

2019 Policy on the Appointment of Directors/Trustees to Council Organisations

ORGANISATIONAL POLICY

POLICY REFERENCES

<ul style="list-style-type: none"> • Sponsor: • Effective date: • Internal review due: • Legal compliance: • Associated Documents/References • Policy Number • Approved by Chief Executive • Approved by Council (If Applicable) 	<p>Chief Operating Officer</p> <p>1 March 2020</p> <p>March 2023</p> <ul style="list-style-type: none"> • Local Government Act 2002, S57 Appointment of Directors • The Port Companies Act 1988 • TDC/NCC Policy on the Joint Appointment of Directors and Trustees • CCO/CCTO Constitutions and Trust Deeds • NCC/TDC Procedure for Jointly Setting Remuneration for Directors of Council Controlled Trading Organisations. • OAG 2015 Governance and Accountability of Council Controlled Organisations Report <p>CS13</p> <p>Yes</p> <p><i>Approved by Council Report RCN18-02-05 22 February 2018</i></p>
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1. Purpose

The purpose of this policy is to set down an objective and transparent process for the selection, appointment and review of Council appointed directors or trustees to Council Organisations, Council Controlled Organisations, Council Controlled Trading Organisations and Port Companies. This is as per section 57 of the Local Government Act 2002 and the Port Companies Act 1988.

2. Definitions

Organisation - means for the purpose of this Policy, a Council Organisation, Council Controlled Organisation or Council Controlled Trading Organisation as defined in Section 6 of the LGA 2002 or a Port Company as defined in the Port Companies Act 1988.

Director - An appointed member of the board of directors of an Organisation who, with other directors, has the responsibility for determining and implementing the Organisation's policy. Directors also assist the Organisation to meet its objectives and the requirements in its Statement of Intent. The Director's role is defined in S58(1) of the LGA 2002 and in the case of Port Nelson Ltd, s.6(2) of the Port Companies Act 1988.

Trustee - A trustee is a person that holds and administers property or assets for the benefit of a third party.

Directors and Trustee remuneration - Payments made to directors and trustees in accordance with this policy.

Board – refers to a Company Board, Trust Board and any other governing body however it may be referred to.

Acronyms

CO - Council Organisation

CCO – Council Controlled Organisation

CCTO – Council Controlled Trading Organisation

3. Application

This policy applies to every Council appointment to the Board of an organisation as defined above. The only exceptions are where the appointment is a joint appointment with the Nelson City Council. These joint appointments are covered by the Tasman District Council and Nelson City Council Policy on the Joint Appointment of Directors and Trustees.

Non-compliance with this policy will result in a breach of the Local Government Act and the appointment being subject to legal challenge.

4. Policy

4.1 Criteria for Selection of Directors/Trustees

4.1.1 In accordance with Section 57(2) of the LGA 2002, all appointees must have in the opinion of Council, the skills, knowledge or experience to:

- guide the Organisation, given the nature and scope of its activities, and
- contribute to the achievement of the objectives of the Organisation.

4.1.2 Council must have regard to the diversity of each Organisation's Governing Board when considering candidates for appointment or re-appointment.

4.1.3 For all appointments, the following qualities of candidates for appointment as Directors/Trustees must be considered:

- Demonstrated ability to think commercially and financially about strategies, projects and the intelligent deployment of resources;
- Articulate, and able to communicate in a concise and clear manner;
- Demonstrated leadership skills, and prepared to be counted on important matters;
- Commitment to, and understanding of, the responsibilities of Directorships;
- Whether knowledge of tikanga Māori may be relevant to the governance of that council-controlled organisation;
- Relevant business experience and/or the ability to gain an in-depth understanding of the company/trust and its activities;
- Objectivity in decision making;
- Respect for colleagues and staff;
- High ethical standards;
- Proven commercial experience;
- Positive attitude to public ownership and the principles of good corporate citizenship;
- Financial acumen;
- Commitment to regional needs and priorities;
- Any other special considerations/requirements in respect of the specific Organisation.

4.1.4 Any person appointed as a Director/Trustee of a CCO or CCTO must also:

- have completed the Institute of Director's course; or
- have equivalent experience.

