

Kaipara District Council (Validation of Rates and Other Matters) Bill

Local Bill

Explanatory Note

General Policy Statement

The Kaipara District Council (the **Council**) acknowledges that a number of irregularities occurred in the setting and assessing of rates in the financial years relating to 2006/2007 to 2011/2012 (inclusive). This has raised questions about the validity of those rates.

The rating irregularities related to the way in which the Council purported to set and assess the rates under the provisions of the Local Government (Rating) Act 2002 ("the Rating Act"). The types of irregularities included –

- a failure to set the rates on a basis that was authorised in the Rating Act; and
- a failure to assess some rates in accordance with section 43 of the Rating Act; and
- a failure to set the rates in accordance with the relevant provisions of the applicable funding impact statement; and
- a failure to include some of the rates or required rating information in the funding impact statement; and
- offering ratepayers the opportunity to elect to pay a targeted rate in relation to the Mangawhai EcoCare Sewerage Treatment Scheme on a basis similar to a lump sum contribution scheme under Part 4A of the Rating Act but without complying with that Part.

Some of the rates in question relate to the capital and operational funding of the Mangawhai EcoCare Wastewater Treatment Scheme.

In addition, the Council acknowledges that a number of other procedural irregularities occurred as follows:

- In the 2009-2019 long-term council community plan, the policy on development and financial contributions was intended to continue without alteration the 2006 development contributions policy in relation Mangawhai, but it is unclear that the provision effectively achieved this intention:
- a failure to adopt the 2010/2011 annual report within the timeframe specified by the Local Government Act 2002:
- a failure to adopt the 2012-2022 long-term plan within the timeframe specified by the Local Government Act 2002:
- a failure to meet some of the requirements for conducting the special consultative procedure for the long-term plan 2012-2022 as specified by the Local Government Act 2002:
- a failure to include some of the information in its rates assessments as specified by the Local Government (Rating) Act 2002 in the financial years relating to 2006/2007 to 2012/2013.

The Council considers that it is desirable to address the rating irregularities and legislation is the only means by which the rates can be validated and any penalties payable on any outstanding rates can be validated. The Council also considers that it is desirable to address the other irregularities that occurred with respect to the continuation of the development contribution policy in the 2006-2016 long-term council community plan in the 2009-2019 long-term council community plan, the late adoption of the annual report 2010/2011 and the long-term plan 2012-2022, the conduct of the special consultative procedure for the long-term plan 2012-2022, and the omission of some of the mandatory information in the rates assessments.

The objects of this Bill cannot be attained otherwise than by legislation

Clause by clause analysis

The *Preamble* describes the background to the Bill and sets out the objects of the Bill.

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.

Part 1

Preliminary provisions

Clause 3 states the purposes of the Bill.

Clause 4 defines certain terms used in the Bill.

Part 2

Validation and recovery of specified rates

Clause 5 validates the specified rates being the forest owners' roading impact rate, the Mangawhai uniform targeted rate, the Mangawhai uniform annual charge, the wastewater disposal rate, and water supply rate for Maungaturoto, Station Village for the 2006/2007, the 2007/2008, the 2008/2009, the 2009/2010, the 2010/2011, and the 2011/12 financial years, as the case may be.

Clause 6 validates the specified funding impact statements adopted by the Council being funding impact statements for the 2006/2007, the 2007/2008, the 2008/2009, the 2009/2010, the 2010/2011, and the 2011/12 financial years

Clause 7 validates all penalties added to any of the specified rates (as stated in the rates assessments and rates invoices).

Clause 8 declares all money received by the Council in payment of the specified rates and any penalties paid in respect of those rates to have been lawfully paid to, and received by, the Council.

Clause 9 provides that any part of the specified rates or any penalties payable in respect of those specified rates (by virtue of clause 6) that have not been paid to the Council on or after the commencement of this Bill are lawfully payable to the Council and may be recovered by the Council as if the rates or penalties had always been lawfully payable.

Clause 10 relates to the Mangawhai uniform targeted rate for the 2008/2009, the 2009/2010, and the 2010/2011 financial years. For these three financial years, ratepayers were invited to pay the targeted rate by a number of options. This invitation had characteristics of a lump sum contributions scheme under Part 4A of the Rating Act but the Council did not identify or comply with the requirements of Part 4A.

Part 3

Validation of certain actions and omissions

Clause 11 confirms that clauses 12 to 15 are to avoid any doubt.

Clause 12 provides that the policy on development and financial contributions in respect of the Mangawhai Ecocare Wastewater Treatment Scheme and Mangawhai roading (as originally set out in the Council's long-term council community plan 2006/16) was validly continued by the Council's long-term council community plan 2009/2019.

Clause 13 provides that the Council's long-term plan 2012-2022 is valid and declared to have been lawfully adopted by the Council.

Clause 14 provides that the Council's annual report for the 2010/2011 financial year is valid and declared to have been lawfully adopted by the Council.

Clause 15 provides that the Council's rates assessments for the 2006/2007, the 2007/2008, the 2008/2009, the 2009/2010, the 2010/2011, the 2011/12, and the 2012/2013 financial years are valid and declared to be and to always have been lawful.

Mike Sabin

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Local Bill

Contents

[To come]

Preamble

2006/2007 financial year

- (1) At a meeting held on 7 June 2006, the Council resolved to adopt its funding impact statement as part of the Long-term Council Community Plan 2006/16; and the funding impact statement set out all of the rates that the Council proposed to set and assess in the Kaipara District for the 2006/2007 financial year:
- (2) The Long-term Council Community Plan 2006/16 contained a policy on Development and Financial Contributions that included provision for development contributions for the Mangawhai Ecocare Wastewater Treatment Scheme and Mangawhai roading:
- (3) At a Council meeting held on 28 June 2006, the Council resolved to set, among other things, the following rates:
 - (a) a water supply rate being a targeted rate set under section 19 of the Local Government (Rating) Act 2002 ("the **Rating Act**") for Maungaturoto, Station Village. The rate was set on the basis that the rate per cubic metre (GST inclusive) be \$1.75. It was subject to the condition of a minimum of \$73.25 per reading:
 - (b) a wastewater disposal rate being a targeted annual rate for wastewater disposal, set under section 16 of the Rating Act for the wastewater disposal areas being Dargaville Wastewater District, Te Kopuru Urban Drainage District, Maungaturoto Urban Drainage District, Kaiwaka Urban Drainage District, Glinks Gully Effluent Disposal Area:
- (4) With respect to the water supply rate for Maungaturoto, Station Village, the Council did not comply with section 19 of the Rating Act because section 19 does not authorise a rate to be set on the basis of a minimum charge whatever the reading of the meter:
- (5) With respect to the wastewater disposal rate, the Council did not comply with section 18 of the Rating Act, because –

