve on Hall and Reserve Committees. Our 'Badge of Office' states Tasman District Council as does our postal address.

4) According to the NZ Community Boards Executive and LGNZ **very few** councils impose a targeted rate on communities with community boards as a proportion not 'many' as attested in the Report. We are advised that the legality of this imposition has **never been tested**.

Legislation

With the LGC recommendation there has been a LGRA 2002 s119 c) 'change of circumstances' which now needs to be recognized.

Summary

Regarding the Annual Plan process, with respect, we tried to participate in the 2008 -09 Annual Plan round and despite a huge number of submissions including those offering clear reasons why a targeted rate should not be imposed on communities with community boards it is widely felt by submitters that those views remained unheard.

The just outcome would be for the decision to rate to be rescinded.

At the very least, the factual errors in the Chief Executive Officer's report need to be acknowledged and corrected before a factually based decision can be considered and made.

Time needs to be taken to ensure that this is done.

It is an indictment on Council that Cr Riley was the only one to vote against adopting the Chief Executive Officer's recommendation based on this report. It is therefore recommended:

"That the Golden Bay Community Board endorses sending a copy of the report together with a rebuttal of it to the Local Government Commission, Local Government New Zealand, The Society of Local Government Managers, The Office of Controller and Auditor General, The Office of the Ombudsmen and to the Executive of New Zealand Community Boards along with other agencies as may be deemed appropriate".

Positive Changes to the Building Act

Central Government has recently announced changes to the Building Act enabling minor works to be undertaken without building consent. It is therefore recommended:

"That the Golden Bay Community Board requests that Tasman District Council publicises through Newsline and Newsline Update advertisements the recent changes to the Building Act which have reduced the need for consents for minor building works."

'In Committee' Items

The Local Government Act 2002 requires that business be conducted in an open, transparent and publicly accountable manner (s14 (a) (i) refers).

Concern has been expressed about the increase in 'in committee' business being conducted by Council which precludes openness and transparency. For example the 27 August and 15 October 2008 Council Enterprises Subcommittee meetings were conducted almost entirely 'in committee'. This included consideration of the Chairman's and Managers Reports in the latter. Golden Bay has a direct interest in this sub-committee especially as pertains to Tarakohe Harbour. It is therefore recommended:

"That the Golden Bay Community Board raises concerns about the increase in 'in committee' business being conducted by Tasman District Council with Council and, if subsequently required, with other agencies."

Labyrinth Park

Following an on-site meeting by members of the Friends of the Labyrinth group on 2 November a request has been made for Reserves funding for a toilet and engineering funding for a culvert and some sealing for a car park area. It is therefore recommended:

“That the Golden Bay Community Board supports in principle a request from the Friends of Labyrinth Park for Golden Bay Reserves funding for establishing a toilet and also for the installation of a culvert and some sealing for a car park adjacent to the Park with a service request to council that these items be costed”.

Clifton Cemetery Reserve Suggestions

Following receipt of a letter from Chris Rowse, it is recommended:

“That the GB Community Board discuss the ideas raised by Mr Rowse with the Community Services Manager and Parks and Reserves Manager.”

Joe Bell