

Mā tō tātou takiwā
For our District

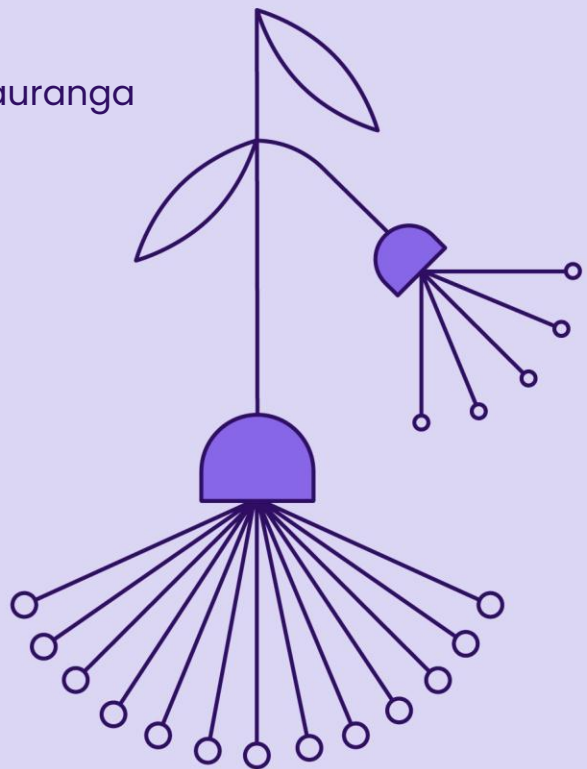
Ōmokoroa – Kaimai Community Board

Poari ā Hapori o Ōmokoroa – Kaimai

OKCB25-IN

Wednesday, 5 November 2025 at 1pm

Council Chambers, 1484 Cameron Road, Tauranga



Notice is hereby given that an Ōmokoroa – Kaimai Community Board Meeting will be held in Council Chambers, 1484 Cameron Road, Tauranga on: Wednesday, 5 November 2025 at 1.00pm

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1 PRESENT – NGĀ MEMA KEI KONEI

2 IN ATTENDANCE – I TAE AKE

3 APOLOGIES – NGĀ WHAKAPAHĀ

4 CONSIDERATION OF LATE ITEMS – NGĀ TAKE TŌMURI

5 DECLARATIONS OF INTEREST – NGĀ TUKITUKINGA

Members are reminded of the need to be vigilant and to stand aside from decision making when a conflict arises between their role as an elected representative and any private or other external interest that they may have.

6 PUBLIC EXCLUDED ITEMS – NGĀ TAKE TAPU

7 PUBLIC FORUM – WĀHANGA TŪMATANUI

Nil

8 REPORTS – NGĀ PŪRONGO

8.1 DECLARATIONS BY ŌMOKOROA – KAIMAI COMMUNITY BOARD MEMBERS

File Number: A6991431

Author: Robyn Garrett, Governance Manager

Authoriser: Miriam Taris, Interim Chief Executive Officer

EXECUTIVE SUMMARY

The Making and Attesting of the Declaration of Ōmokoroa-Kaimai Community Board Members (witnessed by the Chief Executive Officer).

ATTACHMENTS

- 1. Declaration – Ōmokoroa – Kaimai Community Board – Inaugural Hui – 5 November 2025** 



Declaration by Member

I, **Name**, declare that I will faithfully and impartially, and according to the best of my skill and judgement, execute and perform, in the best interests of Ōmokoroa - Kaimai Community, the powers, authorities and duties vested in, or imposed upon, me as a

Member of the Ōmokoroa - Kaimai Community Board

by virtue of the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, or any other Act.

Dated at Tauranga this **5th day of November 2025**.

Name

Signed in the presence of:

Miriam Taris
Interim Chief Executive Officer
Western Bay of Plenty District Council



Declaration by Member

Ko ahau, ko **Name**, e oati ana ka whai ahau i te pono me te tōkeke, i runga hoki i te mutunga kē mai nei o āku pūkenga, o āku whakatau hoki kia whakatutuki, kia mahi anō hoki i te mana whakahaere, te mana whakatau me ngā momo mahi kua uhia ki runga i a au kia whiwhi painga mō te hāpori o Ōmokoroa - Kaimai

Hei mema o te poari ā hāpori o Ōmokoroa - Kaimai

e ai hoki ki te Ture Kāwanatanga-ā-Taiao 2002 ki te Ture Kāwanatanga-ā-Taiao Whakapae me te Hui 1987, me ētahi Ture anō rānei.