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- (a) section 18 states that the calculation of liability for a targeted rate must utilise only a factor or factors that are identified in the funding impact statement as factors that must be used to calculate the liability for the targeted rate, as well as being factors that are listed in Schedule 3 of the Rating Act; and
- (b) the factor identified in the funding impact statement for certain schools and educational establishments was no longer an authorised factor; and
- (c) the reference in the funding impact statement to a factor being "*a uniform annual connection fee per separately occupied or inhabited residential property ...*" and "*a uniform non-connection fee, being 50% of the full connection fee per separately unoccupied or uninhabited residential property capable of being effectively connected ...*" was not in accordance with the factor in Schedule 3 of the Rating Act being the "*separately used or inhabited parts of the rating unit*";
- (6) With respect to the wastewater disposal rate, the Council did not comply with section 23 of the Rating Act because –
- (a) section 23 requires a Council to set its rates in accordance with the relevant provisions of the Council's funding impact statement for that financial year; and
- (b) the categories of rateable land for setting a targeted rate or setting the targeted rate differentially for different categories of rateable land must be identified in the funding impact statement; and
- (c) the Council resolution setting the targeted rate did not refer to "*a uniform annual connection fee per separately occupied or inhabited residential property ...*" or "*a uniform non-connection fee, being 50% of the full connection fee per separately unoccupied or uninhabited residential property capable of being effectively connected ...*" or "*a uniform annual pan charge per commercial wc or urinal*", as was specified in the funding impact statement, but instead referred to "*an annual targeted rate ... for each wc or urinal in respect of each rating unit ... served either directly or through a private drain by a public sewerage drain*" and to a "*uniform annual charge ... in respect of each premises ... within thirty (30) metres of a public sewerage drain to which is capable of being effectively connected*"; and
- (d) the Council resolution setting the targeted rate did not refer to "*a graduated scale of pan charges, based on a notional one pan per 20 pupils/staff members, for certain schools and educational establishments (paying sewerage charges) as defined in the Rating Powers (Special Provision for certain rates for Educational Establishments Amendment Act 2001, and any amending or repealing legislation in respect of that Act*" as was specified in the funding impact statement, but instead referred to a "Special 75% School Charge" and a "Special 50% School Charge";
- (7) Under section 45(1) of the Rating Act, a rates assessment must clearly identify certain matters, including –

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- (a) the relevant matters in Schedule 2 that are required to determine the category (if any) to which a rating unit belongs for the purposes of setting a targeted rate under section 16(3)(b) or (4)(b); and
 - (b) information on the factors used to calculate the amount of the liability of a rating unit in respect of each targeted rate; and
 - (c) the methods by which rates may be paid; and
 - (d) the right of ratepayers to inspect the rating information database and rates records, and the right of ratepayers to object to any of the information included in the rating information database and rates records:
- (8) The Council did not comply with section 45(1) of the Rating Act with respect to rates assessments for the 2006/2007 financial year in that it failed to –
- (a) set out the categories to which a rating unit belonged for the purposes of setting one or more targeted rates; and
 - (b) set out the information on the factors used to calculate the amount of the liability of a rating unit in respect of one or more targeted rates; and
 - (c) state the methods by which rates could be paid; and
 - (d) state the right of ratepayers to inspect the rating information database and rates records, and the right of ratepayers to object to any of the information included in the rating information database and rates records:
- (9) With respect to the Mangawhai EcoCare Wastewater Treatment Scheme –
- (a) on 22 February 2006, the Council resolved to adopt the Mangawhai EcoCare Wastewater Treatment Scheme Statement of Proposal for release as contained in the Schedules of the Draft Long-term Council Community Plan 2006-2016; and
 - (b) on 7 June 2006 the Council resolved to adopt the Long-term Council Community Plan 2006-2016 which provided for the Mangawhai EcoCare Sewerage Scheme; and
 - (c) on 25 October 2006, the Council considered a report that provided full details of the proposed Mangawhai EcoCare Sewerage Scheme, its capital costs and its funding regime, and set out a scope change that would double the scope of the Scheme; and
 - (d) on 25 October 2006, the Council resolved that the report and the actions contained therein be adopted:
- (10) With respect to the Mangawhai EcoCare Sewerage Scheme, -
- (a) the Council subsequently borrowed \$57,978,000.00 to fund the capital costs of the Scheme; and

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- (b) it is acknowledged that section 117 of the Local Government Act 2002 applies to those borrowings such that they are protected transactions and remain valid and enforceable:

2007/2008 financial year

- (11) At a meeting held on 6 June 2007 the Council resolved to adopt its funding impact statement as part of the annual plan 2007/2008. The funding impact statement set out all of the rates that the Council proposed to set and assess in the Kaipara District for the 2007/2008 financial year:
- (12) At a Council meeting held on 27 June 2007, the Council resolved to set, among other things, the following rates:
- (a) a water supply rate being a targeted rate set under section 19 of the Rating Act for Maungaturoto, Station Village. The rate was set on the basis that the rate per cubic metre (GST inclusive) be \$1.80. It was subject to the condition of minimum of \$75.45 per reading:
- (b) a wastewater disposal rate being a targeted annual rate for wastewater disposal, set under section 16 of the Rating Act for the wastewater disposal areas being Dargaville Wastewater District, Te Kopuru Urban Drainage District, Maungaturoto Urban Drainage District, Kaiwaka Urban Drainage District, Glinks Gully Effluent Disposal Area:
- (13) With respect to the water supply rate Maungaturoto, Station Village, the Council did not comply with section 19 of the Rating Act because section 19 does not authorise a rate to be set on the basis of a minimum charge whatever the reading of the meter:
- (14) With respect to the wastewater disposal rate, the Council did not comply with section 18 of the Rating Act because –
- (a) section 18 states that the calculation of liability for a targeted rate must utilise only a factor or factors that are identified in the funding impact statement as factors that must be used to calculate the liability for the targeted rate, as well as being factors that are listed in Schedule 3 of the Rating Act; and
- (b) the factor identified in the funding impact statement for certain schools and educational establishments was no longer an authorised factor; and
- (c) the reference in the funding impact statement to a factor being "*a uniform annual connection fee per separately occupied or inhabited residential property ...*" and "*a uniform non-connection fee, being 50% of the full connection fee per separately unoccupied or uninhabited residential property capable of being effectively connected ...*" was not in accordance with the factor in Schedule 3 of the Rating Act being the "*separately used or inhabited parts of the rating unit.*"
- (15) With respect to the wastewater disposal rate, the Council did not comply with section 23 of the Rating Act because –

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- (a) section 23 requires a Council to set its rates in accordance with the relevant provisions of the Council's funding impact statement for that financial year; and
 - (b) the categories of rateable land for setting a targeted rate or setting the targeted rate differentially for different categories of rateable land must be identified in the funding impact statement; and
 - (c) the Council resolution setting the targeted rate did not refer to "*a uniform annual connection fee per separately occupied or inhabited residential property ...*" or "*a uniform non-connection fee, being 50% of the full connection fee per separately unoccupied or uninhabited residential property capable of being effectively connected ...*" or "*a uniform annual pan charge per commercial wc or urinal*", as was specified in the funding impact statement, but instead referred to "*an annual targeted rate ... for each wc or urinal in respect of each rating unit ... served either directly or through a private drain by a public sewerage drain*" and to a "*uniform annual charge ... in respect of each premises ... within thirty (30) metres of a public sewerage drain to which is capable of being effectively connected*"; and
 - (d) the Council resolution setting the targeted rate did not refer to "*a graduated scale of pan charges, based on a notional one pan per 20 pupils/staff members, for certain schools and educational establishments (paying sewerage charges) as defined in the Rating Powers (Special Provision for certain rates for Educational Establishments Amendment Act 2001, and any amending or repealing legislation in respect of that Act*" as was specified in the funding impact statement, but instead referred to a "Special 75% School Charge" and a "Special 50% School Charge:
- (16) The Council did not comply with section 45(1) of the Rating Act with respect to rates assessments for the 2007/2008 financial year in that it made the same errors as set out in paragraph (7) above:

2008/2009 financial year

- (17) At a meeting held on 4 June 2008, the Council resolved to adopt its funding impact statement as part of the annual plan 2008/2009; and the funding impact statement set out all of the rates that the Council proposed to set and assess in the Kaipara District for the 2008/2009 financial year:
- (18) At a Council meeting held on 25 June 2008, the Council resolved to set, among other things, the following rates:
 - (a) a water supply rate being a targeted rate set under section 19 of the Rating Act for Maungaturoto, Station Village. The rate was set on the basis that the rate per cubic metre (GST inclusive) be \$1.85. It was subject to the condition of minimum of \$77.71 per reading:
 - (b) a wastewater disposal rate being a targeted annual rate for wastewater disposal, set under section 16 of the Rating Act for the wastewater disposal

areas being Dargaville Wastewater District, Te Kopuru Urban Drainage District, Maungaturoto Urban Drainage District, Kaiwaka Urban Drainage District, Glinks Gully Effluent Disposal Area (excluding Mangawhai Urban Drainage Area):

- (c) a targeted rate for the Mangawhai Urban Drainage District as follows:

"(The following charges are applicable only to those properties for which connection to the reticulation network will be available before 30 June 2009)

Uniform Targeted Rate, for allotment or household units created:

(i)	<i>On or prior to 23 March 2002</i>	<i>1,327.05</i>	<i>(first 50%)</i>
(ii)	<i>On or after 24 March 2002</i>	<i>7516.60</i>	<i>(one-off)</i>
	<i>Or</i>		
(iii)	<i>On or after 24 March 2002</i>	<i>517.60</i>	<i>(pa for 25 years)</i>

(but see Note 1 which follows)

Note 1: the \$517.60 is the first year charge only, and will subsequently increase in line with inflation.

- (d) a uniform annual charge for the Mangawhai Urban Drainage District as follows:

	<i>"2008/09</i>	<i>Thereafter</i>
<i>Residential 3/12th of \$692.90pa</i>	<i>\$173.23</i>	<i>\$692.90pa Plus inflation</i>
<i>Non-residential 3/12th of \$692.90pa per pan</i>		
	<i>Per annum</i>	<i>\$173.23</i>
		<i>\$692.90pa Plus inflation</i>
<i>Vacant lots</i>	<i>\$86.61</i>	<i>\$346.45pa Plus inflation"</i>

- (19) With respect to the water supply rate Maungaturoto, Station Village, the Council did not comply with section 19 of the Rating Act because –

- (a) section 19 does not authorise a rate to be set on the basis of a minimum charge whatever the reading of the meter; and
- (b) section 19 requires the Council to set the targeted rate in accordance with its funding impact statement; and
- (c) the funding impact statement specified that the annual minimum amount of the rate be \$151.00 whereas the resolution referred to a minimum of \$77.71 per reading:

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- (20) With respect to the wastewater disposal rate, the Council did not comply with section 18 of the Rating Act, because –
- (a) section 18 states that the calculation of liability for a targeted rate must utilise only a factor or factors that are identified in the funding impact statement as factors that must be used to calculate the liability for the targeted rate, as well as being factors that are listed in Schedule 3 of the Rating Act; and
 - (b) the factor identified in the funding impact statement for certain schools and educational establishments was no longer an authorised factor; and
 - (c) the reference in the funding impact statement to a factor being "*a uniform annual connection fee per separately occupied or inhabited residential property ...*" and "*a uniform non-connection fee, being 50% of the full connection fee per separately unoccupied or uninhabited residential property capable of being effectively connected ...*" was not in accordance with the factor in Schedule 3 of the Rating Act being the "*separately used or inhabited parts of the rating unit*":
- (21) With respect to the wastewater disposal rate, the Council did not comply with section 23 of the Rating Act because –
- (a) section 23 requires a Council to set its rates in accordance with the relevant provisions of the Council's funding impact statement for that financial year; and
 - (b) the categories of rateable land for setting a targeted rate or setting the targeted rate differentially for different categories of rateable land must be identified in the funding impact statement; and
 - (c) the Council's resolution setting the targeted rate did not refer to "*a uniform annual connection fee per separately occupied or inhabited residential property ...*" or "*a uniform non-connection fee, being 50% of the full connection fee per separately unoccupied or uninhabited residential property capable of being effectively connected ...*" or "*a uniform annual pan charge per commercial wc or urinal*", as was specified in the funding impact statement, but instead referred to "*an annual targeted rate ... for each wc or urinal in respect of each rating unit ... served either directly or through a private drain by a public sewerage drain*" and to a "*uniform annual charge ... in respect of each premises ... within thirty (30) metres of a public sewerage drain to which is capable of being effectively connected*"; and
 - (d) the Council resolution setting the targeted rate did not refer to "*a graduated scale of pan charges, based on a notional one pan per 20 pupils/staff members, for certain schools and educational establishments (paying sewerage charges) as defined in the Rating Powers (Special Provision for certain rates for Educational Establishments Amendment Act 2001, and any amending or repealing legislation in respect of that Act*" as was specified in

the funding impact statement, but instead referred to a "Special 75% School Charge" and a "Special 50% School Charge:

- (22) With respect to the Mangawhai uniform targeted rate, the Council did not comply with section 17 of the Rating Act because –
- (a) section 17 provides the categories of rateable land for setting a targeted rate or setting the targeted rate differentially for different categories of rateable land must be those categories that are defined in terms of 1 or more of the matters listed in Schedule 2 of the Rating Act; and
 - (b) the Council's resolution provided that the rate would be assessed as a fixed amount per rating unit (or possibly per allotment or household unit), which amount would differ depending on the date the allotment or household unit was created; and
 - (c) these categories were not in accordance with any categories defined in Schedule 2:
- (23) With respect to the Mangawhai uniform targeted rate, the Council did not comply with section 23 of the Rating Act because –
- (a) section 23 requires a Council to set its rates in accordance with the relevant provisions of the Council's funding impact statement for that financial year; and
 - (b) the funding impact statement did not refer a uniform targeted rate for the Mangawhai Urban Drainage Area (apart from an oblique reference to "Mangawhai (pan charge)");
- (24) With respect to the Mangawhai uniform targeted rate –
- (a) the Council wrote to each ratepayer that would be eligible in that year (where the ratepayer's allotment was created before 23 March 2002) and asked the ratepayer to elect whether a one-off targeted rate or a one-off targeted rate (payable over two years) would apply; ratepayers subsequently made an election, and the Mangawhai uniform targeted rate was assessed accordingly; and
 - (b) the Council wrote to each ratepayer that would be eligible in that year (where the ratepayer's allotment was created after 23 March 2002) and asked the ratepayer to elect whether a one-off targeted rate or a one-off targeted rate (payable over two years) or the targeted rate (payable over 25 years) would apply; ratepayers subsequently made an election, and if no election was made, the one-off targeted rate applied and the Mangawhai uniform targeted rate was assessed accordingly:
- (25) With respect to the Mangawhai uniform targeted rate, to the extent that the rate had characteristics of being a lump sum contribution for a capital project, the Council did not comply with Part 4A of the Rating Act because –

