

Report No:	RCN12-07-04
File No:	
Report Date:	18 July 2012
<b>Decision Required</b>	

## REPORT SUMMARY

Report to: Full Council  
Meeting Date: 26 July 2012  
Report Author: Murray Staite, Corporate Services Manager  
**Subject: Commercial Subcommittee: Terms of Reference**

### EXECUTIVE SUMMARY

This report has been prepared for Councillors as a follow up to the meeting of June 21 and will cover the proposed terms of reference for the Commercial Subcommittee. Several changes have been made to the terms of reference that were presented to the June 21 meeting including adding in the Appendix 2 tabled and discussed on the day by Cr Edgar. Further changes are noted under discussion in section three.

For clarity additional matters have been added to Appendix 2 including the reappointment of non-elected members

### DRAFT RESOLUTION

**THAT the Tasman District Council:**

- 1. receives the Commercial Subcommittee: Terms of Reference Report RCN12-07-04; and**
- 2. agrees to the Commercial Subcommittee Terms of Reference as laid out in Appendix 1; and**
- 3. agrees that the Chair of the Corporate Services Committee be a member and Chair of the Commercial Subcommittee; and**
- 4. agrees that the Mayor of the Tasman District Council recommend for Council's consideration appointment of the second elected member of the Commercial Subcommittee; and**
- 5. agrees to the criteria for selection of non-elected independent members of the Commercial Subcommittee as noted in Appendix 2; and**
- 6. agrees to the process for appointment of non-elected independent members of the Commercial Subcommittee as noted in Appendix 2.**
- 7. agrees to the process for reappointment of non-elected independent members of the Commercial Subcommittee as noted in Appendix 2**

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**Subject: Commercial Subcommittee: Terms of Reference**

## 1. Purpose

- 1.1 To consider the terms of reference for the recently approved Commercial Subcommittee.

## 2. Background

- 2.1 At the meeting of 3 May 2012, Council asked staff to report back on the terms of reference and suggested structure for the Commercial Subcommittee.
- 2.2 The Commercial Subcommittee is to oversee the governance of Council's Forestry, Camping Grounds, Aerodromes and Commercial Property portfolio.
- 2.3 The draft terms of reference were subsequently presented to the meeting of 21 June 2012 where Councillors after considering the report left the matter to lie on the table pending a further report back on matters raised at the meeting
- 2.4 To assist members the key discussion points from the June 21 report are noted below

*The key functions of the subcommittee would be to set appropriate returns on investment and to monitor those investments to ensure that the returns are realised.*

*It is proposed that the subcommittee membership comprise two elected members of the Council with three independent non-elected members being drawn from the business community. A suggested process for this appointment is attached as Appendix 2. It is proposed that the Chair of the Corporate Services Committee be one of the elected members of the subcommittee as well as the Chair of the Commercial Subcommittee.*

*The use of independent non-elected members on the subcommittee allowed for under Schedule 7 Part 1(31) of the Local Government Act*

*2002 would ensure that the subcommittee had access to a wide range of business skills. The use of independent non-elected members in the local government scene is relatively common especially in relation to audit subcommittees.*

*The Commercial Subcommittee would be a subcommittee of the Corporate Services Committee to which it would report.*

### **3. Discussion**

3.1 Both the proposed terms of reference (Appendix 1) and the criteria for selection of non-elected members (Appendix 2) have been amended to reflect points raised by Councillors at the June 21 meeting. The key changes are noted below

1. The recommendation in the report has been amended to clarify that the Mayor recommends for Council consideration the second elected member of the subcommittee. While that was the intention of staff, this was not made clear in the report presented to the June 21 meeting
2. The first bullet point of the scope in Appendix 1 has been modified to require the subcommittee to recommend suggested investment returns to the Corporate Services Committee for approval. Previously this power to set investment returns sat with the subcommittee
3. An additional bullet point has been added to the scope requiring the subcommittee to liaise with the Chief Executive in relation to resources to support the subcommittee
4. Meeting frequency has been changed from quarterly to two monthly
5. The quorum has been amended to require an elected member
6. The delegation has been tidied to make the delegation clearer
7. A new Appendix 2 has been added reflecting the changes proposed by Cr Edgar and tabled at the meeting of June 21
8. Appendix 2 has been supplemented by the inclusion of an additional clause on the rotation of non-elected members and the reappointment process of non-elected members

9. The initial appointment of nonelected members has been extended to clarify how the rotation of nonelected members will commence

It is also important to note that to ensure an appropriate rotation of nonelected members continued despite the triennial election a resolution of Council would be required prior to the election to ensure that the subcommittee was not discharged<sup>1</sup>. This was a concern raised at the June 21 meeting

The cost of non-elected members has been clarified to note remuneration in total and not per member.

