



**Policy on**

**Appointment of Directors to**

**Council Controlled Organisations**

February 2015

## CONTENTS

<b><u>1.0 PURPOSE</u></b> .....	<b>2</b>
<b><u>2.0 OBJECTIVES OF THE POLICY</u></b> .....	<b>2</b>
<b><u>3.0 DEFINITIONS</u></b> .....	<b>2</b>
<b><u>4.0 SCOPE OF POLICY</u></b> .....	<b>2</b>
<b><u>5.0 CRITERIA FOR SELECTING DIRECTORS (GENERAL)</u></b> .....	<b>3</b>
5.1 GENERAL CRITERIA.....	3
5.2 SKILL CRITERIA .....	3
5.3 SPECIFIC EXCLUSIONS FROM DIRECTORSHIP OF A COUNCIL CONTROLLED ORGANISATION .....	3
<b><u>6.0 PROCEDURES FOR APPOINTMENT OF DIRECTORS (GENERAL)</u></b> .....	<b>3</b>
6.1 APPOINTMENT PROCESS .....	3
6.2 LENGTH OF TENURE .....	4
6.3 REMUNERATION .....	4
6.4 REMOVAL OF DIRECTORS.....	4
6.5 GENERAL .....	4
<b><u>7.0 PROCEDURES FOR APPOINTMENT OF DIRECTORS TO INFRAMAX CONSTRUCTION LIMITED</u></b> .....	<b>4</b>
7.1 APPOINTMENT PROCESS .....	4
7.2 APPOINTMENT OF TEMPORARY DIRECTORS .....	5
7.3 REMUNERATION .....	5
7.4 REMOVAL OF DIRECTORS.....	5
<b><u>8.0 WAITOMO DISTRICT COUNCIL CONTROLLED ORGANISATIONS</u></b> .....	<b>5</b>
8.1 INFRAMAX CONSTRUCTION LIMITED .....	5

## 1.0 Purpose

- 1.1 This purpose of this policy is to set out, in accordance with Section 57 of the Local Government Act 2002 (the "Act") an objective and transparent process for:
- (a) Identifying and considering the skills, knowledge and experience required of directors of a Council organisation.
  - (b) Appointing directors to a Council organisation.
  - (c) Determining the remuneration of directors of a Council organisation.

## 2.0 Objectives of the Policy

- 2.1 The objectives of this policy are:
- To comply with section 57 of the Local Government Act 2002.
  - To disclose the process and criteria Council will apply to the appointment, removal and setting of remuneration for directors of Council organisations.

## 3.0 Definitions

- 3.1 The term "Council organisation" ("CO") is used as defined in Section 6 of the Act.
- 3.2 The Act also creates two sub-categories of COs – "Council-controlled organisations" ("CCOs") and "Council-controlled trading organisations" ("CCTOs").
- 3.3 The Council currently has interests that fall into the latter category only - (i.e. CCTO).
- 3.4 **Meaning of "Council organisation"**
- In broad terms, a CO is an organisation in which the Council has a voting interest or the right to appoint a director, trustee or manager (however described). This is a wide-ranging definition, covering a large number of bodies.
- 3.5 **Meaning of "Council-controlled organisation"**
- A CCO is a CO in which one or more local authorities control, directly or indirectly, 50% or more of the votes or have the right, directly or indirectly, to appoint 50% or more of the directors, trustees or managers (however described).
- 3.6 **Meaning of "Council-controlled trading organisation"**
- A CCTO is a CCO that operates a trading undertaking for the purpose of making a profit.
- 3.7 **Meaning of "Investment Representative Committee"**
- Investment Representative Committee means a committee appointed by Council consisting of Council staff and elected members.

## 4.0 Scope of Policy

- 4.1 When Council is involved with CCOs and CCTOs under the definitions of Section 6(1) of the LGA, Council will disclose its interests in these organisations in the Long Term Plan.

## **5.0 Criteria for Selecting Directors (General)**

### **5.1 General Criteria**

Council will appoint persons as directors of CCO's and CCTO's under the criteria outlined in Section 57(2) of the LGA, specifically, persons that Council considers have the skills, knowledge and experience to:

- Guide the organisation given the nature and scope of its activities
- Contribute to the achievement of the objectives of the organisation.

### **5.2 Skill Criteria**

Council considers that any person that it appoints to be a director of a CCO or CCTO should clearly demonstrate the following skills/attributes:

- Intellectual ability
- Business experience or other experience, skills or qualifications that are relevant to the activities of the organisation
- Sound judgement
- High standard of personal integrity
- Ability to work as a team member
- Understanding of governance issues

### **5.3 Specific Exclusions from Directorship of a Council Controlled Organisation**

No person shall be appointed as a director of a CCO or CCTO who:

- Has served a jail sentence of three months or longer or has been convicted of a crime that carries such sentence.
- Has been convicted of fraud, theft, robbery or larceny.
- Has been declared bankrupt at any point in time or been the director of a company at the time it was placed in receivership or liquidation.