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- (a) Part 4A sets out a procedure (which includes a capital project funding plan) where a Council wishes to fund, or partially fund, a capital project by lump sum contributions from its ratepayers; and
 - (b) while the chapter called the Mangawhai EcoCare Wastewater Treatment Scheme as contained in the Schedules of the Long-term Council Community Plan 2006-2016 had characteristics of a capital project funding plan, this chapter did not make it clear that it was a capital project funding plan or meet some of the requirements of section 117E of the Rating Act; and
 - (c) while invitations were sent to eligible ratepayers, these invitations did not meet some of the requirements of section 117G of the Rating Act; and
 - (d) the invitations that were sent contravened section 117C of the Rating Act in that they specified the lump sum contribution was the default option; and
 - (e) the Council did not comply with section 117I of the Rating Act in that it did not deliver to ratepayers who had elected to pay the one-off targeted rate, a separate invoice (had it in fact been a lump sum contribution); and
 - (f) the Council did not comply with section 117K(2); and
 - (g) the Council did not comply with section 117L of the Rating Act in that it did not meet the notification requirements where there was a change in ownership of the rating unit:
- (26) With respect to the Mangawhai uniform annual charge, the Council did not comply with section 23 of the Rating Act because –
- (a) section 23 requires a Council to set its rates in accordance with the relevant provisions of the Council's funding impact statement for that financial year; and
 - (b) the funding impact statement referred to a factor being "*a uniform annual connection charges per separately occupied or inhabited residential property ...*" and "*a uniform non-connection charge, being 50% of the full connection charge per separately unoccupied or uninhabited residential property capable of being effectively connected ...*" and also made an oblique reference to the "Mangawhai (pan charge)" of \$693; but
 - (c) the Council's resolution refers to a uniform annual charge of residential 3/12ths of \$692.90 and non-residential of 3/12ths of \$692.90, as well as vacant lots having a uniform annual charge of \$86.61:
- (27) With respect to the Mangawhai uniform annual charge, the Council did not comply with sections 43(2) and (4) of the Rating Act because –
- (a) the effect of sections 43(2) and (4) is that a factor on which a rate is set must be one which exists as at the close of the previous financial year and no rate can be affected by a change in factors during a financial year; and

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- (b) the Council's resolution provided that the uniform annual charge would be assessed on those properties for which connection to the reticulation network would be available before 30 June 2009; and
 - (c) this allowed the Council to assess the uniform annual charge on rating units where there had been a change in the factor during the 2008/2009 financial year by virtue of connection:
- (28) However, the Council has subsequently refunded to the applicable ratepayers the Mangawhai uniform annual charge that was assessed on any rating unit where there had been a change in the factor where connection occurred during the 2008/2009 financial year:
- (29) The Council did not comply with section 45(1) of the Rating Act with respect to rates assessments for the 2008/2009 financial year in that it made the same errors as set out in paragraph (7) above:

2009/2010 financial year

- (30) At a meeting held on 23 June 2009 the Council resolved to adopt its funding impact statement as part of the Council's Long-term Council Community Plan 2009-2019. The funding impact statement set out all of the rates that the Council proposed to set and assess in the Kaipara District for the 2009/2010 financial year:
- (31) The Long-term Council Community Plan 2009-2019 contained a policy on Development and Financial Contributions that purported to continue the provision for development contributions for the Mangawhai Ecocare Wastewater Treatment Scheme and Mangawhai roading as provided in the Long-term Council Community Plan 2006-2016; but the policy in the Long-term Council Community Plan 2009-2019 failed to do so in such terms that complied with sections 102 and 106 of the Local Government Act 2002:
- (32) At a Council meeting held on 24 June 2009, the Council resolved to set, among other things, the following rates:
- (a) a water supply rate being a targeted rate set under section 19 of the Rating Act for Maungaturoto, Station Village. The rate was set on the basis that the rate per cubic metre (GST inclusive) be \$1.94. It was subject to the condition of minimum of \$81.50 per reading:
 - (b) a wastewater disposal rate being a targeted annual rate for wastewater disposal, set under section 16 of the Rating Act for the wastewater disposal areas being Dargaville Wastewater District, Te Kopuru Urban Drainage District, Maungaturoto Urban Drainage District, Kaiwaka Urban Drainage District, Glinks Gully Effluent Disposal Area (excluding Mangawhai Urban Drainage Area):
 - (c) A targeted rate for the Mangawhai Urban Drainage District as follows:

"(The following charges are applicable only to those properties for which connection to the reticulation network will be available before 30 June 2010)

Uniform Targeted Rate, for allotment or household units created:

(i)	<i>On or prior to 23 March 2002</i>	<i>1,366.85</i>	<i>(first 50%)</i>
(ii)	<i>On or after 24 March 2002</i>	<i>7,742.10</i>	<i>(one-off)</i>
<i>Or</i>			
(iii)	<i>On or after 24 March 2002</i>	<i>533.20</i>	<i>(pa for 25 years)</i>
<i>(but see Note 1 which follows)</i>			

Note 1: the \$533.20 is the first year charge only, and will subsequently increase in line with inflation.

- (d) A uniform annual charge for the Mangawhai Urban Drainage District as follows:

	<i>2009/10</i>
<i>Residential: per pan per annum</i>	<i>\$713.70</i>
<i>Non-residential: per pan per annum</i>	<i>\$713.70</i>
<i>Vacant lots</i>	<i>\$356.85</i>

- (e) a forest owners' roading impact rate being a targeted rate set under section 16 of the Rating Act where the targeted rate would be a rate of 0.3096 cents in the dollar (GST inclusive) of land value on every rating unit with a Valuation New Zealand Code of FE (Exotic Forest):
- (33) With respect to the water supply rate for Maungaturoto, Station Village, the Council did not comply with section 19 of the Rating Act because –
- (a) section 19 does not authorise a rate to be set on the basis of a minimum charge whatever the reading of the meter; and
 - (b) section 19 requires the Council to set the targeted rate in accordance with its funding impact statement; and
 - (c) the funding impact statement specified that the annual minimum amount of the rate be \$155.00 whereas the resolution referred to a minimum of \$81.50 per reading:
- (34) With respect to the wastewater disposal rate, the Council did not comply with section 18 of the Rating Act, because –
- (a) section 18 states that the calculation of liability for a targeted rate must utilise only a factor or factors that are identified in the funding impact statement as factors that must be used to calculate the liability for the

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- targeted rate, as well as being factors that are listed in Schedule 3 of the Rating Act; and
- (b) the factor identified in the funding impact statement for certain schools and educational establishments was no longer an authorised factor; and
 - (c) the reference in the funding impact statement to a factor being "*a uniform annual connection charge per separately occupied or inhabited residential property ...*" and "*a uniform non-connection charge, being 50% of the full connection charge per separately unoccupied or uninhabited residential property capable of being effectively connected ...*" was not in accordance with the factor in Schedule 3 of the Rating Act being the "*separately used or inhabited parts of the rating unit.*"
- (35) With respect to the wastewater disposal rate, the Council did not comply with section 23 of the Rating Act because –
- (a) section 23 requires a Council to set its rates in accordance with the relevant provisions of the Council's funding impact statement for that financial year; and
 - (b) the categories of rateable land for setting a targeted rate or setting the targeted rate differentially for different categories of rateable land must be identified in the funding impact statement; and
 - (c) the Council's resolution setting the targeted rate did not refer to "*a uniform annual connection charge per separately occupied or inhabited residential property ...*" or "*a uniform non-connection charge, being 50% of the full connection charge per separately unoccupied or uninhabited residential property capable of being effectively connected ...*" or "*a uniform annual pan charge per commercial wc or urinal*", as was specified in the funding impact statement, but instead referred to "*an annual targeted rate ... for each wc or urinal in respect of each rating unit ... served either directly or through a private drain by a public sewerage drain*" and to a "*uniform annual charge ... in respect of each premises ... within thirty (30) metres of a public sewerage drain to which is capable of being effectively connected*"; and
 - (d) the Council resolution setting the targeted rate did not refer to "*a graduated scale of pan charges, based on a notional one pan per 20 pupils/staff members, for certain schools and educational establishments (paying sewerage charges) as defined in the Rating Powers (Special Provision for certain rates for Educational Establishments Amendment Act 2001, and any amending or repealing legislation in respect of that Act*" as was specified in the funding impact statement, but instead referred to a "Special 75% School Charge" and a "Special 50% School Charge:
- (36) With respect to the Mangawhai uniform targeted rate, the Council did not comply with section 17 of the Rating Act because –
- (a) section 17 provides the categories of rateable land for setting a targeted rate or setting the targeted rate differentially for different categories of rateable