4.2 Process for Appointment of Directors/Trustees

4.2.1 The Chief Executive, and/or delegate of the Chief Executive and the Mayor will:

- notify elected members of the vacancy in a timely manner; and
- meet with the Chairperson of the Organisation's Governing Board to discuss specific requirements (including whether the appointment is necessary) and to consider whether there is any need for any variation of procedure, under Section 5.6 of this policy; and
- retain a recruitment consultant to advertise the vacancy and develop a list of candidates; and

- decide on the composition of the interview panel, to include the relevant Board Chairperson or representative.

4.2.2 The Chief Executive or the Mayor will include any persons recommended by Council on the list of candidates.

4.2.3 The Recruitment Consultant shall, in consultation with the interview panel, prepare a short list of candidates, assist with any interview process and carry out reference checks of persons on the list of candidates, having regard to the criteria listed in Section 5.1 above.

4.2.4 The interview panel will conduct interviews on the short list of candidates and recommend a preferred candidate (or in the case of multiple vacancies, candidates) to the Council through the Chief Executive.

4.2.5 Council will make the final decision to appoint Directors/Trustees, on the recommendation of the interview panel.

4.3 Reappointment of Directors/Trustees

4.3.1 No Director/Trustee may be reappointed for a fourth successive term unless there are special circumstances, including:

- Succession planning
- Provision of continuity for redevelopment projects
- Provision of specific areas of expertise

4.3.2 Subject to the constitution of the Organisation concerned, where a Director/Trustee's term of appointment has expired and they are offering themselves for reappointment, the Chief Executive and the Mayor:

- May make confidential enquiries from the Chairperson and other members of the Governing Board as necessary, including:
 - whether the skills of the incumbent add value to the work of the Governing Board;
 - whether there are other skills which the Governing Board needs;
 - whether a change to the existing Directors/Trustees would compromise the Governing Board's ability to pursue a desired vision and long term strategy, or whether there is a need for new skills and ideas on the Governing Board; and
 - whether an appointment is necessary.
- Must consider any information obtained and form a view on the appropriateness of reappointment or making a replacement appointment; and
- Must recommend to Council whether reappointment is appropriate.

4.3.2 If reappointment is not appropriate, the appointment process outlined in Section 4.2 will be followed.

4.4 Remuneration of Directors/Trustees

4.4.1 Directors and trustees are not entitled to payment for services unless this is provided for in the constitution of the Organisation or approved by a resolution of Council.

4.4.2 Directors/Trustees of Organisations shall receive fees as approved from time to time by the Council, prior to the Organisation's annual general meeting.

4.4.3 The Governing Board of the Organisation will provide appropriate information and details of any proposal to request an increase in remuneration at least three months before the Organisation's Annual General Meeting.

4.4.4 Remuneration for Directors of **CCTO's** will for consistency, be set in accordance with the Tasman District Council and Nelson City Council "Procedure for Jointly Setting Remuneration for Directors of Council Controlled Trading Organisations".

4.4.5 Remuneration for Directors and Trustees of Organisations that are not CCTOs will be set by Council after considering the recommendation of the Governing Board of the organisation and taking into account:

- the public service nature of the appointment
- the time and skill required to carry out the role
- the size, nature and turnover of the Organisation

4.5 Appointment of staff members as Directors/Trustees

4.5.1 No staff member of Council may be appointed as a Director/Trustee, except in a temporary role and where good reason exists to do so. Any report recommending the appointment or reappointment of a staff member in a temporary role must clearly explain the reasons for doing so.

4.5.2 Any staff member serving as a Director/Trustee in a temporary role will not be eligible for any director or trustee remuneration.

4.6 Variation of Procedure

4.6.1 The procedures outlined in this policy may be varied, without a specific Council resolution, to meet the requirements of the Organisation's rules, constitution, trust deed, shareholders agreement or other guiding document, provided that such variation meets the requirements of the Local Government Act 2002.

4.6.2 Council may decide, by resolution, to vary the procedures outlined in this policy as necessary, provided that such variation meets the requirements of the Local Government Act 2002 and provides an objective and transparent process for the appointment of the director or trustee.

Authorised by the Chief Executive

Date of approval: