



Local Government (Kaipara District Council—Cancellation of By-elections) Order 2012

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 12th day of November 2012

Present:

His Excellency the Governor-General in Council

Pursuant to section 261 of the Local Government Act 2002, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following order.

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Order

1 Title

This order is the Local Government (Kaipara District Council—Cancellation of By-elections) Order 2012.

2 Commencement

This order comes into force on 13 December 2012.

3 Interpretation

In this order, unless the context otherwise requires,—

Act means the Local Government Act 2002

Council means the Kaipara District Council.

4 Background

(1) By notice in the *Gazette* on 6 September 2012, the Minister of Local Government,—

(a) acting under section 255 of the Act, appointed Commissioners to perform and exercise the responsibilities, duties, and powers of the Council; and

(b) acting under clause 15(5) of Schedule 15 of the Act, cancelled the next triennial general election for the Council to be held in October 2013; and

(c) acting under sections 255(1)(b) and 257 of the Act, called the next general election for the Council for 17 October 2015.

(2) On 6 August 2012 a member of the Council resigned, and on 29 August 2012 another member of the Council resigned.

(3) It is possible that there may be further resignations before the next general election of the Council to be held on 17 October 2015.

(4) The members of the Council continue to hold office despite the appointment of Commissioners, but they cannot perform or exercise the responsibilities, duties, or powers of the Council during the term of the Commissioners' appointment.

(5) The Local Electoral Act 2001 requires a by-election to be held if a member of a local authority resigns more than 12 months before the next triennial election for local authorities. However, that Act does not address the situation of an unfilled va-

cancy when Commissioners are appointed or of a resignation of a member of a local authority during the term of appointment of Commissioners.

- (6) The Act, under which the Commissioners have been appointed, provides in section 261(d) for the making of an Order in Council to make provision for a situation for which sufficient provision is not made by or under the Act.
- (7) It is considered that the Act does not make sufficient provision for a situation in which by-elections are pending when Commissioners are appointed or that may be required after the appointment of Commissioners.

5 Duty to hold by-elections during Commissioners' term of appointment cancelled

- (1) This clause applies to the duty under section 117 of the Local Electoral Act 2001 to hold an election if a vacancy occurs in the office of a member of a local authority.
- (2) The duty in relation to the Council is cancelled in respect of—
 - (a) any vacancy that was not filled when the Commissioners were appointed; and
 - (b) any vacancy occurring during the term of the Commissioners' appointment.

Michael Webster,
for Clerk of the Executive Council.

Explanatory note

This note is not part of the order, but is intended to indicate its general effect.

This order, which comes into force on 13 December 2012, cancels the duty under the Local Electoral Act 2001 to hold a by-election in respect of any extraordinary vacancy in the Kaipara District Council—

- that had not been filled when Commissioners were appointed on 6 September 2012; or

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Explanatory note

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- that arises during the term of the Commissioners' appointment.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 15 November 2012.

This order is administered by the Department of Internal Affairs.