He mea whakaū tēnei ki Tauranga i tēnei rā **rima o Whiringa-ā-Rangi i te tau rua mano rua tekau mā rima.**

Name

Waitohu mai ki mua i a:

Miriam Taris
Tumuaki
Te Kaunihera a rohe mai i Ngā Kuri
a Whārei ki Otamarakau ki te Uru

8.2 LEGISLATIVE ADVICE FOR INCOMING ELECTED MEMBERS

File Number: A6991433

Author: Robyn Garrett, Governance Manager

Authoriser: Miriam Taris, Interim Chief Executive Officer

EXECUTIVE SUMMARY

The Interim Chief Executive Officer is required to provide a general overview of key legislation that Elected Members need to be aware of and understand in their roles as district councillors and community board members.

RECOMMENDATION

1. That the Governance Manager's report dated 5 November 2025 titled 'Legislative advice for incoming Elected Members' be received.
2. That Ōmokoroa – Kaimai Community Board Members note the requirements to disclose and update any personal or financial interests that may conflict with their role as an Elected Member.

BACKGROUND

Clause 21(5)(c) Schedule 7 of the Local Government Act 2002 requires the Chief Executive Officer to provide a general explanation of the laws affecting elected members at the Inaugural Council meeting, including the following legislation:

- a) Local Government Official Information and Meetings Act 1987;
- b) Local Authorities (Members' Interests) Act 1968;
- c) Crimes Act 1961 (sections 99, 105 and 105A;)
- d) Secret Commissions Act 1910; and
- e) Financial Markets Conduct Act 2013.

Information relating to the Local Government Act 2002, Privacy Act 2020 and the Health and Safety at Work Act 2015 is also included in this report.

LOCAL GOVERNMENT ACT 2002

The Local Government Act 2002 ('LGA 2002') is the principal empowering legislation for local authorities. It defines the purpose of local government and the role of local authorities and provides a framework and powers that enable Council to decide which activities it undertakes and the way it undertakes them.

The purpose of local government is defined in section 10:

- a) To enable democratic local decision-making and action by and on behalf of communities; and
- b) To promote the social, economic, environmental, and cultural well-being of communities in the present and for the future.

The role of a local authority is set out in section 11:

- a) To give effect, in relation to its district or region, to the purpose of local government stated in section 10; and
- b) To perform the duties, and exercise the rights, conferred on it by the Act or under statute.

Section 12 of the LGA 2002 grants a general power of competence to Council to carry on or undertake activities, enter business transactions and do whatever is necessary for the purpose of performing its role. In performing its role, Council must act in accordance with nine broad principles set out in section 14 of the LGA 2002. Council must conduct its business in an open, transparent and democratically accountable manner and give effect to identified priorities and outcomes in an effective and efficient manner.

Every decision made by Council, including a decision not to act, must be made in accordance with sections 76, 77, 78, 79, 80 and 82 of the LGA 2002. A higher standard of compliance is required for significant decisions, as defined in the LGA 2002 and Council's Significance and Engagement Policy.

Part 4 of the Act sets out the principles of governance and management of local authorities and community boards. These include the role and powers of the Mayor (section 41A) and the Chief Executive (section 42).

Part 6 of the Act contains detailed provisions relating to planning, decision making and accountability. This part of the Act specifies a mandatory process for decision making and includes principles governing consultation, consideration of the views of persons affected by a decision, and the contribution of Māori to decision-making processes. In addition, Part 6 sets out requirements for reporting, financial management, and the long term and annual plans.

Part 8 of the Act covers regulatory, enforcement and coercive powers of local authorities, including the power to make bylaws, prescribe fees, and to require development contributions.

Schedule 7 of the LGA 2002 sets out provisions relating to Elected Members and includes the process for establishing committees, delegations, remuneration and meeting requirements (in addition to Local Government Official Information and Meetings Act 1987 requirements). Schedule 7 also includes elected members' obligations to act as a good employer in respect to the Chief Executive Officer and to abide by the Code of Conduct and Standing Orders.

Personal liability of Elected Members

Section 43 of the LGA 2002 provides that Elected Members are indemnified in respect of their actions as a member of the Council in relation to:

- a) Civil liability (both for costs and damages) if the Member is acting in good faith and in pursuance of the responsibilities or powers of the Council; and
- b) Costs arising from any successfully defended criminal action relating to acts or omissions in his or her capacity as an Elected Member.