#### **4. Financial Considerations**

- 4.1 As previously noted in both the staff report of 3 May 2012 and June 21 2012 the likely cost of independent non-elected members would be in the range of \$10,000 to \$20,000 in total per annum. It would be expected that with a dedicated focus on commercial activities, that these costs would be offset by increased returns on assets.

#### **5. Options**

- 5.1 **Option 1**  
Accept the terms of reference as proposed.
- 5.2 **Option 2**  
Decline to accept the terms of reference as proposed and suggest amendments
- 5.3 **Option 3**  
Decline to accept the terms of reference. While this is a valid option the Commercial Subcommittee agreed to previously by Councillors would be unable to commence.

#### **6. Significance**

- 6.1 After consideration of Council's Significance Policy this matter is not considered significant.

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<sup>1</sup> Local Government Act 2002. Schedule 7, Part 1, 31 (5)

## **7. Recommendation**

7.1 That the Council proceed with the draft resolution.

## **8. Draft Resolution**

**THAT the Tasman District Council:**

- 8. receives the Commercial Subcommittee: Terms of Reference Report RCN12-07-04; and**
- 9. agrees to the Commercial Subcommittee Terms of Reference as laid out in Appendix 1; and**
- 10. agrees that the Chair of the Corporate Services Committee be a member and Chair of the Commercial Subcommittee; and**
- 11. agrees that the Mayor of the Tasman District Council recommend for Council's consideration appointment of the second elected member of the Commercial Subcommittee; and**
- 12. agrees to the criteria for selection of non-elected independent members of the Commercial Subcommittee as noted in Appendix 2; and**
- 13. agrees to the process for appointment of non-elected independent members of the Commercial Subcommittee as noted in Appendix 2.**
- 14. agrees to the process for reappointment of non-elected independent members of the Commercial Subcommittee as noted in Appendix 2**

### **Appendices**

Appendix 1 – Commercial Subcommittee Terms of Reference

Appendix 2 – Criteria for selection of non elected independent members of the Commercial Subcommittee

## **APPENDIX 1**

### **Commercial Subcommittee – Terms of Reference**

The Commercial Subcommittee has a core function of monitoring and improving the performance of Council's commercial portfolio being Forestry, Camping Grounds, Aerodromes and Commercial Property. In addition, it is expected that the Commercial Subcommittee will look to identify opportunities that will increase the portfolio.

#### **Delegated Function**

To monitor Council's Commercial Portfolio.

#### **Membership**

Two (2) elected members of the District Council and three (3) non elected independent members appointed by resolution of the Council. The Chair of the subcommittee is to be the Tasman District Council's Chair of the Corporate Services Committee.

#### **Term of the Subcommittee**

For the period of the 2010/2013 Triennium unless discharged earlier by the Tasman District Council.

#### **Meetings**

The Commercial Subcommittee shall meet two monthly.

#### **Scope**

1. Recommend to the Corporate Services Committee of the Tasman District Council appropriate returns on investment in relation to the commercial portfolio.
2. Ensure that operational strategies and the capital works programme within the commercial portfolio support the return on investment targets
3. Receive two monthly financial reports in relation to the commercial portfolio and ensure where possible that the returns on investment set by the Council are being achieved.
4. Review on a regular basis the overall governance structure for the portfolio and consider whether other governance structures would deliver enhanced returns.
5. Receive reports from both staff and Council's legal advisors on the identification and mitigation of financial and operational risk.
6. Obtain external, legal or other professional advice as necessary.
7. Identify further opportunities to increase the commercial portfolio.
8. Liaise with the Chief Executive of the Tasman District Council in determining the appropriate resources to support the sub-committee's functions

## **Delegations**

The subcommittee has delegated authority to approve operating and capital expenditure within authorised budgets that comply with Council's LTP, Annual Plan and Treasury Policy.

