

OIR: 2425/1227

4 March 2025

**Please read in conjunction with  
OIR 2425-1130**

Kia ora [REDACTED]

**Request for Information under the Local Government Official Information and Meetings Act 1987 (the Act) (the LGOIMA)**

Thank you for your two emails of **16 December 2024** requesting the following information regarding our response to you on 1 November 2024 for OIR 2425 – 1130. Because of the detail included in your two emails, we have set out your questions and statements and respond below:

***Unfortunately this matter cannot be closed as KCDC were not in a position to fully answer the request and only provided partial answers.***

***Question 4: not disclosed, still required.***

***Background -***

***While the Council decision to create a charitable trust with an associated LLC as the business operational entity, the overarching authority comes from the Local Government Act 2002 which must still be complied with.***

***This KCDC intention is to create an arms length relationship but using local Kapiti Ratepayer supplied funding means that the operation of both entities must be transparent, democratic, open, and in compliance with Sections 10, 12 and 14 [LGA 2002](#)***

***And also in compliance of sound business practices to provide an expected return on investment.***

***KCDC state 1/11/24 page 4 that the trust is “that economic activity will provide a return to the community, rather than require ratepayers funding in the medium term.”***

***This statement appears inconsistent with those of 5/12/24 in council chambers meeting.***

***The Council have resolved to settle a trust.***

***Please note that any information provided in response to your request may be published on the Council website, with your personal details removed.***

***Furthermore it is noted that the defined prescription of directors for the operating LLC is not representative of the entire Kapiti coast business [economic ] demographic.***

***[LLC Constitution](#) page 65***

As noted in our response to your previous request (OIR: 2425-1130) dated 1 November 2024, Council believes that it has met requirements set by the LGA 2002 on this matter. I have no further points to add to the information we have already provided.

In relation to your query around a financial return to Council: I can confirm that:

- Council have set an expectation that the Trust and its subsidiaries will provide a return back to the community and Council in the medium-term.
- The Trust and its subsidiary will submit an annual Business Plan for Council approval, to prioritise how it spends funding from the business rate. This process forms part of the transparency and accountability mechanisms that Council has put in place to ensure LGA 2002 requirements are met.

In relation to your query around representation: I can confirm that:

- Trustees are yet to be appointed. However, the recruitment process to recruit Trustees is currently underway.
- Once appointed, as prescribed by the Trust Deed, the Trustees will in due course undertake a further independent process to settle its subsidiary company (ie the Limited Liability Company, "LLC") and permanent Directors to its Board. That will be a matter for the Trust to manage.

***Question 4.1 supplementary :***

***Who are the shareholders of Kapiti Enterprise Kotahitanga limited?***

***It is assumed lawfully and under prudent good business practice that they should be the trustees of the parent trust, and be representative of the ratepaying Kapiti Business Community. Is this correct?***

***If these have not been appointed yet can you please advise the date on which they will be appointed and provide this information at that time, thank you.***

As noted in the response to Question 4 above, the Trust and LLC have not yet been established. This is not scheduled to be in place until after May 2025.

However, I can confirm that the proposed sole shareholder in the LLC is the new Charitable Trust. The process of the appointment of the Trustees and associated timeline for the appointment can be found in item 11.3 of the 27 November 2024 council meeting papers, [found here](#). This includes details of the skills and experience required of Trustees appointed to the proposed Trust.

***Question 4.2 supplementary :***

***Can you please advise the actual and expected economic return as a percentage ROI, business KPI's, and measured economic benefits***

***expected from the, any amounts of investment up to \$8,000,000 investment by the Kapiti Business community derived from the provision of the above purposes (a), (b), and (c) being primarily education services, training, health and wellbeing for unemployed persons?***

The performance of the new Trust and its subsidiaries will be measured by the business KPIs set out in the [refreshed Economic Development strategy 2024 to 2027](#). Of note:

- A small suite of measures will be reported against, every six-months, to illustrate the measurable shifts in the economy, as a result of targeted and collective efforts within the Kapiti district by the new Trust and LLC.
- Under the current settings of the Economic Development strategy 2020 to 2023, there are a similar set of measures which are reported every six-months to Council. A feature of this reporting includes outlining ROI for key initiatives. As an example the Major Events Fund, a part of the economic development budget, attracted approximately 50,000 visitors and delivered a 25:1 return on investment.

Council will allocate funding to the new Trust and LLC on a per annum basis, as part of setting an annual letter of expectation between the Council and the new entities. I can confirm that funding will be associated with delivery of activity and changes in key business metrics through this process. Council will discuss the scope of this letter in advance of August 2025.

Further information on Council budgets and annual spending is available through the following documents:

- The Performance Report for the period ending October 2024 provides the most recent update on annual spend. It is available via [Agenda of Council Meeting - Thursday, 12 December 2024](#) (Item 10.3).

**Question 4.3 supplementary:**

***Can you please advise what is the constitution, formative document of this Holding Company and from which demographic will the prescribed Directors be from? If these have not been appointed yet can you please advise the date on which they will be appointed and provide this information at that time, thank you.***

A [copy](#) of the constitution, which was approved in principle by Council can be found in item 11.3 of the 27 November 2024 council meeting papers. This provides details on the composition of the proposed Company Directors, along with the timeline of next steps.