Elected Members may, theoretically, be exposed to personal liability in certain circumstances if the Council has incurred loss due to actions of the Council (Section 44 of the LGA 2002). The loss must arise out of one of the following situations:

- If the Council unlawfully spends money;
- If the Council unlawfully sells or disposes of an asset;
- If the Council unlawfully incurs a liability; and
- If the Council intentionally or negligently fails to enforce the collection of money it is lawfully entitled to receive.

If the Auditor-General has reported on a 'loss', then that loss is recoverable as a debt due to the Crown. This must be paid back to the Council from each Elected Member jointly and severally. However, an elected member has a defence under section 46 of the LGA 2002 if they can prove that the act or failure that led to the loss occurred:

- Without their knowledge; or
- With their knowledge, but against protest made at, or before, the time when the loss occurred; or
- Contrary to the way the member voted on the issue at a meeting of the Council; or
- In circumstances where the member acted in good faith and relied on information or professional or expert advice given by a Council officer or professional advisor on matters which the member reasonably believed were within that person's competency.

Register of Elected Members' pecuniary interests

In November 2022, the Local Government Act 2002 (LGA) was amended to require local authorities to keep a register of the pecuniary interests of their elected members, including community and local board members.

"Pecuniary interest" is defined as "a matter or activity of financial benefit to the member". Under the LGA, it is mandatory for members to declare their pecuniary interests (make a "pecuniary interest return") by certain dates containing prescribed information. Failing to do so is an offence. The local authority must make publicly available a summary of the information contained in the register.

LOCAL GOVERNMENT OFFICIAL INFORMATION & MEETINGS ACT 1987 (LGOIMA)

The purpose of the Act is to enable more effective participation by the public in the actions and decisions of Council and to promote accountability of Elected Members and officials. The intention of the Act is to ensure that local government activities take place in an open and transparent manner and that information held by Council is made available to the public. At the heart of LGOIMA is the principle of availability, which states that the information should be made available unless there is good reason for withholding it.

Parts 1 – 6 of LGOIMA refer to access to local authority information, including requests for personal information. Part 7 relates to the conduct of local authority meetings and should be read in conjunction with Council's Standing Orders.

Official Information

The Act requires all information held by Council to be made available to the public unless there are good reasons for withholding it. Sections 6 and 7 set out certain reasons that Council might rely on to withhold information, such as protection of privacy or to protect the Council during commercial negotiations. The reasons for withholding in section 7 may, in particular circumstances, be outweighed by other considerations which make it desirable in the public interest for that information to be available.

Anyone has the right to request information held by the Council and if that request is refused the applicant has the right of appeal to the Ombudsman. Council must provide reasons for refusing a request and advise the applicant of their right to have the decision reviewed by the Ombudsman.

Personal Information

Under section 23 of the Act, every person has the right to access personal information held about them by a local authority and may request a correction to that information if necessary. The Act provides very limited grounds for refusing such a request (section 26).

Local Authority Meetings

Section 46 of the Act requires the local authority to publicly notify all meetings within certain timeframes and the procedure for notification of any additional meetings where that timeframe cannot be met.

Members of the public are entitled to inspect the agenda and associated reports at least two working days before each meeting.

Meetings of the local authority must be open to the public unless there is a good reason to exclude the public (section 47).

The reasons for excluding the public are set out in section 48 and include:

- Protection of the privacy of natural persons;
- Protect information where its release would disclose a trade secret or would prejudice a commercial position;

- Avoid offence to tikanga Māori or avoid disclosure of waahi tapu locations;
- Protect members, officers, employees and persons from improper pressure or harassment;
- Maintain legal professional privilege;
- Enable Council to carry out commercial activities without prejudice or disadvantage;
- Enable Council to carry out negotiations without prejudice or disadvantage;

Information that is marked 'Confidential' or 'Public Excluded' remains confidential unless a resolution has been passed to move the information into the Open section. Any requests for confidential information should be referred to the Chief Executive Officer. If confidential information is released by an elected member which subsequently causes a loss to Council, the member may become personally liable for the Council's loss if it is proven that the member was not acting in good faith.

Maintenance of Order:

The Chairperson can require a person to leave the meeting if they believe, on reasonable grounds, their behaviour is likely to prejudice the orderly conduct of the meeting.