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- land must be those categories that are defined in terms of 1 or more of the matters listed in Schedule 2 of the Rating Act; and
- (b) the Council's resolution provided that the rate would be assessed as a fixed amount per rating unit (or possibly per allotment or household unit), which amount would differ depending on the date the allotment or household unit was created; and
 - (c) these categories were not in accordance with any categories defined in Schedule 2:
- (37) With respect to the Mangawhai uniform targeted rate, the Council did not comply with section 23 of the Rating Act because –
- (a) section 23 requires a Council to set its rates in accordance with the relevant provisions of the Council's funding impact statement for that financial year; and
 - (b) the funding impact statement did not refer to a uniform targeted rate for the Mangawhai Urban Drainage Area:
- (38) With respect to the Mangawhai uniform targeted rate
- (a) the Council wrote to each ratepayer that would be eligible in that year (where the ratepayer's allotment was created before 23 March 2002) and asked the ratepayer to elect whether a one-off targeted rate or a one-off targeted rate (payable over two years) would apply; ratepayers subsequently made an election, and the Mangawhai uniform targeted rate was assessed accordingly; and
 - (b) the Council wrote to each ratepayer that would be eligible in that year (where the ratepayer's allotment was created after 23 March 2002) and asked the ratepayer to elect whether a one-off targeted rate or a one-off targeted rate (payable over two years) or the targeted rate (payable over 25 years) would apply; ratepayers subsequently made an election, and if no election was made, the 25 year targeted rate applied and the Mangawhai uniform targeted rate was assessed accordingly:
- (39) With respect to the Mangawhai uniform targeted rate, to the extent that the rate had characteristics of being a lump sum contribution for a capital project, the same irregularities occurred as set out in paragraph (24) (apart from paragraph (d)) above:
- (40) With respect to the Mangawhai uniform annual charge, the Council did not comply with section 23 of the Rating Act because –
- (a) section 23 requires a Council to set its rates in accordance with the relevant provisions of the Council's funding impact statement for that financial year; and
 - (b) the funding impact statement did not refer a uniform annual charge for the Mangawhai Urban Drainage Area:

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- (41) With respect to the Mangawhai uniform annual charge, the Council did not comply with sections 43(2) and (4) of the Rating Act because –
- (a) the effect of sections 43(2) and (4) is that a factor on which a rate is set must be one which exists as at the close of the previous financial year and no rate can be affected by a change in factors during a financial year; and
 - (b) the Council's resolution provided that the uniform annual charge would be assessed on those properties for which connection to the reticulation network would be available before 30 June 2010; and
 - (c) this allowed the Council to assess the uniform annual charge on rating units where there had been a change in the factor during the 2009/2010 financial year by virtue of connection:
- (42) With respect to the forest owners' roading impact rate, the Council did not comply with section 17 of the Rating Act, because –
- (a) section 17 provides that categories of rateable land are categories that are identified in the Council's funding impact statement as categories for setting the targeted rate; and
 - (b) the funding impact statement did not identify the category of rateable land for this rate:
- (43) With respect to the forest owner's roading impact rate, the Council did not comply with section 18 of the Rating Act because –
- (a) section 18 states that the calculation of liability for a targeted rate must utilise only a factor or factors that are identified in the funding impact statement as factors that must be used to calculate the liability for the targeted rate, as well as being factors that are listed in Schedule 3 of the Rating Act; and
 - (b) the funding impact statement did not identify the factor that would be used to calculate the liability for this targeted rate:
- (44) With respect to the forest owners' roading impact rate, the Council did not comply with section 23 of the Rating Act because –
- (a) section 23 requires a Council to set its rates in accordance with the relevant provisions of the Council's funding impact statement for that financial year; and
 - (b) the funding impact statement did not set out the matters required by the Rating Act in relation to this rate:
- (45) The Council did not comply with section 45(1) of the Rating Act with respect to rates assessments for the 2009/2010 financial year in that it made the same errors as set out in paragraph (7) above:

2010/2011 financial year

- (46) At a meeting held on 9 June 2010 the Council resolved to adopt its funding impact statement as part of the annual plan 2010/2011; and the funding impact statement set out all of the rates that the Council proposed to set and assess in the Kaipara District for the 2010/2011 financial year:
- (47) At a Council meeting held on 25 June 2010, the Council resolved to set, among other things, the following rates:
- (a) a water supply rate being a targeted rate set under section 19 of the Rating Act for Maungaturoto, Station Village. The rate was set on the basis that the rate per cubic metre (GST inclusive) be \$1.80. It was subject to the condition of minimum of \$75.41 per reading:
- (b) a wastewater disposal rate being a targeted annual rate for wastewater disposal, set under section 16 of the Rating Act for the wastewater disposal areas being Dargaville Wastewater District, Te Kopuru Urban Drainage District, Maungaturoto Urban Drainage District, Kaiwaka Urban Drainage District, Glinks Gully Effluent Disposal Area (excluding Mangawhai Urban Drainage Area):
- (c) a targeted rate for the Mangawhai Urban Drainage District as follows:

"(The following charges are applicable only to those properties for which connection to the reticulation network will be available before 30 June 2011)

Uniform Targeted Rate, for allotment or household units created:

(i)	<i>On or prior to 23 March 2002</i>	<i>1,251.41</i>	<i>(first 50%)</i>
(ii)	<i>On or after 24 March 2002</i>	<i>7,088.35</i>	<i>(one-off)</i>
	<i>Or</i>		
(iii)	<i>On or after 24 March 2002</i>	<i>488.18</i>	<i>(pa for 25 years)</i>

(but see Note 1 which follows)

Note 1: the \$488.18 is the first year charge only, and will subsequently increase in line with inflation."

- (d) a uniform annual charge for the Mangawhai Urban Drainage District as follows:

	<i>2010/11</i>
<i>Residential: per pan per annum</i>	<i>\$652.44</i>
<i>Non-residential: per pan per annum</i>	<i>\$652.44</i>

Vacant lots

\$326.22

- (e) a forest owners' roading impact rate being a targeted rate set under section 16 of the Rating Act on land where the targeted rate would be a rate of 0.5511 cents in the dollar (GST exclusive) of land value on every rating unit with a Valuation New Zealand Code of FE (Exotic Forest):
- (48) With respect to the water supply rate for Maungaturoto, Station Village, the Council did not comply with section 19 of the Rating Act because –
- (a) section 19 does not authorise a rate to be set on the basis of a minimum charge whatever the reading of the meter; and
 - (b) section 19 requires the Council to set the targeted rate in accordance with its funding impact statement; and
 - (c) the funding impact statement specified that the annual minimum amount of the rate be \$155.00 whereas the resolution referred to a minimum of \$75.41 per reading:
- (49) With respect to the wastewater disposal rate, the Council did not comply with section 18 of the Rating Act because –
- (a) section 18 states that the calculation of liability for a targeted rate must utilise only a factor or factors that are identified in the funding impact statement as factors that must be used to calculate the liability for the targeted rate, as well as being factors that are listed in Schedule 3 of the Rating Act; and
 - (b) the factor identified in the funding impact statement for certain schools and educational establishments was no longer an authorised factor; and
 - (c) the reference in the funding impact statement to a factor being "*a uniform annual connection charge per separately occupied or inhabited residential property ...*" and "*a uniform non-connection charge, being 50% of the full connection charge per separately unoccupied or uninhabited residential property capable of being effectively connected ...*" was not in accordance with the factor in Schedule 3 of the Rating Act being the "*separately used or inhabited parts of the rating unit*":
- (50) With respect to the wastewater disposal rate, the Council did not comply with section 23 of the Rating Act because –
- (a) section 23 requires a Council to set its rates in accordance with the relevant provisions of the Council's funding impact statement for that financial year; and
 - (b) the categories of rateable land for setting a targeted rate or setting the targeted rate differentially for different categories of rateable land must be identified in the funding impact statement; and