On 27 November 2024, council [approved](#) the transition of the Economic Development Kotahitanga Board to the interim Board of the LLC, as Company Directors for the purpose of continuity.

As noted in the response to Question 4, once appointed, the Trustees will in due course undertake a further independent process to settle its subsidiary company

(i.e. the Limited Liability Company, “LLC”) and permanent Directors to its Board. That will be a matter for the Trust to manage.

**Question 4.4 supplementary :**

***Who or what is the Holding Company entity? Who are their representatives? directors and shareholders. If these have not been appointed yet can you please advise the date on which they will be appointed and provide this information at that time?***

The proposed Holding Company entity is the Charitable Trust and the process of the appointment of the trustees can be found in item 11.3 of the 27 November 2024 council meeting papers, [found here](#).

**Question 4.5 supplementary :**

***Can you please supply the business Plan and its percentage ROI, business KPI's, and measured economic benefits expected from the completion of the plan tasks and activities? For any dollar amounts of investment, loans, grants or any other financial arrangement? If by chance this is not yet available can you kindly please advise when it will be available, and send me a copy?***

Business plans have not been developed yet. This part of your request is refused under section 17(e) of the Act as the documents alleged to contain the information requested does not exist. However, please refer to the [timeline](#) provided in item 11.3 of the 27 November 2024 council meeting papers.

**Question 4.6 supplementary :**

***Can you please advise the expected dividend [ dollar amount and rate of return ] on any amount invested by the Trust and the LLC?***

Information on the expected dividend is not yet set, as the Business Plan for the new entities has not been developed or approved. This part of your request is refused under section 17(e) of the Act as the documents alleged to contain the information requested does not exist. However, please refer to the [timeline](#) provided in item 11.3 of the 27 November 2024 council meeting papers.

**Question 4.7 supplementary :**

***Under . The Relationship Framework agreement page 75 of [LLC Constitution](#)***

***2.2 Both parties acknowledge that KEKL:***

***(a) has been established, and has the objective of operating in partnership with iwi and other partners; (b) should seek to qualify for government funding and support from a range of Government, public, private and philanthropic investors;***

***(c) will operate with independence and will seek to ensure that it has access to necessary specialist skills and experience;  
(d) will operate with financial sustainability over the long term;  
(e) will provide returns to the Trust to enable the Trust to carry out its charitable purposes; and(f)  
(f) may establish subsidiary Special Purpose Vehicles (SPVs) to operationalise key projects to further the economic development of key sectors in the Kāpiti Coast District.***

***Can you please disclose the methodology, expected budgetary activity areas that form this financial sustainability (d)?***

This information is not yet available as the Business Plan has not been developed or approved. This part of your request is refused under section 17(e) of the Act as the documents alleged to contain the information requested does not exist,

However, please refer to the [timeline](#) provided in item 11.3 of the 27 November 2024 council meeting papers.

Further to this, I can confirm that any allocation will fall within the budget parameters set for economic development in the Kapiti Coast District Long-Term Plan 2024-2034.

***(e) the expected financial returns to the trust?***

Please refer to the above response to 4.7(d).

***(f) what are the key projects of economic development and key sectors benefitting from the projects and expenditure investment?***

Please refer to the above response to 4.7(d).

***If these have not been calculated yet can you please advise the date on which they will be and provide this information at that time?***

Please refer to the above response to 4.7(d).

**Question 4.8 supplementary :**

***Can you please quantify and advise the expected cost of these services per annum?***

The expected costs of these services have not been calculated and will be part of the negotiations of next steps and milestones. This part of your request is refused under section 17(e) of the Act as the documents alleged to contain the information requested does not exist. However, please refer to the [timeline](#) provided in item 11.3 of the 27 November 2024 council meeting papers.

**Confirm that they are funded by all ratepayers [both residential and commercial] out of Districtwide / and or Community rates as a shared overhead?**

Please refer to the above response.

**Please advise the recovery process of these costs as recompense for the burden on Ratepayers that does comply with the arms length criteria as stated by KCDC.**

Please refer to the above response.

**Question 4.9 supplementary :**

**Please advise the expected costs of the additional support and the source of those funds provided?**

Information on the expected costs of additional support and source of funds is not yet available, To clarify, the Company will need to come to Council with a proposal of what support they require.

This part of your request is refused under section 17(e) of the Act as the documents alleged to contain the information requested do not exist.

**Question 6 not disclosed but now that the Trust Deed and LLC Constitution have been tabled and accepted I will be happy to wait upon advice from you as to when this information will become available, and when it does can you please provide it.**

To clarify, the Council does not currently deliver 'education, skills training, health and medical services for the unemployed [and employed]',

Council has publicly expressed a key benefit of establishing the new Trust and LLC will be able their ability to form investment relationships outside of any connection with the Council, and to source funding that is not reliant on rate payer or taxpayer sourced funding. The new entities will therefore have the opportunity to attract and allocate funding to support economic development via activities that it proposes are most valuable which may include or exclude options such as skills training, or investment in health and medical services.