LOCAL AUTHORITIES (MEMBERS' INTERESTS) ACT 1968

This Act regulates the conduct of elected members in situations where there is, or could be, a conflict of interest between their duties as an elected member and their financial interests (either directly or indirectly). It contains provisions relating to pecuniary and non-pecuniary interests.

Pecuniary Interests

Under the Act, elected members cannot:

- a) Enter into contracts with their Local Authority worth more than \$25,000 (including GST) in a financial year unless the contract is approved by the Auditor-General. Breach of this rule results in automatic disqualification from office.
- b) Participate in Council matters in which they have a pecuniary interest other than an interest in common with the public. Breach of this rule is a criminal offence and will result, upon conviction, on automatic disqualification from office.

The Act also provides that an "interest" exists where a member's spouse is involved and/or where a member or their spouse is a major shareholder or has control or management of a company which contracts with the council or where the company has a pecuniary interest in the decision. It may also apply if a family trust has a contract with the council. Members are prohibited from voting or taking part in discussion of any matter in which they have a pecuniary interest. The interest must be declared to the meeting by the member, and their abstention from discussion and voting must be recorded in the minutes.

It is noted that Community Boards are subject to the Act in their own right, separate from their 'parent' authority. The disqualification rule does not apply to contracts between a member of a community board and the 'parent' Council. This is because the disqualification rule only applies to contracts between a member and the authority to which that member is appointed.

Non-Pecuniary Interest

A non-pecuniary interest is an interest an Elected Member may have relating to an issue that does not involve money. This is sometimes referred to as 'bias'. The rules relating to bias cover actual bias and also perception of bias. An example of bias or perceived bias may arise where a member demonstrates, by their statements or conduct, that they have predetermined a matter before considering or hearing all relevant information relating to that matter. Another instance may be where a member has a close relationship with an organisation or individual involved with that matter.

In cases of actual or perceived bias an elected member should declare their interest and withdraw from discussion of the matter, to avoid the potential validity of Council's decision being challenged.

Council maintains a public Register of Interests and all elected members have been asked to make a written declaration of any personal and financial interests that may conflict with their role as an Elected Member. Members are responsible for keeping their declarations up to date at all times. The Register of Interests is regularly reviewed by Audit New Zealand.

CRIMES ACT 1961

Sections 99, 105 and 105A of the Crimes Act 1961 relate to corruption and bribery of an official, or by a person acting in his/her capacity as an official; and the corrupt use of official information.

The term 'official' is defined in section 99 of the Act and includes any member or employee of a local authority.

This Act outlines penalties for officials (including any member of any local authority) who accept bribes or agree to accept bribes for actions taken or not taken in the course of their official duties. The bribe may be for themselves or another person. A bribe is defined as money, valuable consideration, office, or employment, or any benefit, whether direct or indirect. 20. There are also penalties for officials who corruptly use or disclose information obtained in an official capacity for financial gain for themselves or any other person.

Each of these provisions are punishable by up to seven years imprisonment and a conviction would also result in loss of office under the LGA 2002.

SECRET COMMISSIONS ACT 1910

This Act states that an Agent (a term which includes elected members of a local authority) must not give or receive gifts or inducements to do or not do things in relation to the business of the Principal (being Council).

Agents must not divert, obstruct or interfere with the proper business of the Principal, and must not fail to use due diligence in conducting this proper business with the intent to gain any gift or consideration for themselves or any other person. Agents must make known any financial interest they hold in any contracts undertaken by the Principal; this includes interests held by a spouse or partner, parent, child or business partner of the Agent.

It is an offence to produce false or incomplete receipts, invoices or other accounting documents with an intent to deceive the Principal of any payments that may have been made to the Agent. It is also an offence for Agents to receive any secret reward for facilitating particular contract procurement outcomes.

Penalties under this Act include imprisonment up to 7 years.

FINANCIAL MARKETS CONDUCT ACT 2013

The Financial Markets Conduct Act 2013 replaced the Securities Act 1978. The purpose of the Act is:

- (i) To promote the confident and informed participation of businesses, investors and consumers; and
- (ii) To promote and facilitate the development of fair, efficient and transparent financial markets.
- (iii) The Act works to reform the regulation of financial conduct and governs the way financial products are offered, promoted, issued and sold. This includes the on-going responsibilities of those who offer, issue, manage, supervise, deal in and trade financial products. The Act also regulates the provision of certain financial services.

