

Mayor and Councillors
COUNCIL

25 OCTOBER 2016

Meeting Status: **Public**

Purpose of Report: For Decision

APPOINTMENT OF ELECTED MEMBERS TO EXTERNAL ORGANISATIONS 2016-2019 TRIENNIUM

PURPOSE OF REPORT

- 1 This report seeks Council's approval of appointments to external organisations made in accordance with the Council's Policy on the Appointment of Directors of Council Organisations.

DELEGATION

- 2 Only Council has the authority to consider this matter.

BACKGROUND

- 3 At the beginning of each Triennium Council is asked to consider appointing Elected Members to external council organisations.
- 4 A council organisation is defined in the Local Government Act (LGA) 2002 (see Appendix 1) as any partnership, trust, arrangement for the sharing of profits, union of interests, cooperation, joint venture, or other similar arrangement (not a company, committee or joint committee). This is quite a broad definition and draws in many different organisations in which Council would benefit from having an appointed representative, from small community not-for-profits to trusts.
- 5 Under the LGA 2002 the Council is required to approve a policy for these appointments, which it has done so (see Appendix 2 for current Policy). This policy includes criteria for deciding which organisations to appoint to, the skills required for these appointments, and the process by which they are made. Council is not required to remunerate its appointees.
- 6 Appointments to external organisations are made for a number of reasons:
 - To encourage coordinated work towards Community Outcomes and strategic goals
 - To provide a means of monitoring where Council has made a grant to the body
 - To meet statutory requirements (as in a Deed of Trust or Will)
 - To meet requirements in the organisation's constitution (although Council is under no compulsion to do so).
- 7 Appointments are generally made for a three year term coinciding with the Triennium, but appointments may be made by Council as required throughout the Triennium.

- 8 The Council needs to ensure that any person it appoints to an external organisation has the knowledge or experience relevant to the activities of the organisation and is familiar with the relevant council policy, programmes and activities, and understands the nature of the role to which they have been appointed.

ISSUES AND OPTIONS

Issues

- 9 The Trust Deed or Will of two organisations dictate who should be appointed:
- The appointment to the Kapiti Emergency Medical Services Trust (EMS) is specified as the Mayor in the Trust Deed.
 - The Campe Estate appointments are specified in the will of the late Mr Campe as being the Mayor, a resident Paekākāriki-Raumati Ward Councillor and the Chief Executive.
- 10 The Council is asked to confirm these and other appointments. A list of the organisations, together with descriptors of their intent and the role of the elected member appointee can be found at Appendix 3.
- 11 Zone 4 is open to any elected member to attend.
- 12 Kapiti Island Nature Lodge Monitoring Committee is no longer operating as the terms of the renewed resource consent did not require a monitoring committee.
- 13 The Road Safety Advisory Group is not included on the list as their terms of reference will be reviewed soon, and an appointment can be made at that time.

CONSIDERATIONS

Policy considerations

- 14 There are no additional policy considerations.

Legal considerations

- 15 Relevant extracts of legislation are at Appendix 1.
- 16 Section 43 of the LGA 2002 provides that a member of a local authority (including a committee, community board or other subordinate decision making body) is indemnified by that local authority for costs and damages arising from any civil liability arising from action taken by a third party, providing the member was acting in good faith.
- 17 However, liability issues can potentially arise in relation to Councillors appointed as trustees. A trust is not a separate legal entity (unlike a company). This means that the trustees hold property or enter into contracts on behalf of a trust. As a result the trustees are liable in relation to any contracts entered into on behalf of the trust. Generally speaking the liability of trustees will be personal and not limited to the assets of the trust. The exception is where a contract contains a clause stating that the liability of a trustee is limited to the assets of the trust.

Financial considerations

18 Elected members appointed to external organisations are not remunerated.

Tāngata whenua considerations

19 Te Whakaminenga o Kāpiti is the independent partnership advisory body between Council and tāngata whenua. The appointments for Council are the Mayor and one Councillor.

SIGNIFICANCE AND ENGAGEMENT

Degree of significance

20 This matter has a low level of significance under Council policy.

Engagement planning

21 An engagement plan is not needed to implement this decision.

Publicity

22 A media release will be prepared and the list of appointments posted to the Council website.

RECOMMENDATIONS

23 That Council notes the Policy on the Appointment of Directors of Council Organisations as at Appendix 2 of report Corp-16-1945;

24 That the Council confirms the appointment of the Mayor to the Kapiti Emergency Medical Services Trust for the 2016-2019 Triennium;

25 That the Council confirms the appointment of the Mayor, the Paekākāriki-Raumati Ward Councillor Cr Holborow, and the Chief Executive to the Campe Estate Subcommittee for the 2016-2019 Triennium;