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- (c) the Council's resolution setting the targeted rate did not refer to "*a uniform annual connection charge per separately occupied or inhabited residential property ...*" or "*a uniform non-connection charge, being 50% of the full connection charge per separately unoccupied or uninhabited residential property capable of being effectively connected ...*" or "*a uniform annual pan charge per commercial wc or urinal*", as was specified in the funding impact statement, but instead referred to "*an annual targeted rate ... for each wc or urinal in respect of each rating unit ... served either directly or through a private drain by a public sewerage drain*" and to a "*uniform annual charge ... in respect of each premises ... within thirty (30) metres of a public sewerage drain to which is capable of being effectively connected*"; and
- (d) the Council resolution setting the targeted rate did not refer to "*a graduated scale of pan charges, based on a notional one pan per 20 pupils/staff members, for certain schools and educational establishments (paying sewerage charges) as defined in the Rating Powers (Special Provision for certain rates for Educational Establishments Amendment Act 2001, and any amending or repealing legislation in respect of that Act*" as was specified in the funding impact statement, but instead referred to a "Special 75% School Charge" and a "Special 50% School Charge:
- (51) With respect to the Mangawhai uniform targeted rate, the Council did not comply with section 17 of the Rating Act because –
- (a) section 17 provides the categories of rateable land for setting a targeted rate or setting the targeted rate differentially for different categories of rateable land must be those categories that are defined in terms of 1 or more of the matters listed in Schedule 2 of the Rating Act; and
- (b) the Council's resolution provided that the rate would be assessed as a fixed amount per rating unit (or possibly per allotment or household unit), which amount would differ depending on the date the allotment or household unit was created; and
- (c) these categories were not in accordance with any categories defined in Schedule 2:
- (52) With respect to the Mangawhai uniform targeted rate, the Council did not comply with section 23 of the Rating Act because –
- (a) section 23 requires a Council to set its rates in accordance with the relevant provisions of the Council's funding impact statement for that financial year; and
- (b) the funding impact statement did not refer a uniform targeted rate for the Mangawhai Urban Drainage Area:
- (53) With respect to the Mangawhai uniform targeted rate,
- (a) the Council wrote to each ratepayer that would be eligible in that year (where the ratepayer's allotment was created before 23 March 2002) and

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- asked the ratepayer to elect whether a one-off targeted rate or a one-off targeted rate (payable over two years) would apply; ratepayers subsequently made an election, and if no election was made, the one-off targeted rate applied and the Mangawhai uniform targeted rate was assessed accordingly; and
- (b) the Council wrote to each ratepayer that would be eligible in that year (where the ratepayer's allotment was created after 23 March 2002) and asked the ratepayer to elect whether a one-off targeted rate or a one-off targeted rate (payable over two years) or the targeted rate (payable over 25 years) would apply; ratepayers subsequently made an election, and the Mangawhai uniform targeted rate was assessed accordingly:
- (54) With respect to the Mangawhai uniform targeted rate, to the extent that the rate had characteristics of being a lump sum contribution for a capital project, the same irregularities occurred as set out in paragraph (24) (apart from paragraph (d)) above:
- (55) With respect to the Mangawhai uniform annual charge, the Council did not comply with section 23 of the Rating Act because –
- (a) section 23 requires a Council to set its rates in accordance with the relevant provisions of the Council's funding impact statement for that financial year; and
- (b) the funding impact statement did not refer a uniform annual charge for the Mangawhai Urban Drainage Area:
- (56) With respect to the Mangawhai uniform annual charge, the Council did not comply with sections 43(2) and (4) of the Rating Act because –
- (a) the effect of sections 43(2) and (4) is that a factor on which a rate is set must be one which exists as at the close of the previous financial year and no rate can be affected by a change in factors during a financial year; and
- (b) the Council's resolution provided that the uniform annual charge would be assessed on those properties for which connection to the reticulation network would be available before 30 June 2011; and
- (c) this allowed the Council to assess the uniform annual charge on rating units where there had been a change in the factor during the 2010/2011 financial year by virtue of connection:
- (57) With respect to the forest owner's roading impact rate, the Council did not comply with section 17 of the Rating Act because –
- (a) section 17 provides that categories of rateable land are categories that are identified in the Council's funding impact statement as categories for setting the targeted rate; and
- (b) the funding impact statement did not identify the category of rateable land for this rate:

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- (58) With respect to the forest owners' roading impact rate, the Council did not comply with section 18 of the Rating Act because –
- (a) section 18 states that the calculation of liability for a targeted rate must utilise only a factor or factors that are identified in the funding impact statement as factors that must be used to calculate the liability for the targeted rate, as well as being factors that are listed in Schedule 3 of the Rating Act:
 - (b) the funding impact statement did not identify the factor that would be used to calculate the liability for this targeted rate:
- (59) With respect to the forest owners' roading impact rate, the Council did not comply with section 23 of the Rating Act because –
- (a) section 23 requires a Council to set its rates in accordance with the relevant provisions of the Council's funding impact statement for that financial year; and
 - (b) the funding impact statement did not set out the matters required by the Rating Act in relation to this rate:
- (60) The Council did not comply with section 45(1) of the Rating Act with respect to rates assessments for the 2010/2011 financial year in that it failed to in that it made the same errors as set out in paragraph (7) above:
- (61) Under section 98(3) of the Local Government Act 2002, the Council was required to adopt an annual report for the 2010/2011 financial year by 30 November 2011. The Council resolved to adopt the annual report for the 2010/2011 financial year on 29 August 2012 and did not comply with section 98(3):

2011/2012 financial year

- (62) At a meeting held on 8 June 2011 the Council resolved to adopt its funding impact statement. The funding impact statement set out all of the rates that the Council proposed to set and assess in the Kaipara District for the 2011/2012 financial year:
- (63) At a Council meeting held on 22 June 2011, the Council resolved to set, among other things, the following rates:
- (a) a water supply rate being a targeted rate set under section 19 of the Rating Act for Maungaturoto, Station Village. The rate was set on the basis that the rate per cubic metre (GST inclusive) be \$2.36. It was subject to the condition of a minimum of \$99.20 per reading:
 - (b) a wastewater disposal rate being a targeted annual rate for wastewater disposal, set under section 16 of the Rating Act for the wastewater disposal areas being Dargaville Wastewater District, Te Kopuru Urban Drainage District, Maungaturoto Urban Drainage District, Kaiwaka Urban Drainage District, Glinks Gully Effluent Disposal Area (excluding Mangawhai Urban Drainage Area):

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- (c) a targeted rate for the Mangawhai Urban Drainage District as follows:

"(The following charges are applicable only to those properties for which connection to the reticulation network will be available before 30 June 2012)

One –off Uniform Targeted Rate based on location only. The deciding location is either within or outside, the original scope of servicing in the Mangawhai Community Wastewater Scheme Contract.

(i)	<i>Within original contract scope</i>	<i>1,482.50</i>	<i>(first 50%)</i>
(ii)	<i>Outside original contract scope</i>	<i>4,198.50</i>	<i>(first 50%)"</i>

- (d) a uniform annual charge for the Mangawhai Urban Drainage District as follows:

<i>"Residential: per pan per annum</i>	<i>\$773.00</i>
<i>Non-residential: per pan per annum</i>	<i>\$773.00</i>
<i>Vacant lots</i>	<i>\$386.50"</i>

- (64) With respect to the water supply rate for Maungaturoto, Station Village, the Council did not comply with section 19 of the Rating Act because –

- (a) section 19 does not authorise a rate to be set on the basis of a minimum charge whatever the reading of the meter; and
- (b) section 19 requires the Council to set the targeted rate in accordance with its funding impact statement; and
- (c) the funding impact statement specified that the annual minimum amount of the rate be \$155.00 whereas the resolution referred to a minimum of \$99.20 per reading:

- (65) With respect to the wastewater disposal rate, the Council did not comply with section 18 of the Rating Act because –

- (a) section 18 states that the calculation of liability for a targeted rate must utilise only a factor or factors that are identified in the funding impact statement as factors that must be used to calculate the liability for the targeted rate, as well as being factors that are listed in Schedule 3 of the Rating Act; and
- (b) the factor identified in the funding impact statement for certain schools and educational establishments was no longer an authorised factor; and
- (c) the reference in the funding impact statement to a factor being "*a uniform annual connection charge per separately occupied or inhabited residential property ...*" and "*a uniform non-connection charge, being 50% of the full connection charge per separately unoccupied or uninhabited residential property capable of being effectively connected ...*" was not in accordance

with the factor in Schedule 3 of the Rating Act being the "*separately used or inhabited parts of the rating unit*":

- (66) With respect to the wastewater disposal rate, the Council did not comply with section 23 of the Rating Act because –
- (a) section 23 requires a Council to set its rates in accordance with the relevant provisions of the Council's funding impact statement for that financial year; and
 - (b) the categories of rateable land for setting a targeted rate or setting the targeted rate differentially for different categories of rateable land must be identified in the funding impact statement; and
 - (c) the Council's resolution setting the targeted rate did not refer to "*a uniform annual connection fee per separately occupied or inhabited residential property ...*" or "*a uniform non-connection fee, being 50% of the full connection fee per separately unoccupied or uninhabited residential property capable of being effectively connected ...*" or "*a uniform annual pan charge per commercial wc or urinal*", as was specified in the funding impact statement, but instead referred to "*an annual targeted rate ... for each wc or urinal in respect of each rating unit ... served either directly or through a private drain by a public sewerage drain*" and to a "*uniform annual charge ... in respect of each premises ... within thirty (30) metres of a public sewerage drain to which is capable of being effectively connected*"; and
 - (d) the Council resolution setting the targeted rate did not refer to "*a graduated scale of pan charges, based on a notional one pan per 20 pupils/staff members, for certain schools and educational establishments (paying sewerage charges) as defined in the Rating Powers (Special Provision for certain rates for Educational Establishments Amendment Act 2001, and any amending or repealing legislation in respect of that Act*" as was specified in the funding impact statement, but instead referred to a "Special 75% School Charge" and a "Special 50% School Charge:
- (67) With respect to the Mangawhai uniform targeted rate, the Council did not comply with section 23 of the Rating Act because –
- (a) section 23 requires a Council to set its rates in accordance with the relevant provisions of the Council's funding impact statement for that financial year; and
 - (b) the Council resolution setting the targeted rate did not refer to a one-off targeted rate for each separately occupied or inhabited residential property differentiated by location with a one-off amount of \$8397.00 as was indicated in the funding impact statement:
- (68) With respect to the Mangawhai uniform annual charge, it is unclear whether the Council complied with section 23 of the Rating Act because –

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- (a) section 23 requires a Council to set its rates in accordance with the relevant provisions of the Council's funding impact statement for that financial year; and
 - (b) the funding impact statement referred to a factor being "*a uniform annual connection charge per separately occupied or inhabited residential property ...*" and "*a uniform non-connection charge, being 50% of the full connection charge per separately unoccupied or uninhabited residential property capable of being effectively connected ...*" and also made a reference to the "Mangawhai – Annual Fee" of \$773; but
 - (c) the Council's resolution refers to a uniform annual charge of residential per annum of \$773.00, non-residential; per pan per annum of \$773.00, and vacant lots of \$386.50:
- (69) The Council did not comply with section 45(1) of the Rating Act with respect to rates assessments for the 2011/2012 financial year in that it made the same errors as set out in paragraph (7) above:

2012/2013 financial year

- (70) Under section 93(1) of the Local Government Act 2002, the Council must, at all times, have a long-term plan. Under section 93(3), the long term plan for the 2012-2022 period was required to be adopted by 30 June 2012. The Council resolved to adopt the long term plan for 2012-2022 on 29 August 2012 and did not comply with section 93(3):
- (71) Under section 93(2) of the Local Government Act 2002, the Council must use the special consultative procedure in adopting a long-term plan. Section 83 of the Local Government Act 2002 sets out the requirements of the special consultative procedure and this requires the Council to ensure that any person who makes a submission on the proposal within that period—
- (a) is sent a written notice acknowledging receipt of that person's submission; and
 - (b) is given a reasonable opportunity to be heard by the local authority (if that person so requests):
- (72) In addition, under section 83 of the Local Government Act 2002 the Council must ensure that the notice given to a person who has asked for an opportunity to be heard is given information—
- (a) advising that person of that person's opportunity to be heard; and
 - (b) explaining how that person may exercise that person's opportunity to be heard:
- (73) The Council did not comply with section 83 of the Local Government Act 2002 because while it sent written notices acknowledging receipt of submissions, it failed to –

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- (a) advise submitters (whether they had asked for an opportunity to be heard or not) of their opportunity to be heard by way of an oral submission; and
 - (b) explain how they could exercise their opportunity to be heard:
- (74) The Council did not comply with section 45(1) of the Rating Act with respect to rates assessments for the 2012/2013 financial year in that it made the same errors as set out in paragraph (7) above:

General

- (75) It is desirable that the irregularities relating to the forest owner's roading impact rate, the Mangawhai uniform annual charge, the Mangawhai uniform targeted rate, the wastewater disposal rate, and the water supply rate for Maungaturoto, Station Village for the 2006/2007, the 2007/2008, the 2008/2009, the 2009/2010, the 2010/2011, and 2011/12 financial years be validated and the penalties added to those rates be validated:
- (76) It is desirable that the irregularities relating to the funding impact statements for the 2006/2007, the 2007/2008, the 2008/2009, the 2009/2010, the 2010/2011, and the 2011/12 financial years be validated:
- (77) It is desirable that the irregularities relating to the continuation of the development contributions policy in 2009 be validated:
- (78) It is desirable that the irregularities relating to the conduct of the special consultative procedure for the long-term plan 2012-2022 be validated:
- (79) It is desirable that the irregularities relating to the late adoption of the annual report for the 2010/2011 financial year, and the late adoption of the long-term plan 2012-2022, be validated:
- (80) It is desirable that the omissions in relation to the rates assessments for the 2006/2007, the 2007/2008, the 2008/2009, the 2009/2010, the 2010/2011, the 2011/12, and the 2012/2013 financial years be validated:
- (81) Legislation is the only means by which the forest owner's roading impact rate, the Mangawhai uniform annual charge, the Mangawhai uniform targeted rate, the wastewater disposal rate, and the water supply rate for Maungaturoto, Station Village, and the other irregularities can be validated:
- (82) The objects of this Act cannot be attained other than by legislation:

The Parliament of New Zealand therefore enacts as follows:

1 Title

This Act is the Kaipara District Council (Validation of Rates and other Matters) Act **2013**.