Regarding release of information, please refer to the [timeline](#) provided in item 11.3 of the 27 November 2024 council meeting papers.

**Question 7 not disclosed but now that the Trust Deed and LLC Constitution have been tabled and accepted I will be happy to wait upon advice from you as to when this information will become available, and when it does can you please provide it.**

Please refer to the response to question 6 above.



**Question 8**

***Under the Sections 10 , 12 and 14 of the LGA 2002***

***Any loan offered to private business must comply with sound business practice - i.e have a market interest rate , secure an asset over the loan and have proper stewardship.***

***Under section 14***

***(f) a local authority should undertake any commercial transactions in accordance with sound business practices; and***

***(fa) a local authority should periodically—***

***(i) assess the expected returns to the authority from investing in, or undertaking, a commercial activity; and***

***(ii)satisfy itself that the expected returns are likely to outweigh the risks inherent in the investment or activity; and***

***(g)a local authority should ensure prudent stewardship and the efficient and effective use of its resources in the interests of its district or region, including by planning effectively for the future management of its assets; In the case of Air Chathams loan this was not done.***

Please refer to the [statement](#) previously made in relation to the loan to Air Chathams.

**Question 9**

***Was not made in relation to the EDKB trust, but in the context of loans being made to private businesses for the profits of private individuals – for example the Air Chathams situation.***

Thank you for that clarification. Please refer to the response above and linked statement.

**Question 10**

***Was not made in relation to the EDKB trust can you therefore kindly answer the original question.***

Please refer to the response above and the linked statement

**Question 11**

***Was not made in relation to the EDKB trust.***

***In order to clarify this question to assist you, Has KCDC ever taken a security over an asset in relation to a loan or other financial arrangement it has made to a private business ? for the time period since 1/7/2019 ?***

***This is sound business practice which clearly did not happen in the Air Chathams case.***

Please refer to the [Annual Report](#) for statements on the loan to Air Chathams. This information is included in note 9 to the financial statements in the 2024 Annual Report.

**Question 12 Clarification:-**

***To clarify this question was there any loan or financial arrangement made recently [1/7/2019 to date] to any private individual, business, company,***

***trust for any amounts up to the value of \$5 Million? and was/ has a security been taken as collateral?***

Details of Council loans are set out in Note 9 of the 2023/24 Annual Report. Of note:

- In addition to the Air Chathams loan, the Council has provided interest-free loans up to \$5,000 to property owners who wished to install approved water conservation devices to reduce water use.
- By way of security, the Council recovers these loans by a targeted rate on the property over a 10-year period or upon sale of the property where any outstanding debt is collected through the settlement process.
- This initiative was suspended during 2023/24 and is no longer being offered for new applications.
- I understand that since 1 July 2019 there were 8 such loans.

***Question 13***

***And provide the names of the whichever entity was used in Question 9.***

Please refer to the response provided above.

***Question 14***

***Will become clear when questions 11- 13 are answered.***

Please refer to the response provided above.

***Question 15***

***Partially answered, many thanks, so who or which organisations were paid to be the beneficiaries of this project ? and can you kindly direct me to the outcome of this Te Urihi project , i.e. the deliverables ? and a link to where these stories may be found ? so that the general public can have the benefit of knowing where their ratepayer dollars are being spent?***

Please refer to our response to your previous request (OIR: 2425-1130) dated 1 November 2024.

***Question 16***

***Thank you, can you therefore please advise when these documents requested will exist from the Iwi Partnership and the date on which they can be provided?***

Please refer to our response to your previous request (OIR: 2425-1130) dated 1 November 2024.

***Question 17***

***Sorry, this question was not precisely worded enough, so accordingly I will have to make this request via the Auditor General.  
Can you please confirm receipt of this communication.***



I can confirm that Council has previously acknowledged receipt of your email on 16 December 2024, when acknowledging your request for information.

**Question 18**

***Will the EDKB Charitable Trust , Holding company and LLC still go ahead in light of the fact that Central Government will be passing legislation by mid 2025 to remove reference to the four wellbeing principles in LGA 2002 to ensure that Councils return to only providing core service functionality, being Roothing , Water services , community services libraries ,parks and remove the non core , non essential uses of ratepayer provided funds?***

I can confirm that:

- Council is aware of the Government's statements around a range of potential legislative changes. However, the timing of these passing is currently unclear.
- Clause 12(3) of the LGA 2002 requires that Council operates to current legislative settings. Council is committed to meeting its legislative responsibilities.
- On that basis, the Council operates within the scope of requirements set through more than 50 legislative clauses which note a requirement, direction or equivalent for local authorities. For example, Council has a local-level role within the broader regulatory system to support communities to operate safely and within a consistent set of boundaries.

You have the right to request the Ombudsman to review this decision. Complaints can be sent by email to [info@ombudsman.parliament.nz](mailto:info@ombudsman.parliament.nz), or by post to The Ombudsman, PO Box 10152, Wellington 6143.

Ngā mihi,



**Kris Pervan**

Group Manager Strategy and Growth  
Te Kaihautū Rautaki me te Tupu