26 That the Council makes appointments to council organisations for the 2016-2019 Triennium as follows:

No	Organisation/body	Appointees
1	Te Whakaminenga o Kāpiti	The Mayor and Cr
2	Economic Development Leadership Group	Cr..... and Cr
3	Friends of the Ōtaki River	Cr.....
4	Friends of the Waikanae River	Cr.....
5	Kapiti Coast Aircraft Noise Community Liaison Group	Referred to Paraparaumu-Raumati Community Group for appointment of one member

No	Organisation/body	Appointees
6	NZTA Expressway Community Liaison Group	Referred to Paraparaumu-Raumati Community Group for appointment of one member
7	Wellington Regional Waste Forum	Cr.....
8	Pharazyn Reserve Focus Group	Referred to Waikanae Community Board for appointment of one member
9	Kapiti Ecological Restoration Maintenance Trust	Cr.....
10	Paraparaumu College Community Sports Hall Committee	Cr.....and Cr.....
11	A Safer Kapiti	Cr.....
12	Mahara Gallery Trust	Cr
13	Mahara Gallery Upgrade Project Steering Group	Cr
14	Kapiti Emergency Medical Services (EMS) Trust	The Mayor
15	Kapiti Accessibility Advisory Group	Cr.....
16	Kapiti Cycleway, Walkway and Bridleway Advisory Group	Cr..... and Cr.....
17	Kapiti Youth Council	Cr.....
18	Kapiti Coast Older Persons' Council	Mayor and Cr.....

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ATTACHMENTS

Appendix 1 Relevant extracts from the Local Government Act 2002

Appendix 2 Council's Policy on the Appointment of Directors of Council Organisations

Appendix 3 Background information on groups/organisations and role of appointed Elected Members

APPENDIX 1 – Relevant extracts from the Local Government Act 2002

57 Appointment of directors

(1) A local authority must adopt a policy that sets out an objective and transparent process for—

(a) the identification and consideration of the skills, knowledge, and experience required of directors of a council organisation; and

(b) the appointment of directors to a council organisation; and

(c) the remuneration of directors of a council organisation.

(2) A local authority may appoint a person to be a director of a council organisation only if the person has, in the opinion of the local authority, the skills, knowledge, or experience to—

(a) guide the organisation, given the nature and scope of its activities; and

(b) contribute to the achievement of the objectives of the organisation.

Meaning of council-controlled organisation and council organisation

(1) In this Act, unless the context otherwise requires,—

council-controlled organisation means a council organisation that is—

(a) a company—

i. in which equity securities carrying 50% or more of the voting rights at a meeting of the shareholders of the company are—

A. held by 1 or more local authorities; or

B. controlled, directly or indirectly, by 1 or more local authorities; or

ii. in which 1 or more local authorities have the right, directly or indirectly, to appoint 50% or more of the directors of the company; or

(b) an entity in respect of which 1 or more local authorities have, whether or not jointly with other local authorities or persons,—

i. (i) control, directly or indirectly, of 50% or more of the votes at any meeting of the members or controlling body of the entity; or

ii. (ii) the right, directly or indirectly, to appoint 50% or more of the trustees, directors, or managers (however described) of the entity

council-controlled trading organisation means a council-controlled organisation that operates a trading undertaking for the purpose of making a profit

council organisation means—

(a) a company—

(i) in which equity securities carrying voting rights at a meeting of the shareholders of the company are—

(A) held by 1 or more local authorities; or

(B) controlled, directly or indirectly, by 1 or more local authorities; or

(ii) in which 1 or more local authorities have the right, directly or indirectly, to appoint 1 or more of the directors (however described) of the company; or

(b) an entity in respect of which 1 or more local authorities have, whether or not jointly with other local authorities or persons,—

(i) control, directly or indirectly, of 1 or more of the votes at any meeting of the members or controlling body of the entity; or

(ii) the right, directly or indirectly, to appoint 1 or more of the trustees, directors, or managers (however described) of the entity.

(2) For the purposes of subsection (1), **entity** means any partnership, trust, arrangement for the sharing of profits, union of interest, co-operation, joint venture, or other similar arrangement; but does not include a company, or a committee or joint committee of a local authority.

(3) If a council organisation is not a company, references in this Act, in relation to the council organisation, to—

(a) equity securities include any form of voting rights in that organisation; and

(b) the directors and the board include trustees, managers, or office holders (however described in that organisation); and

(c) shareholders include any partners, joint venture partners, members, or other persons holding equity securities in relation to that organisation; and

(d) the constitution include any rules or other documents constituting that organisation or governing its activities; and

(e) subsidiaries include any entity that would be a council-controlled organisation if the references to “local authority” or “local authorities” in subsection (1) read “council-controlled organisation” or “council-controlled organisations”.

