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## **END OF TRIENNIUM MATTERS**

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### **1. Purpose of report**

To report on a number of matters relating to the period following the last Council meeting of the current triennium (on 2 October 2013) and the swearing in of the new Council proposed for 30 October 2013, which require consideration and decisions by the Council.

### **2. Executive summary**

The Local Electoral Act 2001 provides that current Councillors vacate office when the members of the new Council come into office.

Members of the new Council come into office on the day after the date of the Electoral Officer's declaration of the official result of the election, expected to be made on 18 October 2013. However, until the new members' declarations are made at the first meeting of the new Council, neither the outgoing or incoming members can act in their capacity as members of the Council.

Unless the Council resolves otherwise, all committees, subcommittees or other subordinate decision-making bodies (excluding the Wellington Civil Defence Emergency Management Group) are deemed to be discharged on the coming into office of the new Council.

The Council therefore needs to set in place procedures to ensure the efficient and effective conduct of the Council's business between the final Council meeting of the current triennium on 2 October 2013 and the inaugural meeting of the new Council, scheduled for 30 October 2013.

### **3. Recommendations**

Officers recommend that the Council:

1. *Receive the information.*
2. *Note that the last Council meeting of the current triennium will be held on 2 October 2013 and that no formal meetings of the Council, its Committees or Subcommittees are scheduled to be held until the new Council is sworn in on 30 October 2013.*
3. *Agree that, subject to the limitations set out in clause 32(1) of Schedule 7 of the Local Government Act, the Chief Executive (in consultation with the Mayor-elect) be authorised to make decisions over and above his normal delegations in respect of urgent matters for the period from the day following the Electoral Officer's declaration of election results until the new Council is sworn in.*

4. *Note that any decisions made under this delegation will be reported to the first ordinary meeting of the Council.*
5. *Note that should any urgent decisions be needed during the period 3 - 29 October 2013 which require significant political input, or at law must be made by Council, then an extraordinary Council meeting will be called.*
6. *Agree that pursuant to Clause 30(7) of Schedule 7 of the Local Government Act 2002, the Wastewater Treatment Plant and Landfill Joint Committee shall not be deemed to be discharged on the coming into office of the members of the Council elected at the 2013 triennial general election of members.*
7. *Agree to delegate to the Mayor-elect, in consultation with the Chief Executive, the ability to nominate and/or second Wellington City and elected members from other councils for the following positions on the LGNZ National Council:*
  - (a) *Metro Sector representative (3 positions)*
  - (b) *Zone 4 representative (1 position)*
8. *Agree to extend the term of appointment of the Councillor appointed to the below boards until the date the position is refilled following the 2013 triennial election OR 31 December 2013, which ever is the earliest:*

| <b>Organisation</b>   | <b>Appointee</b>         |
|---|--------------------------|
| <i>Basin Reserve Trust</i>  | <i>Cr Morrison</i>       |
| <i>Capacity Infrastructure Services Limited</i>                     | <i>Cr Foster</i>         |
| <i>Positively Wellington Tourism (Partnership Wellington Trust)</i> | <i>Cr Coughlan</i>       |
| <i>Wellington Venues Ltd</i>  | <i>Cr Best</i>           |
| <i>Wellington Museums Trust</i>                                     | <i>Cr Ahipene-Mercer</i> |
| <i>Wellington Zoo Trust</i>   | <i>Cr Marsh</i>          |
| <i>Wellington Waterfront Ltd</i>                                    | <i>Cr Lester</i>         |
| <i>Westpac Stadium (Wellington Regional Stadium Trust)</i>          | <i>Cr Morrison</i>       |

9. *Note that the extension of the term of appointment proposed in (8) above will bring the appointments in line with the Council's Appointments Policy.*
10. *Note that the extension of appointments recommended in (8) above are to assist with a smooth transition at the board level, and are not dependent on the individual being an elected member of Council post 12 October 2013.*

11. *Agree to delegate the Chief Executive, in consultation with the Chief Planning Officer, the authority to appoint hearings panels if required to consider any notified resource consent applications during the period between the existing Council going out of office and the new Council establishing its committee arrangements and delegations.*

#### **4. Background**

Clause 14 of Schedule 7 of the Local Government Act 2002 (LGA) provides that a newly elected person to Council may not act until they have made the necessary declaration at the inaugural meeting of the incoming Council.

This provision combines with sections 115 and 116 of the Local Electoral Act 2001 (LEA) to the effect that, from the day after the Electoral Officer's declaration of election results, until the new members declaration is taken at the inaugural meeting Council meeting, neither the outgoing or the incoming elected members can act in their capacity as members of the Council. The previous members go out of office at the same time as the new members come into office (i.e. the day after the public notice declaring the result appears in the local newspaper).

#### **5. Discussion**

##### **5.1 Delegation to the Chief Executive**

Newly elected members come into office the day after the Electoral Officer's declaration but are not able to act formally until they have sworn a declaration at the first Council meeting of the triennium. Under statute the Chief Executive cannot call the first Council meeting until after the formal declaration of results has been made and must give seven days notice of this meeting.

The timetable for the declaration and the first Council meeting is:

- Declaration (and public notice) – 18 October 2013
- First Council meeting (including swearing in ceremony) – 30 October 2013

The current Council is still able to make urgent decisions from Election Day (12 October 2013) until the day of the Electoral Officer's declaration of the results of the election (18 October 2013) in the unlikely event such a decision is required.

However there is a period from 19 - 30 October 2013 when it will be necessary to have a process in place to enable urgent decisions to be made. The best practice, and that adopted by other local authorities, is to authorise the Chief Executive to deal with urgent matters, in consultation with the Mayor-elect. This approach has been adopted by the Council on previous occasions.

It is envisaged that the nature of any issues on which the Chief Executive may have to make a decision would be those normally requiring formal Council approval, under the current delegations, but with no significant political debate. The delegation is also limited to those issues requiring an urgent decision, and cannot, as a matter of law, include decisions that legislation requires must be made by Council.

Should there be a need for an urgent decision that requires political input of a significant nature, or must at law be decided by Council, during the period in question, then an extraordinary meeting can be called at 24 hours notice. The Mayor-elect and Councillors-elect could be sworn in, and then Council could consider the item.

## **5.2 Wastewater Treatment Plan and Landfill Joint Committee**

The Wastewater Treatment Plant and Landfill Joint Committee provides governance for the joint services entered into by the Porirua and Wellington City Councils through the joint venture agreements for the Wastewater Treatment Plant and the Spicer Valley Landfill. It has four members, three from Porirua City Council, and one from Wellington City Council.

At its last meeting on 13 August 2013 the Joint Committee resolved to recommend to both Councils that they resolve to not discharge it, and that the Councils make the appointments to the Joint Committee as soon as possible following the election. Officers agree that the Joint Committee will need to continue in the new triennium, and note that establishing joint committees is a little more complex than establishing single-Council committees. For these reasons, officers recommend that the Council agree that the Joint Committee not be discharged.

## **5.3 Nominations for Positions on LGNZ National Council**

Local Government New Zealand (LGNZ) has written to all councils, noting that nominations for various positions on the LGNZ National Council close on 1 November 2013. The positions that are of interest to this Council are:

- Metro Sector representative on the National Council
- Zone 4 representative on the National Council

National Council is the governing body of LGNZ, and is made up of elected members from the various sectors and zones.

Zone 4 is a regional forum developed by LGNZ that allows local authorities to address matters of common interest in the zone area. Zone 4 comprises all member local authorities within the area bounded by the Wellington Region with the exception of a portion within the Tararua District.

In the past, the Council has both nominated individuals for these positions and supported the nominations of other Councils. Given the timeframe set by LGNZ for the calling of nominations, it will not be possible to seek Council approval for any proposed nominations, or seconding of nominations made by other Councils.

It is proposed, therefore, that the Council delegate to the Mayor-elect, in consultation with the Chief Executive, the ability to nominate and/or second Wellington City and other council elected members for these positions.

Council will still, at its first meeting following the election, need to approve its own representatives for Zone 4 and, if necessary, decide who to support in any vote required for the positions on the National Council if more than one nomination is received for them.

#### **5.4 *Extending Term of Appointment for Councillors Appointed to Council Organisations***

The current elected member appointments made on 11 November 2010 to Council Controlled Organisation boards and the Wellington Regional Stadium Trust board end with the current triennium.

Since those appointments were made, the Appointments Policy has been updated and the current position is that elected members will be appointed until the earlier of 31 December in the election year or when the position is refilled following the election. This will be the case for elected member appointments made in the new triennium.

The extension proposed in this report will bring the current appointments into alignment with the Appointments Policy.

The Council's appointments to the following two entities are not included in this proposed extension:

- The appointment to the Positively Wellington Venues board was made under a separate process and ends on 31 December 2013.
- The appointment to the Wellington International Airport Ltd board is not being extended at this time due to a board-specific matter.

#### **5.5 *Resource Consent Hearings***

The Resource Management Act 1991 (RMA) provides tight timeframes for the consideration of resource consent applications and it may be necessary to commence arrangements for hearings in the period between the existing Council going out of office and the new Council establishing its committee arrangements and delegations to committees. If such circumstances arise, it is proposed that the Chief Executive be authorised to appoint a hearings panel in consultation with the Chief Planning Officer.

#### **5.6 *Consultation and Engagement***

None required. This decision is not considered significant in terms of the Council's Policy on Significance.

#### **5.7 *Financial considerations***

There are no financial considerations.

#### **5.8 *Climate change impacts and considerations***

There are no climate change impacts or considerations.

#### **5.9 *Long-term plan considerations***

There are no long term plan considerations.

## **6. Conclusion**

The Council needs to set in place procedures to ensure the efficient and effective conduct of the Council's business between the final Council meeting of the current triennium on 2 October 2013 and the inaugural meeting of the new Council, scheduled for 30 October 2013.

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## SUPPORTING INFORMATION

### 1) Strategic fit / Strategic outcome

*The project supports Outcome 7.2.B – More actively engaged:*

*Wellington will operate an open and honest decision-making process that generates confidence and trust in the democratic system.*

### 2) LTP/Annual Plan reference and long term financial impact

*The project relates to C534: Elections, Governance and Democratic Process.*

### 3) Treaty of Waitangi considerations

*There is no particular Treaty of Waitangi considerations.*

### 4) Decision-making

*This is not a significant decision.*

### 5) Consultation

#### a) General consultation

*Not required.*

#### b) Consultation with Maori

*Not required.*

### 6) Legal implications

*The report is consistent with the provisions of the Local Government Act 2002.*

### 7) Consistency with existing policy

*The report is consistent with existing policy.*