This Act essentially places elected members in the same position as company directors whenever a Council offers financial products (such as an issue of debt or equity securities). Elected members may be personally liable if documents that are registered under the Act, such as a product disclosure statement, contain false or misleading statements. Elected members may also be liable if the requirements of the Act are not met in relation to offers of financial products.

HEALTH AND SAFETY AT WORK ACT 2015

The Health and Safety at Work Act 2015 came into force in April 2016. The Act allocates duties to those people who are in the best position to control risks to health and safety as appropriate to their role in the workplace, and for the person conducting a business or undertaking ('PCBU') (i.e., the Council) to ensure, as far as is reasonably practicable,

the safety of workers and others who may be impacted by the work the business undertakes.

One of the significant changes is the introduction of 'Officers', who are defined as any person occupying a position in relation to the business or undertaking, that allows the person to exercise significant influence over the management of the business or undertaking.

For the purposes of the Act, Elected Members of Council (which include the Mayor Councillors and Community Board members) and the Chief Executive Officer are by default identified as 'Officers'. The Council has also designated Group Managers as 'Officers'.

Officers have obligations of due diligence, which are:

- a) To acquire, and keep up-to-date, knowledge of work health and safety matters;
- b) To gain an understanding of the nature of the operations of the business or undertaking of the PCBU, and generally of the hazards and risks associated with those operations;
- c) To ensure that the PCBU has available for use, and uses, appropriate resources and processes to eliminate or minimise risks to health and safety from work carried out as part of the conduct of the business or undertaking;
- d) To ensure that the PCBU has appropriate processes for receiving and considering information regarding incidents, hazards, and risks and for responding in a timely way to that information;
- e) To ensure that the PCBU has, and implements, processes for complying with any duty or obligation of the PCBU under this Act; and
- f) To verify the provision and use of the resources and processes referred to in paragraphs (c) to (e).

Duties of the Officers and of the PCBU are independent of each other, which means if a PCBU has failed to meet its duty, but the Officers exercised due diligence, then Officers would not be personally liable for health and safety failings.

PRIVACY ACT 2020

The Privacy Act 2020 outlines Principles that must be followed by any agency (and by association any representative of that agency) in relation to personal information. These Principles guide the purpose, source and manner of collecting personal information, the storage and protection of personal information including length of storage, the expectations in relation to accuracy of and corrections to information held, and the limits on use and any disclosure of personal information.

The Act also provides for complaints to be made to the Privacy Commissioner and outlines how these will be addressed, should someone feel these Principles have been

breached. As representatives of Council as an agency, members must abide by the expectations of the Act in relation to any personal information they are privy to.

CONCLUSION

In fulfilling its purpose, Council exercises powers, functions and duties conferred by a wide range of legislation, in addition to the above statutes, and this is subject to amendment from time to time.

If Elected Members have any questions relating to the legislation outlined above or any other legal obligations, they are welcome to discuss these with the Chief Executive Officer.

8.3 ELECTION OF CHAIRPERSON FOR THE ŌMOKOROA – KAIMAI COMMUNITY BOARD

File Number: A6991445

Author: Robyn Garrett, Governance Manager

Authoriser: Miriam Taris, Interim Chief Executive Officer

EXECUTIVE SUMMARY

In accordance with Clause 21(5)(b), Schedule 7 of the Local Government Act 2002 (LGA 2002) a Community Board must elect a Chairperson at the first meeting following the triennial general election.

RECOMMENDATION

1. That the Governance Manager's report dated 5 November 2025 titled 'Election of Chairperson for the Ōmokoroa – Kaimai Community Board' be received.
2. That in accordance with Clause 25(3), Schedule 7 of the LGA 2002, the Ōmokoroa – Kaimai Community Board adopts **System A** for the election of the Chairperson,
OR
That in accordance with Clause 25(4), Schedule 7 of the LGA 2002, the Ōmokoroa – Kaimai Community Board adopts **System B** for the election of the Chairperson.
3. That the Ōmokoroa – Kaimai Community Board elects _____ as the Chairperson of the Ōmokoroa – Kaimai Community Board.

ELECTION OF THE COMMUNITY BOARD CHAIRPERSON

Clause 25, Schedule 7 of the LGA 2002 outlines the process required to elect a Community Board Chairperson and provides two systems of voting. Before voting on the election of the Chairperson, the Community Board must vote on which system to apply to the election.