## **6.0 Procedures for Appointment of Directors (General)**

### **6.1 Appointment Process**

When vacancies arise in the directorship of any CCO or CCTO, Council will follow the following appointment process:

- a) Council will decide whether to advertise a particular vacancy or make an appointment without advertisement, and outline the process for appointment and setting of remuneration including:
  - Recruiting of candidates,
  - Contract development and negotiation,
  - Ongoing performance monitoring.
- b) When taking a decision on this matter, Council will consider:
  - The costs and benefits of any advertisement,
  - The availability of qualified candidates,
  - The urgency of the appointment,
  - The degree of public interest in the issue
- c) Council will consider applications and resolve an appointment in committee (this protecting the privacy of natural persons). Public notice of the appointment will be made as soon as practicable after Council has made its decision.

- d) An elected member who is under consideration to fill a particular vacancy may not be present in the discussion or vote on that appointment.

## **6.2 Length of Tenure**

Council will decide length of tenure prior to appointment.

## **6.3 Remuneration**

Remuneration will be determined on a case by case basis taking in to account the size, form and purpose of the organisation, any previous level of fees paid by the shareholder and any other relevant requirements contained in the organisation's constitution.

## **6.4 Removal of Directors**

Directors appointed to CCO's or CCTO's by Council are in the role at the pleasure preference of Council. Council may terminate a director's appointment at any time by way of written notice.

## **6.5 General**

Council expects that directors appointed to CCO's and CCTO's will avoid situations where their actions could give rise to a conflict of interest. To minimise these situations, Council requires directors to follow the provisions of the Institute of Directors in New Zealand Code of Practice for Directors and the provisions of the Companies Act 1993. All directors are appointed at the pleasure of the Council and may be dismissed for breaches of these stated documents.

# **7.0 Procedures for Appointment of Directors to Inframax Construction Limited**

***NOTE: This section is to be read in conjunction with the Constitution of Inframax Construction Limited.***

## **7.1 Appointment Process**

Directors on the board of Inframax Construction Limited (ICL) will be appointed by way of Council resolution on receipt of advice/recommendation by the Investment Representative Committee. The Investment Representative Committee will provide advice to Council on the following matters:

- a) Whether to advertise a particular vacancy or make an appointment without advertisement, and outline the process for appointment and setting of remuneration including:
- Recruiting of candidates,
  - Contract development and negotiation,
  - Ongoing performance monitoring.
- b) In preparation of this advice the Investment Representative Committee will consider:
- The costs and benefits of any advertisement,
  - The availability of qualified candidates,
  - The urgency of the appointment,
  - The degree of public interest in the issue.
- c) The Investment Representative Committee will select and interview a shortlist of candidates, undertake a structured evaluation and make recommendation to Council for final approval. Council may consider applications and resolve an appointment in committee (this protecting the privacy of natural persons). Public

notice of the appointment will be made as soon as practicable after Council has made its decision.

- d) An elected member who is under consideration to fill a particular vacancy may not be present in the discussion or vote on that appointment and may not continue to be an elected member if appointed as a director of ICL.

## **7.2 Appointment of Temporary Directors**

Temporary directors for ICL will be appointed by the Investment Representative Committee.

## **7.3 Remuneration**

The Council will set ICL directors' remuneration either by resolution at the Annual General Meeting or by way of resolution of Council. The resolution will state whether the remuneration is set as a fixed cap for Board Remuneration, to be allocated by the Board, or specifying the salaries to be paid to the directors and chairperson.

Remuneration for directors will be determined by an analysis of market rates for comparable positions at the time appointment(s) are being made and thereafter assessed every three years.

## **7.4 Removal of Directors**

The Investment Representative Committee may terminate the appointment of an ICL director at any time by way of written notice.

# **8.0 Waitomo District Council Controlled Organisations**

## **8.1 Companies in which Waitomo District Council directly owns the shares**

- Inframax Construction Limited
  - Independent Road Markers Taranaki Limited (Subsidiary of Inframax)

## **8.2 Council Controlled Trading Organisations in which Waitomo District Council holds shares**

- Local Authority Shared Services Ltd (LASS)

## **8.3 Other Entities**

- NZ Local Government Insurance Corporation.

# **9.0 CCOs and CCTOs in which Council has a minority interest**

- 9.1 Where Council has a minority interest in a CCO or CCTO (i.e. where a CCO or CTO is controlled by a number of councils and this Council does not have a majority stake) then the process for the appointment and remuneration of directors will be agreed with other stakeholders (by whatever name) in the CCO or CCTO. As far as practicable, Council's involvement in the process will be consistent with this policy.