## **Standing Orders**

Standing Orders to be applied at each meeting shall be Tasman District Council Standing Orders.

## **Quorum**

A quorum is set at three members one of whom must be an elected member.

## APPENDIX 2

### 1. **Criteria for Selection of non elected independent members of the Commercial Subcommittee**

- 1.1 Completed the Institute of Directors or related training course or have equivalent experience.
- 1.2 Proven commercial experience
- 1.3 Financial acumen.
- 1.4 Objectivity in appraising problems and decision making
- 1.5 Vision and innovation
- 1.6 High ethical standards and proven integrity
- 1.7 Able to articulate thoughts in a concise and clear manner
- 1.8 Positive attitude to public ownership and the principles of good corporate citizenship
- 1.9 Commitment to regional needs and priorities
- 1.10 Respect for colleagues and staff

### 2. **Process for Initial Appointment of non elected independent members**

- 2.1 The Corporate Services Committee will discuss and define skill sets and any other specific requirements
- 2.2 The Chairperson of the Commercial Subcommittee taking into account the recommendations of the Corporate Services Committee will finalise members' requirements with the Chief Executive of the Tasman District Council.
- 2.3 A recruitment consultant will be employed to advertise for and develop a list of candidates having regard to the agreed specific skill sets and requirements (2.1 & 2.2)
- 2.4 The Chief Executive of the Tasman District Council may refer to the recruitment consultant for inclusion any potential candidates recommended for appointment by the Corporate Services Committee or Chairperson of the Commercial Subcommittee.
- 2.5 The recruitment consultant shall develop a shortlist of potential candidates for interview.
- 2.6 The recruitment consultant, Chief Executive of the Tasman District Council and Chairperson of the Commercial Subcommittee shall undertake interviews of those short-listed for appointment and carry out reference checks, before developing recommendations for inclusion in a report to the Corporate Services Committee.



- 2.7 The Corporate Services Committee will make the final appointment decision.
- 2.8 The initial appointment will require one non-elected member to be appointed for three years, one for four years and one for five years thereby ensuring an appropriate rotation of non-elected members. Each non-elected member on retirement will be eligible for reappointment as per Section 4.

### **3. Process for Appointment of non-elected independent member**

- 3.1 The Commercial Subcommittee will discuss and define skill sets and any other specific requirements to fill non-elected independent member vacancies on the subcommittee and report back to the Corporate Services Committee.
- 3.2 The Chairperson of the Commercial Subcommittee after taking into account the recommendations of the Corporate Services Committee will finalise members' requirements with the Chief Executive of the Tasman District Council.
- 3.3 A recruitment consultant will be employed to advertise for and develop a list of candidates, having regard to the agreed specific skill sets and requirements (3.1 & 3.2).
- 3.4 The Chief Executive of the Tasman District Council may refer to the recruitment consultant for inclusion any potential candidates recommended for appointment by the Corporate Services Committee or Chairperson of the Commercial Subcommittee.
- 3.5 The recruitment consultant shall develop a shortlist of potential candidates for interview.
- 3.6 The recruitment consultant, Chief Executive of the Tasman District Council and Chairperson of the Commercial Subcommittee shall undertake interviews of those short-listed for appointment and carry out reference checks, before developing recommendations for inclusion in a report to the Corporate Services Committee.
- 3.7 The Corporate Services Committee will make the final appointment decision.
- 3.8 The appointment will be for a term of up to three years.

### **4. Reappointment of non elected independent member**

Where a non-elected independent member's term of appointment has expired and they are offering themselves for reappointment, the Chief Executive of the Tasman District Council:

- Will make confidential enquiries from the Chairperson and other members of the Commercial Subcommittee as necessary, including:
  - ◆ Whether the skills of the incumbent add value to the work of the subcommittee.
  - ◆ Whether there are other skills which the subcommittee needs;

- ◆ Whether a change to the existing independent member would compromise the subcommittees ability to pursue a desired vision and long term strategy, or whether there is a need for new skills and ideas on the subcommittee; and
- ◆ Must consider any information obtained and form a view on the appropriateness of reappointment or making a replacement appointment; and
- ◆ Must recommend to the Corporate Services Committee whether reappointment is appropriate.

If reappointment is not appropriate, the appointment process outlined in Section 3 will be followed.