System A:

- a) requires that a person is elected if he or she receives the votes of a majority of the members present and voting; and
- b) has the following characteristics:
 - i. there is a first round of voting for all candidates; and
 - ii. if no candidate is successful in that round there is a second round of voting from which the candidate with the fewest votes in the first round is excluded; and

- iii. if no candidate is successful in the second round there is a third, and if necessary subsequent, round of voting from which, each time, the candidate with the fewest votes in the previous round is excluded; and
- iv. in any round of voting, if 2 or more candidates tie for the lowest number of votes, the person excluded from the next round is resolved by lot.

System B:

- a) requires that a person is elected or appointed if he or she receives more votes than any other candidate; and
- b) has the following characteristics:
 - i. there is only 1 round of voting; and
 - ii. if 2 or more candidates tie for the most votes, the tie is resolved by lot.

8.4 ELECTION OF DEPUTY CHAIRPERSON OF THE ŌMOKOROA – KAIMAI COMMUNITY BOARD

File Number: A6991448

Author: Robyn Garrett, Governance Manager

Authoriser: Miriam Taris, Interim Chief Executive Officer

EXECUTIVE SUMMARY

Pursuant to Clause 21(5)(e), Schedule 7 of the Local Government Act 2002 (LGA 2002) the Community Board must elect a Deputy Chairperson at its first meeting following the triennial general election.

RECOMMENDATION

1. That the Governance Manager's dated 5 November 2025 titled 'Election of the Deputy Chairperson of the Ōmokoroa – Kaimai Community Board' be received.
2. That in accordance with Clause 25(3), Schedule 7 of the LGA 2002 the Ōmokoroa – Kaimai Community Board adopts **System A** for the election of the Deputy Chairperson.

OR

That in accordance with Clause 25(4), Schedule 7 of the LGA 2002 the Ōmokoroa – Kaimai Community Board adopts **System B** for the election of the Deputy Chairperson.
3. That the Ōmokoroa – Kaimai Community Board elects _____ as the Deputy Chairperson of the Ōmokoroa – Kaimai Community Board.

ELECTION OF THE DEPUTY CHAIRPERSON OF COMMUNITY BOARD

Clause 25, Schedule 7 of the LGA 2002 outlines the process required to elect a Community Board Deputy Chairperson and provides two systems of voting. Before voting on the election of the Deputy Chairperson, the Community Board must vote on which system to apply to the election.

System A:

- a) requires that a person is elected if he or she receives the votes of a majority of the members present and voting; and
- b) has the following characteristics:
 - i. there is a first round of voting for all candidates; and

- ii. if no candidate is successful in that round there is a second round of voting from which the candidate with the fewest votes in the first round is excluded; and
- iii. if no candidate is successful in the second round there is a third, and if necessary subsequent, round of voting from which, each time, the candidate with the fewest votes in the previous round is excluded; and
- iv. in any round of voting, if 2 or more candidates tie for the lowest number of votes, the person excluded from the next round is resolved by lot.

System B:

- a) requires that a person is elected or appointed if he or she receives more votes than any other candidate; and
- b) has the following characteristics:
 - i. there is only 1 round of voting; and
 - ii. if 2 or more candidates tie for the most votes, the tie is resolved by lot.

8.5 DATE OF THE FIRST BUSINESS MEETING OF THE ŌMOKOROA – KAIMAI COMMUNITY BOARD 2025–2028 TRIENNium

File Number: A6991423

Author: Robyn Garrett, Governance Manager

Authoriser: Miriam Taris, Interim Chief Executive Officer

EXECUTIVE SUMMARY

The purpose of this report is to set the date of the first business meeting of the Ōmokoroa – Kaimai Community Board.

RECOMMENDATION

1. That the Governance Manager's report dated 5 November 2025 titled 'Date of the First Business Meeting of the Ōmokoroa – Kaimai Community Board 2025–2028 Triennium' be received.
2. That pursuant to Clause 21(5)(d), Schedule 7 of the Local Government Act 2002, the first business meeting of the Ōmokoroa – Kaimai Community Board will be held on Tuesday 17 February 2026 at the Ōmokoroa Library and Service Centre commencing at 6.00pm.

9 INFORMATION FOR RECEIPT – KŌRERO TE WHIWHIA