

I hereby give notice that an ordinary meeting of the Council Controlled Organisations Governance and Monitoring Committee will be held on:

Date: Tuesday, 3 November 2015
Time: 9.30am
Meeting Room: Room 1, Level 26
Venue: 135 Albert Street, Auckland

Council Controlled Organisations Governance and Monitoring Committee

OPEN AGENDA

MEMBERSHIP

Chairperson	Cr Penny Hulse
Deputy Chairperson	Cr Calum Penrose
Members	Cr Anae Arthur Anae
	Cr Cameron Brewer
	Cr Dr Cathy Casey
	Member Precious Clark
	Cr Ross Clow
	Cr Linda Cooper, JP
	Cr Chris Darby
	Cr Denise Krum
	Cr Dick Quax
	Cr Penny Webster
	Member Glenn Wilcox
Ex-Officio	Cr George Wood, CNZM
	Mayor Len Brown, JP

(Quorum 7 members)

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Democracy Advisor

28 October 2015

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TERMS OF REFERENCE

Responsibilities

The committee will undertake the Auckland Council's responsibilities for CCOs through:

- Setting policy relating to CCO governance
- Director appointments
- Approving SOIs
- Monitoring performance
- The committee will also have responsibility for the over sight of, and making appointments to, Council Organisations and exempt CCOs and COs

Powers

- (i) All powers necessary to perform the committee's responsibilities.

Except:

- (a) powers that the Governing Body cannot delegate or has retained to itself (see Governing Body responsibilities)
 - (b) where the committee's responsibility is limited to making a recommendation only
- (ii) Power to establish subcommittees.

Exclusion of the public – who needs to leave the meeting

Members of the public

All members of the public must leave the meeting when the public are excluded unless a resolution is passed permitting a person to remain because their knowledge will assist the meeting.

Those who are not members of the public

General principles

- Access to confidential information is managed on a “need to know” basis where access to the information is required in order for a person to perform their role.
- Those who are not members of the meeting (see list below) must leave unless it is necessary for them to remain and hear the debate in order to perform their role.
- Those who need to be present for one confidential item can remain only for that item and must leave the room for any other confidential items.
- In any case of doubt, the ruling of the chairperson is final.

Members of the meeting

- The members of the meeting remain (all Governing Body members if the meeting is a Governing Body meeting; all members of the committee if the meeting is a committee meeting).
- However, standing orders require that a councillor who has a pecuniary conflict of interest leave the room.
- All councillors have the right to attend any meeting of a committee and councillors who are not members of a committee may remain, subject to any limitations in standing orders.

Independent Māori Statutory Board

- Members of the Independent Māori Statutory Board who are appointed members of the committee remain.
- Independent Māori Statutory Board members and staff remain if this is necessary in order for them to perform their role.

Staff

- All staff supporting the meeting (administrative, senior management) remain.
- Other staff who need to because of their role may remain.

Local Board members

- Local Board members who need to hear the matter being discussed in order to perform their role may remain. This will usually be if the matter affects, or is relevant to, a particular Local Board area.

Council Controlled Organisations

- Representatives of a Council Controlled Organisation can remain only if required to for discussion of a matter relevant to the Council Controlled Organisation.

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1 Apologies

Apologies from Cr D Quax and Cr LA Cooper have been received.

2 Declaration of Interest

Members are reminded of the need to be vigilant to stand aside from decision making when a conflict arises between their role as a member and any private or other external interest they might have.

3 Confirmation of Minutes

That the Council Controlled Organisations Governance and Monitoring Committee:

- a) confirm the ordinary minutes of its meeting, held on Tuesday, 6 October 2015, including the confidential section, as a true and correct record.

4 Petitions

At the close of the agenda no requests to present petitions had been received.

5 Public Input

Standing Order 7.7 provides for Public Input. Applications to speak must be made to the Democracy Advisor, in writing, no later than **one (1) clear working day** prior to the meeting and must include the subject matter. The meeting Chairperson has the discretion to decline any application that does not meet the requirements of Standing Orders. A maximum of **thirty (30) minutes** is allocated to the period for public input with **five (5) minutes** speaking time for each speaker.

At the close of the agenda no requests for public input had been received.

6 Local Board Input

Standing Order 6.2 provides for Local Board Input. The Chairperson (or nominee of that Chairperson) is entitled to speak for up to **five (5) minutes** during this time. The Chairperson of the Local Board (or nominee of that Chairperson) shall wherever practical, give **one (1) day's** notice of their wish to speak. The meeting Chairperson has the discretion to decline any application that does not meet the requirements of Standing Orders.

This right is in addition to the right under Standing Order 6.1 to speak to matters on the agenda.

At the close of the agenda no requests for local board input had been received.