2 Commencement

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

Part 1

Preliminary provisions

3 Purposes

The purposes of this Act are to—

- (a) validate the specified rates purportedly set and assessed by the Council and the penalties added to those rates; and
- (b) validate the specified funding impact statements; and
- (c) treat all money received by the Council in payment of the specified rates or penalties added to those rates as having been lawfully paid to, and received by, the Council; and
- (d) authorise the Council to recover any part of the specified rates and any penalties added to those rates that remain unpaid as if the specified rates or penalties had always been lawfully payable; and
- (e) validate any election or application, as the case may be, of the Mangawhai uniform targeted rate in respect of the 2008/2009, the 2009/2010, the 2010/2011, and any subsequent financial years; and
- (f) validate the other actions or omissions of the Council in relation to –
 - (i) the continuation of the development contributions policy in 2009; and
 - (ii) the late adoption of the annual report for the 2011/2012 financial year and the long-term plan 2012-2022; and
 - (iii) the conduct of the special consultative procedure for the long-term plan 2012-2022; and
 - (iv) the information contained in the rates assessments for the 2006/2007, the 2007/2008, the 2008/2009, the 2009/2010, the 2010/2011, the 2011/12, and the 2012/2013 financial years..

4 Interpretation

In this Act, unless the context otherwise requires,—

annual report means the annual report adopted under section 98 of the Local Government Act 2002

Council means the Kaipara District Council

forest owners' roading impact rate means the targeted rate purportedly set by the Council under section 16 of the Rating Act and otherwise referred to as the forest owners' roading impact rate in the rates resolutions of the Council for the 2009/2010 and the 2011/2012 financial years

funding impact statement has the meaning given by section 5 of the Rating Act

long-term plan has the meaning given by section 5(1) of the Local Government Act 2002

Mangawhai uniform targeted rate means the targeted rate purportedly set by the Council under section 16 of the Rating Act and otherwise referred to as the “uniform targeted rate” for the Mangawhai Urban Drainage District under the heading “wastewater disposal rates” in the rates resolutions of the Council for the 2008/2009, the 2009/2010, the 2010/2011, and the 2011/2012 financial years

Mangawhai uniform annual charge means the targeted rate purportedly set by the Council under section 16 of the Rating Act and otherwise referred to as the “uniform annual charge” for the Mangawhai Urban Drainage District under the heading “wastewater disposal rates” in the rates resolutions of the Council for the 2008/2009, the 2009/2010, the 2010/2011, and the 2011/2012 financial years

rate has the meaning given by section 5 of the Rating Act

rates assessment has the meaning given by section 5 of the Rating Act

Rating Act means the Local Government (Rating) Act 2002

specified funding impact statements means the funding impact statements adopted by the Council for the 2006/2007, the 2007/2008, the 2008/2009, the 2009/2010, the 2010/2011, and the 2011/12 financial years

specified rates means the forest owners’ roading impact rate, the Mangawhai uniform targeted rate, the Mangawhai uniform annual charge, the wastewater disposal rate, and water supply rate for Maungaturoto, Station Village

wastewater disposal rate means the targeted rate purportedly set by the Council under section 16 of Rating Act and otherwise referred to as “wastewater disposal rates” for the Dargaville Wastewater District, Te Kopuru Urban Drainage District, Maungaturoto Urban Drainage District, Kaiwaka Urban Drainage District, Glinks Gully Effluent Disposal Area in the rates resolutions of the Council for the 2006/2007, the 2007/2008, the 2008/2009, the 2009/2010, the 2010/2011, and the 2011/12 financial years

water supply rate for Maungaturoto, Station Village means the targeted rate purportedly set by the Council under section 19 of the Rating Act and otherwise referred to as a “water supply rate” for the Maungaturoto, Station Village Water Supply Area in the rates resolutions of the Council for the 2006/2007, the 2007/2008, the 2008/2009, the 2009/2010, the 2010/2011, and the 2011/12 financial years.

Part 2

Validation and recovery of specified rates

5 Validation of specified rates

Despite the failure of the Council to comply with section 16, 17, 18, 19, 23 or 43 of the Rating Act, —

-
- (a) the specified rates (as stated in the rates assessments and rates invoices) are valid and declared to have been lawfully set by the Council; and
 - (b) all actions of the Council in setting, assessing, and recovering the specified rates are valid and declared to be and to always have been lawful; and
 - (c) the assessment of the wastewater disposal rate in respect of each separately occupied or inhabited residential property is to be treated as if it were an assessment in respect of each separately used or inhabited part of a rating unit.

6 Validation of specified funding impact statements

The specified funding impact statements are valid and declared to have been lawfully adopted by the Council, despite the failure of the Council to –

- (a) comply with section 17, 18, or 23 of the Rating Act; and
- (b) clause 15(4) or 20(4) of Schedule 10 of the Local Government Act 2002 (or any provision that corresponded to those provisions).

7 Validation of penalties

All penalties added to the specified rates (as stated in the rates assessments and rates invoices) are valid and declared to have been lawfully imposed by the Council.

8 Payment of specified rates declared lawful

All money received by the Council in payment of the specified rates and any penalties paid in respect of those rates are to be treated as having been lawfully paid to, and received by, the Council.

9 Recovery of unpaid specified rates or penalties declared lawful

Any part of the specified rates and any penalties payable in respect of those rates that have not been paid to the Council on or after the commencement of this Act—

- (a) are declared to be lawfully payable to the Council; and
- (b) may be recovered by the Council as if the rates or penalties had always been lawfully payable.

10 Validation of election of one-off targeted rate or 25 year targeted rate for Mangawhai uniform targeted rate

- (1) This section applies –
 - (a) to the Mangawhai uniform targeted rate in respect of the 2008/2009, the 2009/2010, the 2010/2011, and any subsequent financial years; and
 - (b) whether or not the Council intended the Mangawhai uniform targeted rate in any of those years to be funded by lump sum contributions as set out in Part 4A of the Rating Act.
- (2) If a ratepayer was invited to elect whether the one-off targeted rate or a one-off targeted rate (payable over two years) or the 25 year targeted rate would apply to the ratepayer's rating unit, whichever election the ratepayer made, or in the absence of such an election whichever targeted rate applied, the election or application is to be treated as lawful.
- (3) If the one-off targeted rate was elected or applied to the rating unit, that election remains valid and enforceable in respect of the applicable rating unit.

Part 3

Validation of certain actions and omissions

11 Sections 12 to 15 for the avoidance of doubt

Sections 12 to 15 are to avoid any doubt.

12 Valid continuation of development contributions policy

Despite the failure of the Council to comply with sections 102 and 106 of the Local Government Act 2002, in relation to the policy on development contributions and financial contributions in the Council's long-term council community plan 2009-2019, the policy on development and financial contributions for the Mangawhai Ecocare Wastewater Treatment Scheme and Mangawhai roading (as originally set out in the Council's long-term council community plan 2006/16) was validly continued by the long-term council community plan 2009-2019.

13 Validation of matters relating to long-term plan

Despite the failure of the Council to comply with sections 83(1) and 93(3) of the Local Government Act 2002, the Council's long-term plan 2012-2022 is valid and declared to have been lawfully adopted by the Council.

14 Validation of late adoption of annual report

Despite the failure of the Council to comply with section 98(3) of the Local Government Act 2002, the Council's annual report for the 2010/2011 financial year is valid and declared to have been lawfully adopted by the Council.

15 Validation of rates assessments

Despite the failure of the Council to set out some of the information required by section 45(1) of the Rating Act, the Council's rates assessments for the 2006/2007, the 2007/2008, the 2008/2009, the 2009/2010, the 2010/2011, the 2011/12, and the 2012/2013 financial years are valid and declared to be and to always have been lawful.