

Whangarei District Council Meeting

Supplementary Agenda

Date: Thursday, 28 September, 2017

Time: 10:30 am

Location: Council Chamber
Forum North, Rust Avenue
Whangarei

Elected Members: Her Worship the Mayor Sheryl Mai
(Chairperson)
Cr Stu Bell
Cr Crichton Christie
Cr Vince Cocurullo
Cr Tricia Cutforth
Cr Shelley Deeming
Cr Sue Glen
Cr Phil Halse
Cr Cherry Hermon
Cr Greg Innes
Cr Greg Martin
Cr Sharon Morgan
Cr Anna Murphy

For any queries regarding this meeting please contact
the Whangarei District Council on (09) 430-4200.

7. Decision Reports

7.6 *Supplementary - Staff Delegations RMA* 1

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7.6 Supplementary – Staff Delegations RMA

Meeting: Whangarei District Council
Date of meeting: 28 September 2017
Reporting officer: Murray McDonald (Manager - RMA Consents)

1 Purpose

The purpose of the report is to outline changes required to Council's delegations as a result of the Resource Legislation Amendment Act 2017 (which amended the Resource Management Act 1991).

2 Recommendations

That the Council delegate the following functions under the Resource Management Act 1991:

- (a) Section 87BA, To determine if a boundary activity approved by neighbours on infringed boundaries is a permitted activity, and
- (b) Section 87BB, To determine if activities meeting certain requirements are permitted activities,

to the following staff: General Manager Planning and Development, Manager RMA Consents, RMA Planning Specialist, and Team Leader RMA Consents.

3 Background

The Resource Legislation Amendment Act 2017 has amended the Resource Management Act 1991 (RMA), including the introduction of boundary activities and activities meeting certain requirements as permitted activities. To ensure timely consideration of such activities, staff delegations are required. These sections of the Act come into force on 18 October 2017.

4 Discussion

Section 87BA of the RMA provides for boundary activities (being a breach of one or more boundary rules) which are approved by neighbours to be permitted activities. As such no resource consent is required but Council must confirm by this by notice. As such a delegation (in the same way that resource consents are determined by staff) is required for staff to give such notice.

Section 87BB of the Act provides for activities which would require resource consent, but meet certain requirements (such as marginal or temporary non-compliance with district plan rules, environmental effects being no different from permitted activities, and adverse effects on a person being less than minor) to be considered as permitted activities. A staff delegation is required to enable such determinations to be made in a timely manner.

It is considered that the staff delegations for both should include General Manager of the Planning and Development department, Manager RMA Consents, RMA Planning Specialist and Team Leader, RMA Consents.

5 Significance and engagement

The decisions or matters of this Agenda do not trigger the significance criteria outlined in Council's Significance and Engagement Policy, and the public will be informed via Agenda publication on the website.

7.7 Local Government Funding Agency Board

Meeting: Whangarei District Council
Date of meeting: 28 September 2017
Reporting officer: Alan Adcock – General Manager/CFO

1 Purpose

For Whangarei District Council to give notice of an Ordinary Resolution at the Annual General Meeting of the Local Government Agency on 21 November 2017.

2 Recommendation

That the Whangarei District Council advises the NZ Local Government Funding Agency Limited that it wishes to put forward the following Ordinary Resolution for consideration at its 2017 Annual General Meeting:

“Until such time as resolved otherwise, the LGFA Board will comprise 6 Directors, with 5 of them being independent and one non-independent”.

3 Background

The NZ Local Government Funding Agency (LGFA) is a Council Controlled organisation jointly owned by the Crown and 30 territorial authorities. Whangarei District Council (WDC) holds a 3.3% share.

There are two tiers in the LGFA’s governance structure; a Board of Directors and the Shareholders’ Council (SC):

- **Board of Directors:** Between four and seven directors, with the majority being ‘independent’, which means not being an employee of a Shareholder (or related CCO), either currently or within the preceding five years.
- **Shareholders Council:** Representative body comprising a Crown representative and between four to nine ‘Nominating Local Authorities’, which are a subset of shareholder councils.

The Directors have the normal responsibilities of a New Zealand company, while the SC acts as an intermediary between the Shareholders, the Board and the company. As such it has limited powers, with its main role being to make recommendations to the Shareholders on matters they need to vote on and to monitor performance on their behalf.

WDC is a Nominating Local Authority and therefore has representation on the SC. Alan Adcock is WDC’s appointed representative, and is the elected SC Chairperson.

4 Discussion

From time to time the SC, having considered matters of relevance to Shareholders, wishes to put forward resolutions for them to consider and vote on. This typically happens prior to the Annual General Meeting (AGM); although resolutions can be made at any time.

However, to comply with the LGFA Constitution and the Companies Act 1993, there is a fairly prescriptive process for putting forward resolutions.

For the 2017 AGM there will be contested elections for vacant Director roles for the first time since LGFA inception in 2011. This has introduced some logistical complexities which the SC wishes to simplify as far as possible.

To this end it is proposed to deal with the election of Directors in the following order:

1. Agree on the size of the Board and its composition i.e. the mix of Independent and Non-independent Directors. The SC's recommendation is for a 5:1 mix.
2. Assuming this position is agreed, deal with the appointment of the Independent Directors, which would be uncontested
3. Then consider the appointment of the vacant Non-Independent Director position, which would be contested, with two candidates for one position.

Arrangements for points 2 and 3 above have already been made through the Director nomination process. However, one of the Shareholders must give notice of an Ordinary Resolution to deal with point 1 above.

Given our position as a Nominating Local Authority, and its appointed representative being the SC Chair, it is proposed that WDC acts on behalf of the SC and gives notice of the following Ordinary Resolution:

"Until such time as resolved otherwise, the LGFA Board will comprise 6 Directors, with 5 of them being independent and one non-independent".

This process simply puts the resolution to the meeting for consideration.

In early October LGFA will release the Notice of AGM. An agenda item will be brought to the October Council meeting to determine WDCs position on the resolutions therein.

5 Summary

By adopting the recommendation in this agenda item WDC is taking a leadership role to facilitate the process for LGFA Shareholders to govern the company effectively.

6 Significance and engagement

The decisions or matters of this Agenda do not trigger the significance criteria outlined in Council's Significance and Engagement Policy, and the public will be informed via Agenda publication on the website.

RESOLUTION TO EXCLUDE THE PUBLIC

That the public be excluded from the following parts of proceedings of this meeting.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under Section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

1.	The making available of information would be likely to unreasonably prejudice the commercial position of persons who are the subject of the
2.	To enable the council (the committee) to carry on without prejudice or disadvantage commercial negotiations. {(Section 7(2)(i))}.
3.	To protect the privacy of natural persons. {Section 7(2)(a)}.
4.	Publicity prior to successful prosecution of the individuals named would be contrary to the laws of natural justice and may constitute contempt of court.
5.	To protect information which is the subject to an obligation of confidence, the publication of such information would be likely to prejudice the supply of information from the same source and it is in the public interest that such information should continue to be supplied.
6.	In order to maintain legal professional privilege. {Section 2(g)}.
7.	To enable the council to carry on without prejudice or disadvantage, negotiations {Section 7(2)(i)}.

Resolution to allow members of the public to remain

If the council/committee wishes members of the public to remain during discussion of confidential items the following additional recommendation will need to be passed:

Move/Second

permitted to remain at this meeting, after the public has been excluded, because of his/her/their knowledge of _____

This knowledge, which will be of assistance in relation to the matter to be discussed, is relevant to that matter because _____

Note:

Every resolution to exclude the public shall be put at a time when the meeting is open to the public.