(4) The following entities are not council-controlled organisations:

(a) a body corporate that carries on an electricity business (whether or not that business is its principal or only business) or a trust that is constituted for purposes which include owning or controlling, directly or indirectly, all or part of an electricity company that carries on that business; or

(b) an energy company within the meaning of the Energy Companies Act 1992; or

(c) a port company or subsidiary of a port company within the meaning of the Port Companies Act 1988; or

(ca) a company in which a port company (within the meaning of the Port Companies Act 1988) holds or controls 50% of the shares; or

(d) [Repealed]

(e) New Zealand Local Government Association Incorporated; or

(f) New Zealand Local Government Insurance Corporation Limited and its subsidiaries; or

(g) [Repealed]

(h) a company or other organisation (as defined in subsection (2)) of which the New Zealand Local Government Association Incorporated has control directly or indirectly by whatever means; or

(i) an organisation exempted under section 7.

(5) In this section, terms not defined in this Act, but defined in the Companies Act 1993, have the same meaning as in that Act.

Appendix 2 – Council Policy on the Appointment of Directors of Council Organisations

The Council will use the following criteria for considering whether or not it should appoint a director or directors to any organisation:

- a) Does the organisation allocate significant council funding within the community?
- b) Does the organisation coordinate the activity of particular sectors or groups within the community in an area that is significant to the achievement of Council's own goals or Community Outcomes?
- c) Are there any other ways or initiatives that the Council might take to coordinate or establish organisations that advance the Council's strategic goals and Community Outcomes?

Skills and Experience Required

The Council will ensure that any person that it appoints to be a director of a council organisation will have the knowledge, skills and experience relevant to the activities of the organisation and be familiar with the Council policy, programmes and activities relevant to the organisation. For appointments to organisations with an annual turnover of \$500,000 or greater, particular attention will be given to these criteria with an emphasis on skills and experience.

Appointments will generally be made by the Council at the beginning of the triennium although vacancies and new council organisations may be considered during the triennium. Any future appointments made by the Council will have regard to the criteria specified in this policy.

Remuneration

The Council does not remunerate the directors it appoints to council organisations and the remuneration of the directors by the council organisation is a matter for the organisation concerned.

These recommendations are based on practice over the last triennium and /or the special requirements of the organisation such as the dictates of its trust deed.

APPOINTMENTS TO EXTERNAL ORGANISATIONS – 2016-2019 TRIENNIUM

Partnership with Tāngata Whenua		COMMENT
Te Whakaminenga o Kāpiti	<p>This group is the independent partnership body between Council and the District's three iwi. It came into being through the Memorandum of Partnership. The group acts as a forum for discussion and source of advice to both the Council and Tāngata whenua. The objectives of the group are:</p> <ul style="list-style-type: none"> a) To provide a forum for the exchange of views on issues that impact on the social, environmental, economic and cultural wellbeing of the Tāngata Whenua; b) To assist iwi and hapū participation in resource management and other issues; c) To assist Council in understanding its responsibilities under the Treaty of Waitangi and legislation relating to Māori interests, values and Treaty settlements; d) To provide advice and assistance to Council with regard to tikanga Māori and kaitiakitanga; e) To facilitate Council contact with iwi, hapū and whānau as required; f) To facilitate education and information exchange between Tāngata Whenua and Council; g) For Tāngata Whenua to provide advice and/or recommendations to Council on policies and plans; h) For Council to provide advice and/or 	<p>Membership of Te Whakaminenga o Kāpiti is made up of the Mayor, one Councillor, and two representatives from each of the District's three Iwi.</p> <p>The Chief Executive and senior officers attend in support and provide advice.</p> <p>The Group meets every six weeks on a Tuesday.</p>

	<p>recommendations to Tāngata Whenua on policies and plans;</p> <ul style="list-style-type: none"> i) To review the Memorandum of Partnership at least once every Triennium or as requested by a majority of members; j) To review the effectiveness of Council's plans and policies; k) To appoint and delegate appropriate powers to Working Parties to address specific work areas; l) To discuss, formulate, implement and evaluate the priorities within the Strategic Workplan of Te Whakaminenga o Kāpiti according to budget. 	
Organisations with a Regional Focus		
Zone 4 (Local Government New Zealand)	<p>There are six Zones which meet four times a year. The purposes of Zones are to: be an electoral college for the appointment of National Council representatives; be working fora of <i>Local Government New Zealand</i> on a geographic basis; provide an opportunity for two-way communication between these geographic areas and <i>Local Government New Zealand</i>; provide networking and information-sharing opportunities.</p>	<p>Although it has been customary for the Mayor to attend, Zone 4 is open to all Elected Members.</p>
Economic Development Leadership Group	<p>This governance group leads the implementation of the Economic Development Strategy. The membership is seven, including two Councillors and an independent Chair, one representative from the Wellington Regional Economic Development Agency (WREDA) and three others based on mix of business skills, attributes and experience.</p>	<p>Two Councillors to be appointed.</p>

Organisations with an Environmental Focus		
Friends of the Ōtaki River Group	The group was established as the result of an invitation from Greater Wellington Regional Council (GWRC) to the Ōtaki community to participate in development and implementation of the Ōtaki Floodplain Management Plan.	The group has an Executive Committee of 18 members, 9 from the community and 9 from organisations with an interest. The current Chair is Max Lutz. One Councillor appointee is part of the Executive Committee with voting rights.
Friends of the Waikanae River Group	This group was established to represent the community in the management and development of the Waikanae River and its environment..	The Terms of Reference provide for Council as the territorial local authority to have one Councillor appointee with voting rights, on the Group's Working Group which functions as an Executive and which elects the Chair.
Kapiti Coast Aircraft Noise Community Liaison Group	Having this group is a requirement of the District Plan under the Resource Management Act (RMA) 1991. The Group oversees the implementation of the Management Plan. Hilary Wooding was appointed as Chair with term ending 1 January 2019. Two airport operators also appointed by Council ending 1 January 2018.	The terms of the Management Plan stipulate that a member of the Paraparaumu/Raumati Community Board should be one of the community representatives of the Group (and this decision would be made the first meeting of the Community Board in December).
NZTA Expressway Community Liaison Group	A community group open to all interested parties to liaise with the Alliance Project Team on any matters of concern. Will still be required for 12 months after completion. Members invited from key stakeholders, iwi, Community Boards, community groups, business groups and schools.	In the previous triennium the Paraparaumu-Raumati Community Board nominated a member.

Wellington Regional Waste Forum	Established to increase awareness of environmental issues relating to the management of waste by providing a forum for local authorities to discuss matters and disseminate information.	One Councillor is required.
Pharazyn Reserve Focus Group	Established in 2006, this 7-member group assists staff in the development and rehabilitation of the Reserve in line with the adopted management and development plans.	One member from the Waikanae Community Board.
Kapiti Ecological Restoration Maintenance Trust	The Trust collaborates with Council in restoring the Kaitawa and Greendale Reserves and the Waikanae River Corridor.	One Councillor to be appointed with voting rights.
Organisations with a Council Owned Property Focus		
Paraparaumu College Community Sports Hall Committee	This Committee has two Councillors and two staff as members under a joint management agreement, which is a legal document valid until December 2029. Council is part owner of this property that was established a joint venture between the school and the community.	Two Councillors are permitted but only one Councillor has traditionally been appointed.
Organisations which are Contracted to provide Services		
A Safe Kapiti (formerly Kāpiti Safer Community Trust)	The Trust's vision is for a safe, crime-free community. It recognises the importance of "early intervention" as a means to prevent children and young people drifting into crime at an older age. It places a strong emphasis on working with young people, children and their families to focus on	One Councillor to be appointed.

	fostering greater resiliency through the protective factors of family, education, community and peers. The Trust Deed allows for a Councillor appointment.	
Mahara Gallery Trust	The Trust has a Memorandum of Understanding with Council to provide gallery and education services and also receives rental support and a one-to-one subsidy to match corporate sponsorship. Council makes one appointment to the Mahara Gallery Trust. The Trust has requested that this be a Councillor .	One Councillor to be appointed.
Mahara Gallery Upgrade Project Steering Group	This Group comprises a representative each from Council, the Mahara Gallery Trust and the Field Trust to provide project governance.	One Councillor to be appointed.
Organisations which provide a community service		
Kāpiti Emergency Medical Services (EMS) Trust	The EMS Trust is a non-profit charitable trust, and EMS team-members work voluntarily to enhance the pre-hospital care of trauma and medical patients within the Kapiti region with respect to area's relative geographical isolation from base hospital facilities. The Trust Deed provides for the Mayor to be a member.	The Mayor to be appointed.
Kapiti Accessibility Advisory Group	(Previously the Disability Reference Group) This group works with Council to improve the accessibility of Council facilities and services.	One Councillor to be appointed.

Other Organisations/bodies		
Kapiti Cycleway, Walkway and Bridleway (CWB) Advisory Group	This is a voluntary group which seeks to extend the CWB network and improve the cycling, walking and equestrian experience on the Kapiti Coast. The terms of reference for this group were revised and approved by the Environment and Community Development Committee in April 2016.	Two Councillors to be appointed.
Kapiti Coast Youth Council	This group works with Council and other agencies in an advocacy role to promote the needs and contributions of youth in the District	This is a support and liaison/networking role. One Councillor to be appointed.
Kapiti Coast Older Persons' Council	This group advocates re issues for older people in the District.	This is a support and liaison/networking role. The Mayor and One Councillor to be appointed.