

STAFF REPORT

TO: Mayor and Councilors
FROM: Murray Staite
DATE: 17 September 2010
SUBJECT: **Joint Appointment of Directors/Trustees**

Purpose

To consider and discuss a variation to the terms of reference relating to the appointment of joint directors/trustees.

Background

At its meeting of 20 November 2009 the Combined Shareholders Group (the group) considered a report (Appendix 1) from the Nelson City Council Divisional Manager, Corporate Services, Hugh Kettlewell. This report sought to amend the current policy adopted by both councils on the joint appointment process of directors/trustees. After some discussion the following resolution was passed.

THAT the procedure for the Joint appointment of Directors/Trustees, which was recommended by the Joint Committee at its meeting on 18 September 2009 for adoption by the two Councils be amended by adding the following as clause 8:

8. Variation of Procedure

8.1 The procedure outlined in this policy may be varied to meet the requirements of the Organization's rules, constitution, trust or other guiding document, provided that such variation meets the requirements of the Local Government Act 2002

Discussion

The Tasman Bays Heritage Trust deed contains a specific procedure for the appointment or reappointment of trustees. This involves the establishment of an Appointments Committee (clause 14) which comprises two representatives of Nelson City Council, two representatives of Tasman District Council and two representatives appointed by the Tangata Whenua.

The trust deed is in conflict with the adopted policy of both councils around the appointment of trustees /directors.

The object of the recommendation attached to this report is to remove from the council policy the conflict with the Tasman Bays Heritage Trust deed.

SIGNIFICANCE

This decision is not significant in regards to Council's policy on significance.

OPTIONS

Option 1

Reject the recommendation from the Combined Shareholders Group. If this option is preferred in accordance with the policy of both councils the matter would be referred back to the combined shareholders group for further consideration.

Option 2

Accept the recommendation from the Combined Shareholders Group. This option removes the conflict between Council's policy and the trust deed of the Tasman Bays Heritage Trust

RECOMENDATION

THAT the procedure for the Joint appointment of Directors/Trustees, which was recommended by the Combined Shareholders Group at its meeting on 18 September 2009 for adoption by the two Councils be amended by adding the following as clause 8:

8. Variation of Procedure

8.1 The procedure outlined in this policy may be varied to meet the requirements of the Organization's rules, constitution, trust or other guiding document, provided that such variation meets the requirements of the Local Government Act 2002

And that this recommendation be subject to the same resolution being passed by the Nelson City Council

Murray Staite
Corporate Services Manager
Tasman District Council

REPORT 849135

JOINT APPOINTMENT OF DIRECTORS.

1. Purpose of Report

To raise for discussion an amendment to the recently adopted procedure relating to the joint appointment of Directors.

2. Recommendations

THAT the procedure for the Joint appointment of Directors/Trustees, which was recommended by the Joint Committee at its meeting on 18 September 2009 for adoption by the two Councils be amended by adding the following as clause 8:

8. Variation of Procedure

8.1 The procedure outlined in this policy may be varied to meet the requirements of the Organization's rules, constitution, trust or other guiding document, provided that such variation meets the requirements of the Local Government Act 2002.

3. Background

The Tasman Bays Heritage Trust deed contains a specific procedure for the appointment or reappointment of trustees.

This involves the establishment of an Appointments Committee (clause 14) which comprises 2 representatives of the Nelson City Council, 2 representatives of the Tasman District Council and 2 representatives appointed by the Tangata Whenua.

4. Discussion

Under clause 15 of the Trust Deed this Committee has the functions to appoint trustees, fill vacancies on the trust, and remove trustees.

Clause 15 also sets out the procedure which the Committee shall adopt in relation to its meetings and its decision making.

Members of the Committee at the present time are:

Nelson City Council; the Chief Executive and Cr A McAlpine.
Tasman District Council; the Chief Executive and His worship the Mayor
Tangata Whenua; Barney Thomas and Melanie McGregor.

5. Conclusion

There are two options in relation to this issue, either amend the procedure or amend the Trust Deed for the Tasman Bays Heritage Trust.

There is no guarantee that the situation with the Trust will not recur so the most appropriate course is to amend the procedure

Contact officer: Hugh Kettlewell, Divisional Manager Corporate Services
Nelson City Council.

Keith Marshall
Chief Executive