7 Extraordinary Business

Section 46A(7) of the Local Government Official Information and Meetings Act 1987 (as amended) states:

“An item that is not on the agenda for a meeting may be dealt with at that meeting if-

- (a) The local authority by resolution so decides; and
- (b) The presiding member explains at the meeting, at a time when it is open to the

public,-

- (i) The reason why the item is not on the agenda; and
- (ii) The reason why the discussion of the item cannot be delayed until a subsequent meeting.”

Section 46A(7A) of the Local Government Official Information and Meetings Act 1987 (as amended) states:

“Where an item is not on the agenda for a meeting,-

- (a) That item may be discussed at that meeting if-
 - (i) That item is a minor matter relating to the general business of the local authority; and
 - (ii) the presiding member explains at the beginning of the meeting, at a time when it is open to the public, that the item will be discussed at the meeting; but
- (b) no resolution, decision or recommendation may be made in respect of that item except to refer that item to a subsequent meeting of the local authority for further discussion.”

8 Notices of Motion

At the close of the agenda no requests for notices of motion had been received.

The process for Governing Body input into Council-Controlled Organisation public consultations

File No.: CP2015/22176

Purpose

1. To provide clarification on the process for governing body input into Council-controlled Organisation (CCO) consultations.

Executive Summary

2. At its 20 October 2016 meeting, the Environment, Climate Change and Natural Heritage Committee considered an extraordinary matter relating to Auckland Transport's consultation with local boards on berm planting. The committee noted that the governing body had not been approached and queried whether processes exist for seeking governing body feedback on consultations undertaken by CCOs. The committee requests that advice is provided to the CCO Governance and Monitoring Committee.

3. The committee resolved:

MOVED by Cr CM Casey, seconded by Cr J Watson:

That the Environment, Climate Change and Natural Heritage Committee:

- i) *note that the consultation on berm planting was not communicated to the governing body.*
- ii) *seek clarification from the CCO Governance and Monitoring Committee on the process for governing body input into CCO public consultations.*
- iii) *agree that the berm planting consultation be referred to the appropriate committee to provide feedback.*

(Resolution number ENV/2015/28)

4. CCOs undertake public consultation for a number of different reasons. These range from consultation on proposed bylaws (the trade waste bylaw), to development plans (the Waterfront Plan) and operational plans and policies (bus networks and berm planting).
5. CCO boards are empowered to make operational decisions consistent with the strategic direction agreed in the Statement of Intent (SOI) (and Long-term Plan (LTP) / annual plan). Public consultation is used to inform some of those decisions.
6. The CCO governance manual sets out an expectation that CCOs will engage with council before certain decisions are made. "Engagement" ranges from "inform" to "consult" to seeking approval, depending on the significance of the decision.
7. Who within the council the CCOs engage with also depends on the nature of the decision. For example, CCOs should engage with a local board when the decision may have a large impact on the local area, or generate significant public interest in that community. For decisions of a regional nature, the CCO should engage with the Governing Body.
8. As a matter of practice, when CCOs have sought feedback from council, this has usually been provided in workshops, rather than by way of formal submission.

Recommendation/s

That the Council Controlled Organisations Governance and Monitoring Committee:

- a) receive advice from staff regarding processes for governing body input into Council-controlled Organisation consultations.

Attachments

There are no attachments for this report.

Signatories

Author	Warwick McNaughton - Principal Advisor - Democracy Services
Authorisers	Phil Wilson - Governance Director Stephen Town - Chief Executive

Substantive Council Controlled Organisations (CCOs) and Tamaki Redevelopment Company Limited (TRC) : Shareholders' Annual General Meeting

File No.: CP2015/22059

Purpose

1. To authorise the Chair of the CCO Governance and Monitoring Committee to execute written resolutions, in lieu of annual shareholders meetings of the Auckland Council's substantive Council-controlled Organisations (CCOs); and of the Tamaki Redevelopment Company Limited (TRC).

Executive Summary

2. Section 120 of the Companies Act 1993 requires the board of a company to call an annual meeting of shareholders, to be held not later than six months after the balance date of the company.
3. All of the substantive CCOs, except for Auckland Transport, are companies registered under the Act (although Regional Facilities Auckland (RFA) is a charitable trust, Regional Facilities Auckland Limited is the corporate trustee of RFA and is a company under the Act). The balance date for these CCOs is 30 June of each year.
4. Section 122(1) of the Act permits shareholders to pass a resolution in lieu of an annual meeting, if such a resolution is signed by not less than 75 per cent of shareholders entitled to vote on the resolution. Auckland Council is the sole shareholder for the CCOs and is a joint shareholder in TRC with the Crown.
5. Due to the administrative nature of the business to be conducted at the annual shareholders meetings, this report recommends that the committee authorise the Deputy Mayor, as chair of the committee, to execute written resolutions in lieu of the annual shareholders meetings for the CCOs; and to do the same, or to vote on Auckland Council's behalf should the TRC hold a shareholder's meeting.

Recommendation/s

That the Council Controlled Organisations Governance and Monitoring Committee:

- a) agree that Deputy Mayor Penny Hulse, as chair of the Council Controlled Organisations Governance and Monitoring Committee, be authorised as Auckland Council's shareholder representative to execute a written resolution in lieu of the annual shareholders meeting for the following companies:
 - i) Auckland Council Investments Limited;
 - ii) Auckland Tourism, Events and Economic Development Limited;
 - iii) Regional Facilities Auckland Limited;
 - iv) Watercare Services Limited; and
 - v) Panuku Development Auckland Limited.
- b) agree that Deputy Mayor Penny Hulse be authorised to notify the Council Controlled Organisations to give effect to resolution a) above.

- c) agree that Deputy Mayor Penny Hulse, as chair of the Council Controlled Organisations Governance and Monitoring Committee, be authorised by Auckland Council as its representative of the jointly owned company Tamaki Redevelopment Company Limited to:
- (i) execute a written shareholders resolution in lieu of an annual meeting of the shareholder; or
 - (ii) vote on Auckland Council's behalf at an Annual General Meeting of the Company; or
 - (iii) execute a proxy form on behalf of Auckland Council.
- d) agree that Deputy Mayor Penny Hulse be authorised to notify the Tamaki Redevelopment Company Limited of resolution c) above, as required.

Comments

6. The Companies Act 1993 requires that companies hold an annual shareholders meeting not later than six months after the balance date of the company. The relevant company constitutions also contain this requirement.
7. Section 122(1) of the Act permits the shareholder to pass a written resolution in lieu of a shareholders meeting, if such a resolution is signed by not less than 75 per cent of shareholders entitled to vote on the resolution. Such a resolution is as valid as if it had been passed at an annual meeting of the shareholder.

Auckland Council's CCOs

8. All of the Auckland Council's substantive CCOs, except for Auckland Transport, are companies registered under the Act (although Regional Facilities Auckland (RFA) is a charitable trust, Regional Facilities Auckland Limited is the corporate trustee of RFA and is a company under the Act). The balance date for these CCOs is 30 June.
9. The business to be completed at the annual shareholders meeting is to:
- (i) note that the Auditor General was appointed as the company auditor
 - (ii) note that each CCO has provided a copy of its annual 2014/2015 report
 - (iii) confirm the reappointments and new appointments to each CCO; and
 - (iv) confirm the amendments to the Auckland Council's Board Appointment and Remuneration Policy
10. Due to the administrative nature of the business to be conducted at the annual shareholders meeting, this report recommends that the committee authorise the Deputy Mayor, as chair of the committee, to execute written resolutions in lieu of the annual shareholders meetings for the CCOs.
11. The CCO Governance and External Partnerships (CCO G&EP) department will prepare the appropriate resolutions to ensure compliance with the statutory timeframes.

Tamaki Redevelopment Company

12. Crown officials are yet to decide whether to hold an annual shareholders meeting. Officers will provide a verbal update to the meeting.
13. Recommendation (c) provides for the Deputy Mayor to either execute a shareholder resolution in lieu of an annual meeting or in the event of Crown's decision to proceed, to vote on Auckland Council's behalf or appoint a proxy to attend in her absence.

Consideration

Local Board views and implications

14. Governance of CCOs and Council Organisations (CCOs) is a Governing Body responsibility therefore this report does not raise any issues for local boards to consider.

Māori impact statement

15. This report does not raise any issues of significance or adverse impacts for Māori, nor does it raise any issues that will be of benefit to Māori.

Implementation

16. CCO G&EP will prepare appropriate documentation and resolutions during December, to ensure compliance with the statutory timeframes.

Attachments

There are no attachments for this report.

Signatories

Author	Josie Meuli - Senior Advisor
Authorisers	Phil Wilson - Governance Director Stephen Town - Chief Executive

Exclusion of the Public: Local Government Official Information and Meetings Act 1987

That the Council Controlled Organisations Governance and Monitoring Committee:

- a) exclude the public from the following part(s) of the proceedings of this meeting.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution follows.

This resolution is made in reliance on section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by section 6 or section 7 of that Act which would be prejudiced by the holding of the whole or relevant part of the proceedings of the meeting in public, as follows:

C1 Board Appointments : Tamaki Redevelopment Company Limited (TRC)

Reason for passing this resolution in relation to each matter	Particular interest(s) protected (where applicable)	Ground(s) under section 48(1) for the passing of this resolution
The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.	s7(2)(a) - The withholding of the information is necessary to protect the privacy of natural persons, including that of a deceased person. In particular, the report contains specific information about potential board appointments for Tamaki Redevelopment Company Limited.	s48(1)(a) The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.