



# AGENDA

## Ordinary Council Meeting Tuesday, 18 February 2020

**Date** Tuesday, 18 February 2020

**Time** 3pm

**Location** Council Chamber  
District Council Building  
King George Place  
Timaru

**File Reference** 1319829

## **Timaru District Council**

**Notice is hereby given that a meeting of the Ordinary Council will be held in the Council Chamber, District Council Building, King George Place, Timaru, on Tuesday 18 February 2020, at 3pm.**

### **Council Members**

Mayor Nigel Bowen (Chairperson), Cllrs Allan Booth, Peter Burt, Barbara Gilchrist, Richard Lyon, Gavin Oliver, Paddy O'Reilly, Sally Parker, Stu Piddington and Steve Wills

Quorum – no less than 6 members

### **Local Authorities (Members' Interests) Act 1968**

Councillors are reminded that if they have a pecuniary interest in any item on the agenda, then they must declare this interest and refrain from discussing or voting on this item and are advised to withdraw from the meeting table.

Bede Carran

**Chief Executive**

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- 1 Opening Prayer and Waiata**
- 2 Apologies**
- 3 Public Forum**
- 4 Identification of Urgent Business**
- 5 Identification of Matters of a Minor Nature**
- 6 Declaration of Conflicts of Interest**

## **7 Confirmation of Minutes**

### **7.1 Minutes of the Council Meeting held on 10 December 2019**

**Author:** Jo Doyle, Governance Advisor

#### **Recommendation**

That the Minutes of the Council Meeting held on 10 December 2019 be confirmed as a true and correct record of that meeting.

#### **Attachments**

- 1. Minutes of the Council Meeting held on 10 December 2019**



# MINUTES

## Ordinary Council Meeting Tuesday, 10 December 2019

Ref: 1319829

**Minutes of Timaru District Council  
Ordinary Council Meeting  
Held in the Council Chamber, District Council Building, King George Place, Timaru  
on Tuesday, 10 December 2019 at 3pm**

**Present:** Mayor Nigel Bowen (Chairperson), Cr Allan Booth, Cr Peter Burt, Cr Barbara Gilchrist, Cr Richard Lyon, Cr Gavin Oliver, Cr Paddy O'Reilly, Cr Sally Parker, Cr Stu Piddington, Cr Steve Wills

**In Attendance:** **Public Forum**  
Ian Bowan

**Community Board Members**

Raewyn Hessell – Pleasant Point Community Board  
Natasha Rankin – Geraldine Community Board  
Lloyd McMillan – Temuka Community Board

**Council Officers**

Chief Executive (Bede Carran), Group Manager Commercial and Strategy (Donna Cross), Group Manager Infrastructure (Ashley Harper), Chief Financial Officer (David Codyre), Development Manager (Frazer Munro), Environmental Compliance Manager (Debbie Fortuin), Policy Analyst (Fabia Fox), Governance Advisor (Jo Doyle)

**1 Opening Prayer and Waiata**

Tony Kippax of the Geraldine Anglican Parish offered a prayer for the work of the Council and the Civil Defence team for the excellent work in the current State of Emergency.

The prayer was followed with the Timaru District Council Waiata.

**2 Apologies**

There were no apologies received.

**3 Public Forum**

Ian Bowan attended the meeting to talk to the Timaru District Holdings Limited report.

He expressed concerns with some of the recommendations within the report and questioned whether the cost of any changes would outweigh any benefits. It was noted that no costs were included in the report.

Concern was expressed that should Council change the current composition of the Board and go forward with more independent members then total control is lost and there is a risk of Council receiving the blame for poor decisions.

In summary, the Council was urged to not make hasty decisions, take time to give this report more thought, and strongly consider that directors should be local.

## **Mayor's Welcome**

Mayor Nigel Bowen expressed how impressed and proud he is with the entire organisation, has been a privilege to be involved with the current State of Emergency and witness the team from leaders, volunteers, staff and welfare centres. STEC as a welfare centre saw 80 people in the first night and 50 the second night.

The situation is ongoing and there is concern about the outcome of further rain.

The communities of the Timaru District rallied together, especially Geraldine who were under a huge amount of pressure, and their response is acknowledged.

The Councillors reiterated their thanks to all involved and shared the positive feedback from the public around all areas of response and communications.

## **4 Identification of Urgent Business**

There were no urgent business items identified.

## **5 Identification of Matters of a Minor Nature**

Library Condition and Priorities of Major Projects

## **6 Declaration of Conflicts of Interest**

Gambling Policy – The Mayor and Cllr Piddington declared a Conflict of Interest and will leave the Council Chamber for this discussion.

## **7 Confirmation of Minutes**

### **7.1 Minutes of the Council Meeting held on 31 October 2019**

#### **Committee Resolution 2019/64**

Moved: Cr Sally Parker

Seconded: Cr Steve Wills

That the Minutes of the Council Meeting held on 31 October 2019 be confirmed as a true and correct record of that meeting.

**Carried**

### **7.2 Minutes of the Council Meeting held on 26 November 2019**

#### **Committee Resolution 2019/65**

Moved: Cr Peter Burt

Seconded: Cr Barbara Gilchrist

That the Minutes of the Council Meeting held on 26 November 2019 be confirmed as a true and correct record of that meeting.

Carried

## **8 Schedules of Functions Attended**

### **8.1 Schedule of Functions Attended by the Mayor, Deputy Mayor and Councillors**

#### **Committee Resolution 2019/66**

Moved: Mayor Nigel Bowen

Seconded: Cr Peter Burt

That the report be received and noted.

Carried

### **8.2 Schedule of Functions Attended by the Chief Executive**

#### **Committee Resolution 2019/67**

Moved: Cr Sally Parker

Seconded: Cr Barbara Gilchrist

That the report be received and noted.

Carried

## **9 Reports**

### **9.1 Aorangi Stadium Trust 2018/19 Audited Annual Report**

The Chief Financial Officer provided an overview of the Aorangi Stadium Trust.

The Aorangi Stadium Trust is a Council Controlled Organisation and elects the trustees for the board who look after the capital maintenance of buildings at the Southern Trust Events Centre site on Morgans Road.

Timaru District Council provides a \$52,000 grant per annum for maintenance.

#### **Committee Resolution 2019/68**

Moved: Cr Steve Wills

Seconded: Cr Barbara Gilchrist

That the 2018/19 Annual Report for the Aorangi Stadium Trust be received and noted.

Carried

### **9.2 Appointment of Community Board Members to Local Organisations**

The following appointments of Community Board members to local organisations were considered.

#### **Committee Resolution 2019/69**

Moved: Mayor Nigel Bowen

Seconded: Cr Richard Lyon

That the following appointments, as per the Community Board’s recommendations, be approved and confirmed.

Stephanie McCullough	Temuka and Districts Historical Society
John McDonald	Pleasant Point Railway and Historical Society
Jan Finlayson	Geraldine Community Arts Council
Wayne O’Donnell	Geraldine Community Vehicle Trust
McGregor Simpson	Red Cross and Silver Band Board of Control
Clr Gavin Oliver, Jan Finlayson	Geraldine Projects Trust

**Carried**

**9.3 Contract Let Under Delegated Authority**

The award of the following contract was considered.

**Committee Resolution 2019/70**

Moved: Cr Barbara Gilchrist

Seconded: Cr Peter Burt

**That the following information on a contract let by the Chief Executive under delegated authority, be received.**

<b>Contract Description</b>	<b>Number of Tenders</b>	<b>Price Range</b>	<b>Successful Tenderer and Price</b>
<b>Contract 2427 – South Street Kerb and Channel Renewal</b>	<b>4</b>	<b>\$191,018.74 to \$267,08.62</b>	<b>Paul Smith Earthmoving Ltd \$191,018.74</b>
Tenders were evaluated using the Lowest Price Conforming Tender Method.			

All prices exclude GST

**Carried**

**9.4 2019/20 Annual Plan Progress Report for the four months ended 31 October 2019**

Group Manager Commercial and Strategy and the Chief Financial Officer provided an overview of the Annual Plan progress report.

There is no reason that the budget figures should not be achieved. A deficit does show for the beginning of the year because of the timing of rates instalments.

In regards to Infrastructure, there are large capital works where large amounts are committed and some of the projects are not yet started or underway. In some cases, contractors have been committed to projects, but this doesn't show in the figures as yet.

Social Housing was discussed relating to vacant units. They are not occupied because they are not functional as bedsits. These are on the programme for investigation to possibly combine two bedsits into a 1 bedroom flat and ensuring all social housing are healthy homes.

#### **Committee Resolution 2019/71**

Moved: Mayor Nigel Bowen

Seconded: Cr Barbara Gilchrist

1. That the summary financial results to 31 October 2019 be received and noted.
2. That the non-financial performance indicators and project work programme results to 31 October 2019 be received and noted.

**Carried**

#### **9.5 Gambling Venue Policy**

At 3:34 pm, Mayor Nigel Bowen left the meeting.

At 3:34 pm, Cr Stu Piddington left the meeting.

The draft Gambling Venue Policy was presented to Council.

#### **Committee Resolution 2019/72**

Moved: Cr Steve Wills

Seconded: Cr Richard Lyon

1. That Council adopts the draft Gambling Venue Policy as presented.
2. That the Timaru District Council Delegations Manual is updated to reflect the Gambling Venue Policy delegation to the Environmental Services Committee.

**Carried**

At 3:35 pm, Mayor Nigel Bowen returned to the meeting.

At 3:35 pm, Cr Stu Piddington returned to the meeting.

#### **9.6 Elected Members Remuneration 2019/20 - Allocation of Pool**

The Chief Executive provided an overview of the Remuneration Pool report.

This pool is set by the Remuneration Authority, and all Councils adhere to this policy. The pool is allocated across all the Councillors with additional responsibilities as shown below.

#### **Committee Resolution 2019/73**

Moved: Mayor Nigel Bowen

Seconded: Cr Peter Burt



1. That the Council:
  - (a) Receive and note the report
  - (b) Agree to submit to the Remuneration Authority for approval the following allocation of the governance remuneration pool

Role	Description of Role	Annual Base Remuneration (\$)	Allocation for Additional Responsibility (\$)	Total Annual Remuneration (\$)
Deputy Mayor (1 position) – Cr Wills	Assist the Mayor in carrying out the statutory and leadership role of the Mayor	\$39,613	\$23,768	\$63,380
Chairperson ( <i>Commercial and Strategy, Community Services, Environmental Services, Infrastructure</i> ) (4 positions) - – Crs Burt, Gilchrist, Lyon, Parker	Provide leadership to the committee, ensure decision-making is evidence based and made in a timely manner, and conduct meetings in accordance with standing orders and legislation	\$39,613	\$11,884	\$51,496
Deputy Chairperson ( <i>Commercial and Strategy, Community Services, Environmental Services, Infrastructure</i> ) (4 positions) - Crs Booth, Piddington, Oliver, O’Reilly	Support the Chairperson in providing leadership to the committee, ensure decision-making is evidence based and made in a timely manner, and conduct meetings in accordance with standing orders and legislation where required	\$39,613	\$5,942	\$45,555
<i>Allocated Remuneration Pool</i>				\$451,584

**Carried**

**9.7 MartinJenkins Report to Timaru District Holdings Limited**

To present to Council the MartinJenkins’ Report on the review of Timaru District Holdings Limited (TDHL).

Joanna Collinge from MartinJenkins joined the meeting via Video Link.

An overview of the report was provided and focused on how Timaru District Holdings Limited can move from acceptable practice to good practice. This would enable the company to move to a system that builds resilience.

The advice provided is that these recommendations should be done in the right order and a timetable be put in place that is realistic and can have movement for possible changes (e.g a second round for appointments if no suitable applicants are appointed in the first round).

At the next Council meeting, there will be an update of what work has started and the remaining timeframe to produce a clear plan ahead.

#### **Committee Resolution 2019/74**

Moved: Mayor Nigel Bowen

Seconded: Cr Peter Burt

That Council:

1. receives the MartinJenkins' Report
2. accepts in principle, the recommendations contained in the Report
3. provides direction to Council officers on the next steps regarding the priority and implementation of the recommendations.

**Carried**

#### **9.8 Council Calendar 2020**

Discussion was held on the possibility of changing the starting time of meetings on Standing Committee days to 3pm and options for moving some meetings out of the Council Chambers. This is to encourage transparency and would allow members of the community to come along to meetings and see how Council works.

Further discussion is to be held in 2020 on starting times, venues and the possibility of live streaming meetings. The first Standing Committee's meeting on 28 January 2020 will start at 9am.

#### **Committee Resolution 2019/75**

Moved: Mayor Nigel Bowen

Seconded: Cr Steve Wills

That the Council meetings dates calendar for 2020 be adopted. That the Standing Meetings Committee on 28<sup>th</sup> January start at 9am and further start times for 2020 are to be confirmed.

**Carried**

#### **9.9 Tenders and Procurement Committee Minutes 11 November 2019**

#### **Committee Resolution 2019/76**

Moved: Cr Sally Parker

Seconded: Cr Peter Burt

That the Tenders and Procurement Committee meeting minutes of 11 November 2019 be confirmed.

**Carried**

**10 Consideration of Urgent Business Items**

There were no items of Urgent Business to be considered.

**11 Consideration of Minor Nature Matters**

The current condition of the Timaru Library was raised, and discussion requested about the priorities that were set in the 2018-28 LTP.

Concerns were expressed about whether the Capital Projects within the LTP are now prioritised correctly, and should further consideration be given that the Theatre Royal and Heritage Hub Project.

Robust discussion was held around whether the intended Theatre Royal and Heritage Hub project should be the main priority. Responses included that previous Councils have purchased land with the intention of this project, the community have been consulted and 78% agreed to this project and are therefore expecting the project to proceed.

There was concern whether the Library is fit for purpose and whether a longer term view should incorporate a more significant upgrade of the Library. The Library roof has worn out earlier than expected, the planned fix on this roof which is underway will allow time for consideration of the Libraries future.

Concern was raised about reversing agreed Community projects, but that perhaps investigations into combining the Library with another project could be considered.

**12 Resolution to Exclude the Public**

**Committee Resolution 2019/77**

Moved: Cr Paddy O'Reilly

Seconded: Cr Barbara Gilchrist

That the public be excluded from the following parts of the proceedings of this meeting on the grounds under section 48 of the Local Government Official Information and Meetings Act 1987 as follows:

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Plain English Reason
<b>13.1 - Temuka Community Pool Upgrade</b>	s7(2)(b)(ii) - The withholding of the information is necessary to protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information	Commercial sensitivity
<b>13.2 - Tenders and Procurement Committee Minutes 26 November 2019</b>	s7(2)(b)(ii) - The withholding of the information is necessary to protect information where the making available of the information would be likely	Commercial sensitivity

	unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information	
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**Carried**

**Committee Resolution 2019/78**

Moved: Cr Sally Parker

Seconded: Cr Peter Burt

That Council moves out of Closed Council into Open Council.

**Carried**

**13 Public Excluded Reports**

**13.1 Temuka Community Pool Upgrade**

**13.2 Tenders and Procurement Committee Minutes 26 November 2019**

**14 Readmittance of the Public**

**The meeting closed at 5.10pm.**

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**Chairperson**

## 8 Schedules of Functions Attended

### 8.1 Schedule of Functions Attended by the Mayor, Deputy Mayor and Councillors

**Author:** Alesia Cahill, Executive Assistant to the Mayor

**Authoriser:** Nigel Bowen, Mayor

#### Recommendation

That the report be received and noted.

#### Functions Attended by the Mayor for the Period 3 December 2019 to 3 February 2020

<i>3 December 2019</i>	Attended Audit and Risk Subcommittee meeting Attended Washdyke Industrial Expansion Zone workshop Attended City Hub Steering group meeting
<i>4 December 2019</i>	Attended Timaru District Holdings Ltd AGM
<i>5 December 2019</i>	Met with Aoraki Migrant Centre representatives Attended Strengthening Families LMG meeting Met with Prime Port Timaru Ltd Chairman and Chief Executive Attended Alpine Energy Limited shareholders meeting Attended BA5 function at Alpine Energy
<i>6 December 2019</i>	Met with South Canterbury Federated Famers Group
<i>10 December 2019</i>	Chaired People and Performance Committee meeting Conducted Citizenship Ceremony Chaired December Council meeting
<i>11 December 2019</i>	Met with Environment Canterbury Councillors Attended Geraldine Community Board meeting Met with Sister Cities Committee
<i>12 December 2019</i>	Addressed South Canterbury Cadet Forces end of year prize giving and parade
<i>13 December 2019</i>	Attended meeting with Rangitata residents post flood event
<i>14 December 2019</i>	Delivered Mayoral Message at Christmas on the Bay
<i>16 December 2019</i>	Attended local Rangitata MP Christmas morning tea
<i>17 December 2019</i>	Attended Sister City Eniwa Exchange meeting Attended Elected Member Induction
<i>18 December 2019</i>	Met with Tuia Programme leader Met with Minister of Primary Industries regarding Rangitata flooding

<i>20 December 2019</i>	Monthly radio schedule, on the Breeze (Mayoral Musings) Mentor session with Tuia Programme candidate
<i>26 December 2019</i>	Officially opened the 108 <sup>th</sup> Caroline Bay Carnival
<i>20 January 2020</i>	Attended Temuka Community Board Strategy Planning session
<i>24 January 2020</i>	Attended Highfield Golf course drop in session
<i>27 January 2020</i>	Met with Tuia Programme leader
<i>28 January 2020</i>	Attended Standing Committee meetings and workshops
<i>3 February 2020</i>	Attended Canterbury Mayoral Forum and workshop

In addition to these duties I met with 19 members of the public on issues of concern to them.

**Functions Attended by the Deputy Mayor for the Period 3 December 2019 to 3 February 2020.**

<i>15 December 2019</i>	Attended Christmas on the Bay Formal Function
<i>15 December 2019</i>	Attended and opened Carols by Candle light
<i>31 December 2019</i>	Opened the 2020 New Zealand Speed Championships
<i>12 January 2020</i>	Presented awards at Ocean Swim Event
<i>24 January 2020</i>	Attended Highfield Golf course drop in session

**Attachments**

Nil

**8.2 Schedule of Functions Attended by the Chief Executive****Author: Alesia Cahill, Executive Assistant to the Mayor****Authoriser: Bede Carran, Chief Executive****Recommendation**

That the report be received and noted.

**Functions Attended by the Chief Executive for the Period 3 December 2019 to 3 February 2020**

<i>3 December 2019</i>	Attended Audit and Risk Subcommittee meeting Attended Washdyke Industrial Expansion Zone workshop
<i>4 December 2019</i>	Attended Timaru District Holdings Ltd AGM
<i>5 December 2019</i>	Attended BA5 at Alpine Energy Ltd
<i>10 December 2019</i>	Attended People and Performance Committee meeting Attended Citizenship Ceremony Attended December Council meeting
<i>11 December 2019</i>	Met with Environment Canterbury Councillors Attended Geraldine Community Board meeting Met with representative of the ARA Institute
<i>12 December 2019</i>	Met with Chief Executive Aoraki Development Met with Chief Executive PrimePort Timaru Ltd
<i>17 December 2019</i>	Attended Elected Member Induction
<i>14 January 2020</i>	Met with Environment Canterbury South Canterbury Manager
<i>16 January 2020</i>	Attended Alpine Energy Shareholders meeting
<i>17 January 2020</i>	Met with Chief Executive Aoraki Development
<i>21 January 2020</i>	Attended Development Contributions Policy Considerations workshop
<i>22 January 2020</i>	Met with Senior Executives Waste Transformation
<i>23 January 2020</i>	Met with Chief Executive Aoraki Development
<i>24 January 2020</i>	Met with Chief Executive of Fonterra Clondeboye Attended Highfield Golf Course drop in session
<i>27 January 2020</i>	Attended Canterbury Chief Executives Forum Attended Civil Defence Emergency Management Co-ordinating Executive Group meeting
<i>28 January 2020</i>	Attended Standing Committee meetings and workshops
<i>29 January 2020</i>	Met with Chief Executives of Mackenzie and Waimate District Councils

	Conference call with Local Government Funding Agency representative
<i>31 January 2020</i>	Met with representatives of Department of Internal Affairs
	Attended Water Services Bill meeting in Wellington
<i>3 February 2020</i>	Attended Canterbury Mayoral Forum - Canterbury Wellbeing Overview Strategy workshop

Meetings were also held with various ratepayers, businesses and/or residents on a range of operational matters.

**Attachments**

**Nil**



## 9 Reports

### 9.1 Adoption of the Canterbury Triennial Agreement

**Author:** Mark Low, Strategy and Corporate Planning Manager

**Authoriser:** Bede Carran, Chief Executive

#### Recommendation

1. That the Council:
  - (a) approves the Canterbury Triennial Agreement 2020-22
  - (b) authorises the Mayor to sign the Canterbury Triennial Agreement 2020-22 on behalf of the Timaru District Council.

#### Purpose of Report

- 1 The purpose of this report is to seek Council endorsement for the Canterbury Triennial Agreement 2020-2022, prior to signing by the Canterbury mayors by 1 March 2020.

#### Assessment of Significance

- 2 This matter is of low significance under the Council's Significance and Engagement Policy.

#### Background

- 3 The Local Government Act 2002 (LGA) requires all local authorities within each region to enter into a triennial agreement that complies with section 15 of the LGA.
- 4 The triennial agreement must be signed by 1 March of the year following local government elections, and applies until the next triennial local government election or where replaced by another agreement.
- 5 The purpose of a triennial agreement is to ensure that appropriate levels of communication, co-ordination and collaboration are maintained between local authorities within the region, and agreements must include:
  - 5.1 protocols for communication and co-ordination between councils
  - 5.2 the process by which councils will comply with section 16 of the Act, which applies to significant new activities proposed by regional councils
  - 5.3 processes and protocols through which all councils can participate in identifying, delivering and funding facilities and services of significance to more than one district.
- 6 Triennial agreements may also include commitments to establish joint governance arrangements to give better effect to the matters set out above.
- 7 A triennial agreement may be varied by agreements between all the local authorities within the region.
- 8 The triennial agreement applies to all territorial local authorities within the Canterbury region (Ashburton, Hurunui, Kaikōura, Mackenzie, Selwyn, Timaru, Waimakariri, Waimate and

Waitaki District and Christchurch City) and the Canterbury Regional Council (Environment Canterbury).

### Discussion

- 9 The triennial agreement has been drafted by the Secretariat to the Canterbury Mayoral Forum and approved in principle by the Mayors at the last Canterbury Mayoral Forum for signing by the respective Canterbury councils.
- 10 The agreement builds on past agreements and seeks to continue to strengthen the 'Canterbury voice'.
- 11 The agreement mandates the work of the Canterbury Mayoral Forum, the Chief Executives Forum and other regional forums and working groups.
- 12 The Canterbury Mayoral Forum is the primary mechanism to give effect to the triennial agreement. The Canterbury Mayoral Forum's Terms of Reference are a part of the triennial agreement. The forum is supported by the Chief Executive's forum and other regional forums and working groups. This work is supported by the Secretariat at the Canterbury Mayoral Forum and funded via the regional general rate. The work of the Canterbury Mayoral Forum is highlighted at <https://www.canterburymayors.org.nz/>
- 13 The agreement highlights some key pieces of work for the Canterbury Mayoral Forum 2020-22 term including the continued governance of the Canterbury Water Management Strategy, leading and developing a sustainable development strategy and ongoing advocacy for the region.
- 14 The Mayor now seeks Council's endorsement and approval of the triennial agreement.

### Options and Preferred Option

- 15 The Council is required to enter into a triennial agreement within the region it is part of.
- 16 The Council has the option to enter into the triennial agreement as proposed or to request changes to the triennial agreement prior to signing it.

### Consultation

- 17 No consultation is required on this issue.

### Relevant Legislation, Council Policy and Plans

- 18 [Local Government Act 2002 \(Section 15\)](#)

### Financial and Funding Implications

- 19 There are some budget implications in supporting some of the work of the Canterbury Mayoral Forum. These are encompassed within existing budgets.

### Other Considerations

- 20 There are no other considerations.

### Attachments

1. **Canterbury Triennial Agreement 2020-2022**  

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## **Canterbury Local Authorities' Triennial Agreement 2020–22**

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### **Background**

1. Section 15 of the Local Government Act 2002 (the Act) requires local authorities within a regional council area to enter into a Triennial Agreement (the Agreement) by 1 March following triennial local body elections.
2. The purpose of the Agreement is to ensure appropriate levels of communication, co-ordination and collaboration between local authorities within the region. The agreement must include:
  - protocols for communication and co-ordination between the councils
  - the process by which councils will comply with section 16 of the Act, which applies to significant new activities proposed by regional councils
  - processes and protocols through which all councils can participate in identifying, delivering and funding facilities and services of significance to more than one district.
3. Agreements may also include commitments to establish joint governance arrangements to give better effect to the matters set out in paragraph 2 above.

### **Parties to the Agreement**

4. The Parties to the Agreement are the Kaikōura, Hurunui, Waimakariri, Selwyn, Ashburton, Timaru, Mackenzie, Waimate and Waitaki District Councils, the Christchurch City Council, and the Canterbury Regional Council (Environment Canterbury).

### **Standing together for Canterbury**

5. The Parties agree to work collaboratively and in good faith for the good governance and sustainable development of their districts, cities and region.

### **Communication**

6. The Parties value and will maintain open communication, collaboration and trust. In the interest of “no surprises”, the Parties will give early notice of potential disagreements between, or actions likely to impact significantly on, other Parties.

### **Significant new activities**

7. When a Party is considering a major policy initiative or proposal that may have implications for other Parties, they will give early notification to the affected Parties and share the information with the Canterbury Mayoral Forum and the Canterbury Chief Executives Forum.

8. The Canterbury Regional Council will provide early advice to the Canterbury Chief Executives Forum and the Canterbury Mayoral Forum of any significant new activity, in addition to other requirements specified in s.16 of the Act.

### **Local government structure in Canterbury**

9. Notwithstanding the spirit of co-operation and collaboration embodied in the Agreement, the Parties, individually or collectively, reserve the right to promote, consult and/or research change to the structure of local government within the Canterbury region.
10. This right is consistent with the intent to improve the effectiveness and efficiency of local government (Local Government Act 2002 s.24AA), having particular regard to communities of interest and community representation.

### **Regional Policy Statement review**

11. The Agreement applies to any change, variation or review of the Canterbury Regional Policy Statement.

### **Collaboration**

12. The Parties commit to working collaboratively to:
  - enable democratic local decision-making and action by, and on behalf of, communities
  - promote the social, economic, environmental, and cultural well-being of communities in the present and for the future (Local Government Act 2002, s.10).
13. Collaboration may be undertaken on a whole of region, or sub-regional basis.
14. The primary mechanism to implement this Agreement is the Canterbury Mayoral Forum. The Forum will meet quarterly and operate in accordance with its agreed terms of reference, which are attached as **Appendix 1**.
15. The Canterbury Mayoral Forum will:
  - continue to provide governance of the Canterbury Water Management Strategy
  - develop and lead implementation of a sustainable development strategy for Canterbury region for the local government triennium 2020–22
  - advocate for the interests of the region, its councils and communities.
16. The Canterbury Mayoral Forum will be supported by the Canterbury Chief Executives Forum and other regional forums and working groups as agreed from time to time.
17. The Chief Executives Forum will:
  - report quarterly to the Canterbury Mayoral Forum on delivery of its work programme to implement and manage collaborative projects and agreed actions of the Canterbury Mayoral Forum

- identify and escalate to the Canterbury Mayoral Forum strategic issues and opportunities for collaboration from the Policy, Corporate and Operational Forums and other regional and sub-regional working groups.

18. As requested by the Canterbury Mayoral Forum, Environment Canterbury will host a permanent regional forums secretariat and resource this from the regional general rate.

**Other agreements**

19. This Agreement does not prevent the Parties from entering into other agreements among themselves or outside the Canterbury region. Any other such agreement should not, however, be contrary to the purpose and spirit of this Agreement.

**Agreement to review**

20. A triennial agreement may be varied by agreement between all the local authorities within the region and remains in force until local authorities ratify a new agreement.

21. Any one or more of the Parties can request an amendment to this Agreement by writing to the Chair of the Canterbury Mayoral Forum at least two weeks before a regular quarterly meeting of the Forum.

22. The Canterbury Mayoral Forum will review the Agreement no later than the final meeting before triennial local body elections and recommend any changes to the incoming councils.

**Authority**

23. This Canterbury Local Authorities’ Triennial Agreement 2020–22 is signed by the following on behalf of their respective authorities:

• COUNCIL	• SIGNATURE	• DATE
<ul style="list-style-type: none"> <li>• Ashburton District Council</li> <li>• Mayor Neil Brown</li> </ul>	•	•
<ul style="list-style-type: none"> <li>• Canterbury Regional Council</li> <li>• Chair Jenny Hughey</li> </ul>	•	•
<ul style="list-style-type: none"> <li>• Christchurch City Council</li> <li>• Mayor Lianne Dalziel</li> </ul>	•	•

<ul style="list-style-type: none"> <li>• <b>Hurunui District Council</b></li> <li>• <b>Mayor Marie Black</b></li> </ul>	•	•
<ul style="list-style-type: none"> <li>• <b>Kaikōura District Council</b></li> <li>• <b>Mayor Craig Mackle</b></li> </ul>	•	•
<ul style="list-style-type: none"> <li>• <b>Mackenzie District Council</b></li> <li>• <b>Mayor Graham Smith</b></li> </ul>	•	•
<ul style="list-style-type: none"> <li>• <b>Selwyn District Council</b></li> <li>• <b>Mayor Sam Broughton</b></li> </ul>	•	•
<ul style="list-style-type: none"> <li>• <b>Timaru District Council</b></li> <li>• <b>Mayor Nigel Bowen</b></li> </ul>	•	•
<ul style="list-style-type: none"> <li>• <b>Waimakariri District Council</b></li> <li>• <b>Mayor Dan Gordon</b></li> </ul>	•	•
<ul style="list-style-type: none"> <li>• <b>Waimate District Council</b></li> <li>• <b>Mayor Craig Rowley</b></li> </ul>	•	•
<ul style="list-style-type: none"> <li>• <b>Waitaki District Council</b></li> <li>• <b>Mayor Gary Kircher</b></li> </ul>	•	•

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## **Appendix 1: Canterbury Mayoral Forum terms of reference**

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### **1. Name**

The name of the group shall be the Canterbury Mayoral Forum.

### **2. Objectives**

- (a) To provide a forum to enable Canterbury councils to work more collaboratively with each other and with central government and other key sector leaders in Canterbury to identify opportunities and solve problems together.
- (b) To identify and prioritise issues of mutual concern and foster co-operation, co-ordination and collaboration to address these issues (including where appropriate joint work plans).
- (c) To formulate policies and strategies on matters where all member councils may act collaboratively in determining plans for the co-ordination of regional growth.
- (d) To ensure increased effectiveness of local government in meeting the needs of Canterbury communities.
- (e) To act as an advocate to central government or their agencies or other bodies on issues of concern to members.
- (f) To develop and implement programmes, which are responsive to the needs and expectations of the community.

### **3. Principles**

In pursuit of these objectives the Canterbury Mayoral Forum will observe the following principles.

- (a) Establish and maintain close liaison with other local government networks to ensure as far as possible the pursuit of common objectives and the minimisation of duplication.
- (b) Establish and maintain close liaison with Ministers of the Crown and local Members of Parliament.
- (c) Establish and maintain close liaison with a wide number of diverse stakeholders and key sector organisations within the region.
- (d) Exercise its functions with due regard to the tangata whenua and cultural diversity of the Canterbury community.
- (e) Keep the local community informed about its activities by proactively releasing information about key projects in a timely manner, as agreed by the member councils.
- (f) Encourage member councils to promote and apply cross-boundary structures and systems.
- (g) Establish a provision for reporting back to its respective Councils.

#### 4. Powers

- (a) The Canterbury Mayoral Forum shall have the power to:
- (i) levy for any or all of its objects in such amount or amounts as may be mutually determined and acceptable to individual local authorities
  - (ii) determine and make payments from its funds for any or all of the purposes of its objects
  - (iii) receive any grant or subsidy and apply monies for the purposes of such grant or subsidy
  - (iv) fund appropriate aspects of the Forum's activities regionally.
- (b) The Canterbury Mayoral Forum does not have the power to legally bind any council to any act or decision unless that act or decision has been agreed to by decision of that council.

#### 5. Membership

- (a) Membership of the Canterbury Mayoral Forum shall be open to the following councils:
- Ashburton District Council
  - Canterbury Regional Council (Environment Canterbury)
  - Christchurch City Council
  - Hurunui District Council
  - Kaikōura District Council
  - Mackenzie District Council
  - Selwyn District Council
  - Timaru District Council
  - Waimakariri District Council
  - Waimate District Council
  - Waitaki District Council.
- (b) Each member council shall be represented by its Mayor (or Chairperson in the case of Environment Canterbury) and supported by its Chief Executive. On occasions where the Mayor or Chair cannot attend, a council may be represented by its Deputy Mayor or Chair.
- (c) The Canterbury Mayoral Forum shall have the power to invite people to attend and participate in its meetings on a permanent and/or issues basis. The Forum has issued a standing invitation to the Kaiwhakahaere or other representative/s of Te Rūnanga o Ngāi Tahu to attend and participate in meetings of the Forum. The Kaiwhakahaere has indicated a process to determine representation from the ten Canterbury papatipu rūnanga of Te Rūnanga o Ngāi Tahu.

#### 6. Chairperson

- (a) The Canterbury Mayoral Forum shall select a Chairperson at the first meeting immediately following the Triennial Elections. This appointment may be reviewed after a period of 18 months.



- (b) The Chairperson selected will preside at all meetings of the Canterbury Mayoral Forum.
- (c) The Canterbury Mayoral Forum shall select a Deputy Chairperson at the first meeting immediately following the Triennial Elections.
- (d) The Canterbury Mayoral Forum may appoint spokespersons from its membership for issues being considered, in which case each member council agrees to refer all requests for information and documents to the duly appointed spokespersons.

## **7. Meetings**

- (a) Meetings will be held as required with an annual schedule, covering a calendar year, to be determined by the members. Meetings will be held quarterly at venues to be determined.
- (b) Special meetings may be called at the request of four members.
- (c) The secretariat will prepare an agenda for Mayoral Forum meetings in consultation with the Chair and the Chief Executives Forum.
- (d) Agendas for meetings will be issued and minutes will be taken and circulated.
- (e) A summary of each meeting will be drafted, agreed by the Chair, and circulated by the secretariat to members for distribution within member councils as a high-level record of the meeting.
- (f) Approved minutes and approved final reports and papers will be made available via a Mayoral Forum website as agreed by the Canterbury Mayoral Forum.

## **8. Decision making**

- (a) The practice of the Forum will be to determine issues before it by consensus.
- (b) If the consensus is to determine issues by voting, the determination shall be determined by a majority of votes of the authorities represented at the meeting through the Mayor (or Chair) or their nominated representative.

## **9. Secretariat**

The Canterbury Mayoral Forum will appoint Environment Canterbury to carry out the secretariat function on such terms and conditions as it shall decide for the discharge of duties. This includes taking minutes, keeping any books and accounts and attending to any other business of the forum.

**9.2 Establishment and Membership of Subcommittees and other groups****Author:** Nigel Bowen, Mayor**Authoriser:** Bede Carran, Chief Executive**Recommendation**

That Council:

1. Establishes the following Subcommittees and groups –
  - Theatre Royal Elected Members Reference Group
  - Rates Remission Subcommittee
  - Community Awards Selection Panel
  - Donations and Loans Subcommittee
  - Hall of Fame Selection Subcommittee
  - Museum Collection Subcommittee
  - Public Art Advisory Group
  - Russell Hervey Library Fund Subcommittee
  - Youth Initiatives Subcommittee
2. Approves the delegations and Membership for each of the Subcommittees and groups, as set out in Appendix A
3. Resolves that the Council's Delegations Manual be updated to include these Subcommittees and groups and their delegations.

**Purpose of Report**

1. To confirm the establishment and membership of remaining subcommittees and groups described in this report.

**Assessment of Significance**

2. This matter is of low significance under the Council's Significance and Engagement Policy.

**Background**

3. Council committees have a number of subcommittees and groups to consider particular issues. This report concludes this establishment process to enable these subcommittees and groups to operate.
4. The subcommittees/groups/panels included in Appendix A require establishment and appointments so they can commence and exercise the functions granted to them.

**Discussion**

5. Pursuant to clause 30(1)(a) of the LGA, a local authority may appoint the committees, subcommittees and other subordinate decision-making bodies that it considers appropriate.

<b>Committee/Group</b>	<b>Reason</b>
Theatre Royal Elected Members Reference Group (the requirement for the Theatre Royal Elected Members Reference Group may change as the new governance and reporting structure for the project is established)	Established by resolution of previous Policy and Development Committee. Terms of Reference sets out membership and role.
<b>Reports to: Commercial and Strategy Committee</b>	
Rates Remission Subcommittee	Rates Remission, Rates Remission and Postponement of Maori Freehold Land Policy – requires subcommittee and sets out role
<b>Reports to: Community Services Committee</b>	
Community Awards Selection Panel	Community Awards Policy – requires panel and sets out membership and role
Donations and Loans Subcommittee	Donations and Loans Policy – requires subcommittee to consider applications
Hall of Fame Selection Subcommittee	Hall of Fame Policy – requires subcommittee and sets out membership and role
Museum Collection Subcommittee	Museum Collection Policy – requires subcommittee and sets out membership and role
Public Art Advisory Group	Art in Public Spaces Policy – requires Advisory group and sets out membership and role
Russell Hervey Library Fund Subcommittee	Russell Hervey Library Fund Policy – requires subcommittee and sets out membership and role
Youth Initiatives Subcommittee	Youth Initiatives Funding Policy – requires subcommittee and sets out membership and role

6. The Mayor wishes to recommend, that Council establishes the following Subcommittees and groups, with the functions and membership set out in Appendix A. A review of the committee structure is intended halfway through the Council term to ensure all committees are fit for purpose and identify where there might be further efficiencies in managing the Council workload. This may lead to some changes in the future, but in the interim all subcommittees and groups as identified above are being re-established.

7. The main changes proposed under Appendix A are:
- (a) Theatre Royal Elected Members Reference Group – proposed change of membership to include Mayor, Deputy Mayor, Chairperson Community Services Committee and one Councillor representing the rural community. This is intended to operate until the full theatre royal project structure and approach has been finalised, including reporting lines to Council.
  - (b) Rates Remission Subcommittee – addition of quorum, meeting frequency
  - (c) Community Awards Selection Panel – addition of quorum, meeting frequency
  - (d) Donations and Loans Subcommittee – membership is historically the Chairperson of the Community Services Committee, the Mayor, two Councillors plus one Councillor representing the rural sector. Membership is not specified in the Policy. It is recommended this membership is retained, subject to any changes to be made by Council. A quorum and meeting frequency has also been added.
  - (e) Hall of Fame Selection Subcommittee – addition of quorum, meeting frequency
  - (f) Museum Collection Subcommittee – addition of quorum, meeting frequency and for the Council or Community Services Committee to appoint membership
  - (g) Public Art Advisory Group – addition of quorum, meeting frequency
  - (h) Russell Hervey Library Fund Subcommittee – addition of quorum, meeting frequency
  - (i) Youth Initiatives Subcommittee – membership is historically the Mayor, Chairperson Community Services Committee, one other Councillor, the Safer Communities Project Manager, a Youth Services Worker from YMCA South and Mid Canterbury with the Subcommittee having authority to select and appoint two youth representatives. Membership is not specified in the Policy. It is recommended this membership is retained, subject to any changes to be made by Council. A quorum, meeting frequency and for the Council or Community Services Committee to appoint membership has been added.

#### **Relevant Legislation, Council Policy and Plans**

- 8. Local Government Act 2002
- 9. Rates Remission Policy
- 10. Rates Remission and Postponement Policy on Maori Freehold Land
- 11. Hall of Fame Policy
- 12. Community Awards Policy
- 13. Donations and Loans Policy
- 14. Museum Policy
- 15. Art in Public Spaces Policy
- 16. Russell Hervey Library Fund
- 17. Youth Initiatives Funding Policy

#### **Attachments**

**Nil**

**Attachments**

- 1. Theatre Royal Redevelopment Heritage Centre Development - Elected Members Reference Group - Terms of Reference Approved 12 March 2019 Policy and Development Committee**  
 

### Appendix A – Subcommittees and Groups to be established

#### Theatre Royal Elected Members Reference Group

<b>Type</b>	Reference Group (informal)
<b>Subordinate to</b>	None (informal forum)
<b>Subordinate Committees</b>	None
<b>Legislative basis</b>	Nil. Not a decision-making body under the Local Government Act.
<b>Policy Basis</b>	Resolution – Policy and Development Committee – 12.3.19 Terms of Reference – attached
<b>Membership</b>	Mayor, Deputy Mayor, Chairperson Community Services Committee and one Councillor representing the rural community
<b>Functions</b>	To support and advise the staff project team on: 1. Matters of community engagement and user interest 2. Matters of choice at the project teams request 3. Fundraising
<b>Meeting Frequency</b>	1. As required.
<b>Delegations</b>	2. Nil

## Commercial and Strategy Committee

The following subcommittees and groups report to the Commercial and Strategy Committee.

- Rates Remission Subcommittee

### Rates Remission Subcommittee

<b>Type</b>	Subcommittee
<b>Subordinate to</b>	Commercial and Strategy Committee
<b>Subordinate Committees</b>	None
<b>Legislative basis</b>	<ol style="list-style-type: none"> <li>1. Subcommittee established pursuant to clause 30 and 31 of Schedule 7 of the Local Government Act 2002</li> <li>2. Subcommittee delegated powers by Council pursuant to clause 32 of Schedule 7 of the Local Government Act 2002</li> </ol>
<b>Policy Basis</b>	Rates Remission Policy, Rates Remission and Postponement Policy on Maori Freehold Land
<b>Membership</b>	Mayor, Chairperson Commercial and Strategy
<b>Quorum</b>	Mayor and Chairperson Commercial and Strategy
<b>Functions</b>	Decision-making on rates remissions appeals where application declined or partly remitted
<b>Meeting Frequency</b>	As required
<b>Delegations</b>	<p>The Commercial and Strategy Committee delegates the following general powers, duties and responsibilities:</p> <ol style="list-style-type: none"> <li>1. That subject to the following limitations the Rates Remission Subcommittee shall have power to act in all matters concerning the functions granted by Council provided they do not conflict with the stated policy of the Council.</li> <li>2. Delegated authority as outlined in the Rates Remission Policy adopted by the Council as part of the Long Term Plan to hear and make a final decision on appeals, where an application for remission has been declined or only partly remitted (as applies in the policy).</li> <li>3. That minutes of subcommittee meetings contain details of subcommittee decisions made under delegated authority.</li> </ol>

**Community Services Committee**

The following subcommittees and groups report to the Community Services Committee.

- Community Awards Selection Panel
- Donations and Loans Subcommittee
- Hall of Fame Selection Subcommittee
- Museum Collection Subcommittee
- Public Art Advisory Group
- Russell Hervey Library Fund Subcommittee
- Youth Initiatives Funding Policy

**Community Awards Selection Panel**

<b>Type of Committee</b>	Panel
<b>Subordinate to</b>	Community Services Committee
<b>Subordinate Committees</b>	None
<b>Legislative basis</b>	<ol style="list-style-type: none"> <li>1 Subordinate Decision-Making Body established pursuant to clause 30 and 31 of Schedule 7 of the Local Government Act 2002</li> <li>2 Subordinate Decision-Making Body delegated powers by Council pursuant to clause 32 of Schedule 7 of the Local Government Act 2002</li> </ol>
<b>Policy Basis</b>	Community Awards Policy
<b>Membership</b>	<p>The Selection Panel shall comprise four Councillors appointed at the beginning of each term of Council.</p> <p>The Panel must elect and appoint four community representatives to the Panel for the current term of Council.</p>
<b>Quorum</b>	Two Councillors and two community representatives
<b>Functions</b>	Consider and make decisions on selection of persons for Community Awards and conduct award presentation ceremonies.
<b>Meeting Frequency</b>	As required
<b>Delegations</b>	<p>The Community Services Committee delegates the following general powers, duties and responsibilities:</p> <ol style="list-style-type: none"> <li>1. That subject to the following limitations the Community Awards Selection Panel shall have power to act in all matters concerning the functions granted by Council provided they do not conflict with the stated policy of the Council.</li> </ol>



	<ol style="list-style-type: none"> <li>2. Delegated authority to consider and make decisions on nominations for Civic Awards for voluntary service and matters pertaining to the awards presentation ceremony</li> <li>3. Delegated authority to appoint four community representatives for the panel.</li> <li>4. That minutes of subcommittee meetings contain details of subcommittee decisions made under delegated authority.</li> </ol>
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**Donations and Loans Subcommittee**

<b>Type of Committee</b>	Subcommittee
<b>Subordinate to</b>	Community Services Committee
<b>Subordinate Committees</b>	None
<b>Legislative basis</b>	<ol style="list-style-type: none"> <li>1 Subcommittee established pursuant to clause 30 and 31 of Schedule 7 of the Local Government Act 2002</li> <li>2 Subcommittee delegated powers by Council pursuant to clause 32 of Schedule 7 of the Local Government Act 2002</li> </ol>
<b>Policy Basis</b>	Donations and Loans Policy
<b>Membership</b>	Chairperson of the Community Services Committee, the Mayor, two Councillors, plus one Councillor representing the rural sector
<b>Quorum</b>	3 Members
<b>Functions</b>	Consideration of applications made under the Donations and Loans Policy and recommendations to the Community Services Committee.
<b>Meeting Frequency</b>	Twice annually
<b>Delegations</b>	<p>The Community Services Committee delegates the following general powers, duties and responsibilities:</p> <ol style="list-style-type: none"> <li>1. That subject to the following limitations the Donations and Loans Subcommittee shall have power to act in all matters concerning the functions granted by Council provided they do not conflict with the stated policy of the Council.</li> <li>2. Delegated Authority to consider applications made under the Donations and Loans Policy, and bring recommendations to the Community Services Committee.</li> <li>3. That minutes of subcommittee meetings contain details of subcommittee decisions made under delegated authority.</li> </ol>

**Hall of Fame Selection Subcommittee**

<b>Type of Committee</b>	Subcommittee
<b>Subordinate to</b>	Community Services Committee
<b>Subordinate Committees</b>	None
<b>Legislative basis</b>	<ol style="list-style-type: none"> <li>1 Subcommittee established pursuant to clause 30 and 31 of Schedule 7 of the Local Government Act 2002</li> <li>2 Subcommittee delegated powers by Council pursuant to clause 32 of Schedule 7 of the Local Government Act 2002</li> </ol>
<b>Policy Basis</b>	Hall of Fame Policy
<b>Membership</b>	<p>The Mayor (Chairperson), Deputy Mayor, Chairperson Community Services Committee, President of the South Canterbury Historical Society.</p> <p>Chief Executive to appoint TDC staff to advisory committee.</p>
<b>Quorum</b>	3 members
<b>Functions</b>	Decision-making on selection of person for Council's Hall of Fame.
<b>Meeting Frequency</b>	As required
<b>Delegations</b>	<p>The Community Services Committee delegates the following general powers, duties and responsibilities:</p> <ol style="list-style-type: none"> <li>1. That subject to the following limitations the Hall of Fame Subcommittee shall have power to act in all matters concerning the functions granted by Council provided they do not conflict with the stated policy of the Council.</li> <li>2. Delegated authority to select persons for Council's Hall of Fame, who qualify as per the Hall of Fame guidelines adopted by Council.</li> </ol>

### Museum Collection Subcommittee

<b>Type of Committee</b>	Subcommittee
<b>Subordinate to</b>	Community Services Committee
<b>Subordinate Committees</b>	None
<b>Legislative basis</b>	<ol style="list-style-type: none"> <li>1 Subcommittee established pursuant to clause 30 and 31 of Schedule 7 of the Local Government Act 2002</li> <li>2 Subcommittee delegated powers by Council pursuant to clause 32 of Schedule 7 of the Local Government Act 2002</li> </ol>
<b>Policy Basis</b>	Museum Policy
<b>Membership</b>	The Subcommittee comprises an equal number of South Canterbury Historical Society members and Timaru District Councillors,

	including a Councillor as Chairperson. The Museum Director advises the Subcommittee but has no voting power at Subcommittee meetings. Membership will be appointed by Council or the Community Services Committee.
<b>Quorum</b>	4 members
<b>Functions</b>	Overall responsibility for accessions and deaccessions in accordance with the Museum Collection Policy.
<b>Meeting Frequency</b>	As required
<b>Delegations</b>	<p>The Community Services Committee delegates the following general powers, duties and responsibilities:</p> <ol style="list-style-type: none"> <li>1. That subject to the following limitations the Museum Collection Committee shall have power to act in all matters concerning the functions granted by Council provided they do not conflict with the stated policy of the Council.</li> <li>2. Overall responsibility for accessions and deaccessions in accordance with the Museum Collection Policy (#1240714).</li> <li>3. That the Committee has delegated power to delegate administration of accessioning items into the collection.</li> <li>4. That minutes of subcommittee meetings contain details of subcommittee decisions made under delegated authority.</li> </ol>

**Public Art Advisory Group**

<b>Type of Committee</b>	Advisory Group
<b>Subordinate to</b>	Community Services Committee
<b>Subordinate Committees</b>	None
<b>Legislative basis</b>	<ol style="list-style-type: none"> <li>1 Subordinate Decision-making body established pursuant to clause 30 and 31 of Schedule 7 of the Local Government Act 2002</li> <li>2 Subordinate Decision-making body delegated powers by Council pursuant to clause 32 of Schedule 7 of the Local Government Act 2002</li> </ol>
<b>Policy Basis</b>	Art in Public Spaces Policy
<b>Membership</b>	The group will comprise up to 7 members including the Council manager responsible for the site, another with expertise in arts, with another Council staff member with knowledge of maintenance, health and safety or another relevant discipline if required. Up to four members of the community with a background in arts, architecture, landscape architecture, tangata whenua, or urban design will complete the membership of the group.

	There is no Councillor membership on the group. The policy states Council will appoint membership.
<b>Quorum</b>	4 members
<b>Functions</b>	<ul style="list-style-type: none"> <li>- Assessment of public art work proposals against acceptance criteria and recommendation to Community Services Committee or Community Board where within the Temuka, Pleasant Point or Geraldine wards</li> <li>- Advice around relocation and removal of permanent public artworks.</li> </ul>
<b>Meeting Frequency</b>	As required
<b>Delegations</b>	<p>The Community Services Committee delegates the following general powers, duties and responsibilities:</p> <ol style="list-style-type: none"> <li>1. That subject to the following limitations the Public Arts Advisory Group shall have power to act in all matters concerning the functions granted by Council provided they do not conflict with the stated policy of the Council.</li> <li>2. To consider the receipt of art donations and their location in outdoor public spaces and make recommendation to the Community Services Committee.</li> <li>3. That minutes of subcommittee meetings contain details of subcommittee decisions made under delegated authority.</li> </ol>

**Russell Hervey Library Fund Subcommittee**

<b>Type of Committee</b>	Subcommittee
<b>Subordinate to</b>	Community Services Committee
<b>Subordinate Committees</b>	None
<b>Legislative basis</b>	<ol style="list-style-type: none"> <li>1 Subordinate Decision-making body established pursuant to clause 30 and 31 of Schedule 7 of the Local Government Act 2002</li> <li>2 Subordinate Decision-making body delegated powers by Council pursuant to clause 32 of Schedule 7 of the Local Government Act 2002</li> </ol>
<b>Policy Basis</b>	Russell Hervey Library Fund Policy
<b>Membership</b>	Chairperson of Community Services Committee, Libraries Manager and Group Manager Community Services
<b>Quorum</b>	Two Members
<b>Functions</b>	Decision-making on application of Russell Hervey Library Fund
<b>Meeting Frequency</b>	As required.

<b>Delegations</b>	<p>The Community Services Committee delegates the following general powers, duties and responsibilities:</p> <ol style="list-style-type: none"> <li>1. That subject to the following limitations the Russell Hervey Library Fund Subcommittee shall have power to act in all matters concerning the functions granted by Council provided they do not conflict with the stated policy of the Council.</li> <li>2. To apply the capital and/or accumulated income of the Russell Hervey Library Fund for the purposes of the Timaru District Library in accordance with the terms of the gift.</li> <li>3. That in respect of matters requiring financial input:             <ol style="list-style-type: none"> <li>(a) The subcommittee has the power to approve funding where provision has been made in the annual Budget.</li> </ol> </li> <li>4. That minutes of subcommittee meetings contain details of subcommittee decisions made under delegated authority.</li> </ol>
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**Youth Initiatives Subcommittee**

<b>Type of Committee</b>	Subcommittee
<b>Subordinate to</b>	Community Services Committee
<b>Subordinate Committees</b>	None
<b>Legislative basis</b>	<ol style="list-style-type: none"> <li>1. Subcommittee established pursuant to clause 30 and 31 of Schedule 7 of the Local Government Act 2002</li> <li>2. Subcommittee delegated powers by Council pursuant to clause 32 of Schedule 7 of the Local Government Act 2002</li> </ol>
<b>Policy Basis</b>	Youth Initiative Funding Policy
<b>Membership</b>	The Mayor, Chairperson Community Services Committee, one other Councillor, the Safer Communities Project Manager, a Youth Services Worker from YMCA South and Mid Canterbury with authority to select and appoint two youth representatives. Membership will be appointed by Council or the Community Services Committee.
<b>Quorum</b>	4 members
<b>Functions</b>	Decision-making on allocation of Youth Initiatives Funding and appointment of two youth representatives to the Subcommittee.
<b>Meeting Frequency</b>	Twice yearly
<b>Delegations</b>	<p>The Community Services Committee delegates the following general powers, duties and responsibilities:</p> <ol style="list-style-type: none"> <li>1. That subject to the following limitations the Youth Initiatives Subcommittee shall have power to act in all matters</li> </ol>

	<p>concerning the functions granted by Council provided they do not conflict with the stated policy of the Council.</p> <ol style="list-style-type: none"> <li>2. Delegated authority to allocate funds under the Youth Initiatives Funding scheme and appoint two youth representatives.</li> <li>3. That in respect of matters requiring financial input:             <ol style="list-style-type: none"> <li>(a) The subcommittee has the power to approve funding where provision has been made in the annual Budget.</li> </ol> </li> <li>4. That minutes of subcommittee meetings contain details of subcommittee decisions made under delegated authority.</li> </ol>
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**Attachments**

**Nil**

## **Theatre Royal Redevelopment and Heritage Centre Development - Elected Members Reference Group**

### **Terms of Reference**

#### **Purpose**

To support and advise the staff project team on:

1. Matters of community engagement and user interest.
2. Matters of choice at the project teams request.
3. Fundraising.

#### **Operating Practice**

The reference group is not a committee or Sub-committee of either Council or any of the Standing Committees. It is an informal forum for discussion and to provide advice back to Council and Committees as appropriate.

Matters requiring formal decision would need to be put to the Policy and Development Committee who are responsible for monitoring the project.

Meetings of the reference group will be called by staff, as required to support the project.

#### **Membership**

Three elected members.

#### **Delegations**

The reference group has no financial or decision making powers.

#### **Term**

The reference group terms of reference and membership can be changed at any time by the Policy and Development Committee.

Approved by Policy and Development Committee – 12 March 2019

### 9.3 Appointments

**Author:** Nigel Bowen, Mayor

**Authoriser:** Bede Carran, Chief Executive

#### Recommendation

That the Council approves the recommended appointments to subcommittee, groups and other organisations as set out in this report.

#### Purpose of Report

- 1 To make appointments to the following subcommittees, groups and organisations as set out in this report.

#### Assessment of Significance

- 2 This matter is of low significance under the Council's Significance and Engagement Policy.

#### Background

- 3 Following consideration of the reestablishment of subcommittees and other groups, Council now needs to consider the relevant appointments to these Subcommittees and other groups. There are also some appointments required for various Council organisations under the conditions of various agreements.
- 4 Recommendations are provided below for these appointments.

#### Subcommittees and Other Groups Appointments

- 5 Appointments are required to the following subcommittees and other groups:
  - Theatre Royal Reference Group
  - Rates Remission Subcommittee
  - Community Awards Selection Panel
  - Donations and Loans Subcommittee
  - Hall of Fame Subcommittee
  - Museum Collection Subcommittee
  - Russell Hervey Library Fund Subcommittee
  - Youth Initiatives Subcommittee
- 6 The Arts in Public Spaces policy that sets out the membership of the Public Arts Advisory Group is currently undergoing review. Final membership for this group will be determined at a later date.
- 7 The following is recommended:
  - 7.1 appointments to subcommittees/panels/groups



7.2 approach to appointment of Chairpersons and Deputy Chairpersons for subcommittees/panels/groups

<b>Theatre Royal Reference Group</b>	
Membership	Mayor ( <i>Nigel Bowen</i> ), Deputy Mayor ( <i>Clr Steve Wills</i> ), Chairperson Community Services Committee ( <i>Clr Richard Lyon</i> ) and one Councillor representing the rural area ( <i>Clr Paddy O'Reilly</i> )
<b>Commercial and Strategy Committee – Subcommittees/Panels/Groups</b>	
<b>Rates Remissions Subcommittee</b>	
Membership	Mayor ( <i>Nigel Bowen</i> ), Chairperson Commercial and Strategy ( <i>Clr Peter Burt</i> )
Chairperson	Mayor
Deputy Chairperson	Chairperson Commercial and Strategy
<b>Community Services Committee – Subcommittees/Panels/Groups</b>	
<b>Community Awards Selection Panel</b>	
Membership	Four Councillors – <i>Clr Allan Booth, Clr Peter Burt, Clrs Paddy O'Reilly, and Clr Sally Parker</i> , with authority to select and appoint four community representatives
Chairperson	Decision of Panel
Deputy Chairperson	Decision of Panel
<b>Donations and Loans Subcommittee</b>	
Membership	Chairperson of the Community Services Committee ( <i>Clr Richard Lyon</i> ), the Mayor ( <i>Nigel Bowen</i> ), two Councillors – <i>Clr Barbara Gilchrist and Clr Steve Wills</i> plus one Councillor representing the rural sector – <i>Clr Gavin Oliver</i>
Chairperson	Decision of Subcommittee
Deputy Chairperson	Decision of Subcommittee
<b>Hall of Fame Selection Subcommittee</b>	
Membership	The Mayor ( <i>Nigel Bowen</i> ), Deputy Mayor ( <i>Clr Steve Wills</i> ), Chairperson Community Services Committee ( <i>Clr Richard Lyon</i> ), President of the South Canterbury Historical Society ( <i>Ray Bennett</i> )
Chairperson	Decision of Subcommittee
Deputy Chairperson	Decision of Subcommittee
<b>Museum Collection Subcommittee</b>	

Membership	Community Services Committee Chairperson ( <i>Clr Richard Lyon</i> ) and <i>Clr Sally Parker</i> plus two South Canterbury Historical Society representatives
Chairperson	Decision of Subcommittee
Deputy Chairperson	Decision of Subcommittee
<b>Russell Hervey Library Fund Subcommittee</b>	
Membership	Chairperson of Community Services Committee ( <i>Clr Richard Lyon</i> ), Libraries Manager ( <i>Adele Hewlett</i> ) and Group Manager Community Services ( <i>Sharon Taylor</i> )
Chairperson	Decision of Subcommittee
Deputy Chairperson	Decision of Subcommittee
<b>Youth Initiatives Subcommittee</b>	
Membership	The Mayor ( <i>Nigel Bowen</i> ), Chairperson Community Services Committee ( <i>Clr Richard Lyon</i> ), one other Councillor – <i>Clr Barbara Gilchrist</i> , the Safer Communities Project Manager ( <i>Viv Wood</i> ), a Youth Services Worker from YMCA South and Mid Canterbury ( <i>Cath Slee/Christina Griffin</i> ) with the subcommittee having delegated authority to select and appoint two youth representatives.
Chairperson	Decision of Subcommittee
Deputy Chairperson	Decision of Subcommittee

**Council Organisation Appointments**

8 The following groups require appointments to be made under various agreements. These group meet the definition of Council organisations under the Local Government Act 2002, being:

*(b) an entity in respect of which 1 or more local authorities have, whether or not jointly with other local authorities or persons, –*

*(i) control, directly or indirectly, of 1 or more of the votes at any meeting of the members or controlling body of the entity; or*

*(ii) the right, directly or indirectly, to appoint 1 or more of the trustees, directors, or managers (however described) of the entity (Local Government Act, s6)*

9 Recommendations are made for the following groups:

<b>Bluestone House Trust (deregistered)</b>	
Membership	Appointment not required at this time.
<b>Fraser Park Trust (disestablished)</b>	
Membership	Appointment not required.
<b>Lions/Caroline Bay Train Trust</b>	

Membership	1 Member appointed by Council - Ray Bennett
<b>Timaru District Heritage Fund Trust Board (registered)</b>	
Membership	1 Member appointed by Council – Chairperson Commercial and Strategy (Cr Peter Burt)
<b>Strengthening Families</b>	
Membership	1 Member appointed by Council – Nigel Bowen

10 Council needs to determine which of the following voting systems will be used to elect or appoint the chairperson, deputy chairpersons and appointments as a representative of a local authority, System A or System B, under clause 25 of Schedule 7 of the LGA, and as explained below.

11 **System A—**

- (a) requires that a person is elected or appointed if he or she receives the votes of a majority of the members of the local authority or committee present and voting; and
- (b) has the following characteristics:
  - (i) there is a first round of voting for all candidates; and
  - (ii) if no candidate is successful in that round there is a second round of voting from which the candidate with the fewest votes in the first round is excluded; and
  - (iii) if no candidate is successful in the second round there is a third, and if necessary subsequent, round of voting from which, each time, the candidate with the fewest votes in the previous round is excluded; and
  - (iv) in any round of voting, if 2 or more candidates tie for the lowest number of votes, the person excluded from the next round is resolved by lot.

12 **System B—**

- (a) requires that a person is elected or appointed if he or she receives more votes than any other candidate; and
- (b) has the following characteristics:
  - (i) there is only 1 round of voting; and
  - (ii) if 2 or more candidates tie for the most votes, the tie is resolved by lot.

**Relevant Legislation, Council Policy and Plans**

- 13 Local Government Act
- 14 Rates Remission Policy
- 15 Rates Remission and Postponement Policy on Maori Freehold Land
- 16 Hall of Fame Policy
- 17 Community Awards Policy
- 18 Donations and Loans Policy
- 19 Museum Policy
- 20 Art in Public Spaces Policy

- 21 Russell Hervey Library Fund
- 22 Youth Initiatives Funding Policy

**Attachments**

**Nil**

#### 9.4 Aorangi Stadium Trust - Appointment of Members

**Author:** Nigel Bowen, Mayor

**Authoriser:** Bede Carran, Chief Executive

##### Recommendations

- a That Clrs Stu Piddington and Allan Booth be appointed as Trustees to the Aorangi Stadium Trust (replacing David Jack and Andrea Leslie).
- b That Council approves Peter Burt and Sally Parker continuing as Trustees of Aorangi Stadium Trust.

##### Purpose of Report

- 1 To make appointments of Trustees to the Aorangi Stadium Trust for the 2019 to 2022 Council Term.

##### Assessment of Significance

- 2 The assessment of significance is low.

##### Background

- 3 The Aorangi Stadium Trust is a Council Controlled Organisation (CCO) under Section 6 of the Local Government Act 2002 that exists to continue development, maintenance and operation of the Aorangi Stadium and adjoining areas on Aorangi Park, Timaru for the use of the public. As a CCO, the Trust provides an annual Statement of Intent to the Council outlining its objectives for the following year. The Trust is also a registered Charity under the Charities Act 2005, which entail certain obligations such as filing an annual return.
- 4 The objectives of the Trust are:
  - 4.1 To promote the development and ongoing maintenance of the Aorangi Sports Stadium on the Morgans Road Recreation Reserve and for that purpose enter into satisfactory arrangements with the owner of the land, the Timaru District Council.
  - 4.2 To develop and promote facilities for indoor and outdoor sport or any other recreational pursuit.
  - 4.3 To acquire any real or personal property for the purpose of the Trust to extend the buildings thereon and to develop land for the general purposes of the Trust.
  - 4.4 To promote and encourage community activities and to assist financially or otherwise sports bodies, community organisations and organisations devoted to the Welfare of Youth in the District of South Canterbury.
  - 4.5 To do all things that are conducive to the foregoing objects.

##### Discussion

- 5 The Trust Deed (August 2001) specified the membership of the Board, or Trustees, along with specifying Trustee succession and replacement.

- 6 The Trust Deed (see attachment), was amended in March 2014 (attached), and further provides that:
- “The Board shall be persons appointed by the Timaru District Council (“Council”) and the Council shall have the power to make such appointment and at any time remove any such Board Member that it has appointed. The Council shall in exercising its power of appointment of Board Members have regard to the need for the Trust to have Board Members with skills and experience in areas appropriate to the objectives to the Trust. Council Councillors may be appointed as Board Members.”*
- 7 Council must appoint the Trustees with skills and experience relevant to the Trust’s objectives. These may be Council elected members or appropriately skilled members of the public. Between three and six members may be appointed.
- 8 For the most recent term, four elected members of Council were appointed to the Trust, namely current Councillor Peter Burt and Sally Parker, and ex-Councillors David Jack and Andrea Leslie. Councillor Peter Burt is the Trust Chairperson.
- 9 Trustees are required to be appointed for the 2019-2022 Council term. Under the Trust Deed, Council must make this decision and is to use the guidance provided by Council’s Director Appointment and Remuneration Policy. In summary this is:
- 9.1 Candidates who may be members are not restricted to elected members. Staff or external candidates may be considered for appointment.
- 9.2 Council is to decide whether it is appropriate for the Mayor or Councillors to fill a vacancy on a CCO.
- 9.3 If external members are deemed appropriate, a ‘director profile’ is required for the role, detailing the skills, knowledge and experience required and taking various factors into consideration.
- 9.4 Council may determine whether to advertise or to make an appointment without advertisement. If advertised, a subcommittee of Council will then shortlist applicants and make a recommendation to Council.
- 9.5 All Trustees appointed must complete and sign a Consent form (as included in the Policy).
- 9.6 Decisions on external appointments will be made with the public excluded.
- 10 As a registered charity under the Charities Act 2005, members must meet certain qualifications (e.g. over 16 years old, not convicted of a crime involving dishonesty), unless a waiver is applied for to the Charities Commission.

### **Options and Preferred Option**

- 11 The options are:
- 11.1 The Council appoints only elected members as Members of the Trust
- 11.2 The Council appoints staff or external candidates and elected members as Members of the Trust
- 11.3 The Council appoints only staff or external candidates as Members of the Trust

- 12 The Council has the ability to co-opt external parties with specific expertise onto the Trust should this be required. The appointment of existing elected members will maintain continuity of knowledge and experience in the governance of the Trust.

### Consultation

- 13 No consultation is required.

### Relevant Legislation, Council Policy and Plans

- 14 Local Government Act 2002  
15 Charities Act 2005  
16 Aorangi Stadium Trust Deed  
17 TDC Director Appointment and Remuneration Policy




### Financial and Funding Implications

- 18 If external members are appointed, the Director Appointment policy requires consideration and Council approval of remuneration. As the Trust is a Charitable Trust under the Charities Act 2005, it is entitled to reimburse expenses or to make payments or provide benefits to its trustees, but the Trust's Deed must reflect this.

### Other Considerations

- 19 There are no other considerations related to this report.

### Attachments

1. **Aorangi Stadium Trust Deed including 2014 variation** [↓](#) 
2. **Director Appointment and Remuneration Policy adopted 22 November 2016** [↓](#) 
3. **Aorangi Stadium Trust - Statement of Intent 2019/2020** [↓](#) 

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REX JAMES UNDERDOWN,  
GERALD AUSTIN MORTON,  
PETER JOHN O'CONNELL and  
ROGER ALEXANDER RAE  
("the Trustees")

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TRUST DEED  
AORANGI STADIUM TRUST

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GRESSON DORMAN & CO  
SOLICITORS  
TIMARU  
93424/207



THIS DEED made the 17<sup>th</sup> day of August 2001

BETWEEN REX JAMES UNDERDOWN Retired, GERALD AUSTIN MORTON Company Manager, PETER JOHN O'CONNELL Builder, ROGER ALEXANDER RAE Bank Manager all of Timaru

WHEREAS the Trustees have joined together for the purpose of the continuing development, maintenance and operation of the AORANGI STADIUM and adjoining areas on Aorangi Park, Morgans Road, Timaru for the use of the public.

AND WHEREAS the Trustees desire that money and property to be paid and transferred to them for the provision of this development, maintenance and operation on Aorangi Park shall be entrusted to a trust board and that such board shall hold and administer such money upon the trusts and subject to the terms and conditions set out in this deed.

AND WHEREAS the Trustees have agreed to become the first members of the board and to accept the trusts set out in this deed.

NOW THEREFORE THIS DEED WITNESSETH AS FOLLOWS:

1. **Incorporation**

The Trustees shall forthwith after the execution of this deed apply for incorporation under the Charitable Trusts Act 1957 as a Board of Trustees under the name of AORANGI STADIUM TRUST.

2. **Objects**

The objects for which the trust is established are within New Zealand:

- (a) To promote the development and ongoing maintenance of the Aorangi Sports Stadium on the Morgans Road Recreation Reserve and for that purpose to enter into satisfactory arrangements with the owner of the land, the Timaru District Council.
- (b) To develop and promote facilities for indoor and outdoor sport or any other recreational pursuit.

- (c) To acquire any real or personal property for the purpose of the Trust to extend the buildings thereon and to develop land for the general purposes of the Trust.
- (d) To promote and encourage community activities and to assist financially or otherwise sports bodies, community organisations and organisations devoted to the Welfare of Youth in the District of South Canterbury.
- (e) To do all things that are conducive to the forgoing objects.

**3. Registered Office**

The registered office of the Trust shall be at the offices of Messrs Hubbard Churcher, Chartered Accountants, 39 George Street, Timaru or at such other place in Timaru as the Trustees may from time to time determine.

*change to the*

**4. Membership of the Board**

The Trust shall be administered by a Board of Trustees consisting of not more than six nor less than three members to be known as "the Trustees". The continuing Trustees may act notwithstanding any vacancy in their body so long as their number is not reduced below the minimum number fixed.

In the event there being any vacancy in the number of Trustees of the full board the board may at its discretion appoint a suitable person to fill such vacancy.

**5. First Trustees**

The first Trustees of the Trust shall be the signatories to this deed.

**6. Vacancies on the Board**

The office of any member of the board shall be vacated if the member:

- (a) becomes bankrupt; or
- (b) becomes of unsound mind; or
- (c) becomes subject to any orders made under The Protection of Personal and Property Rights Act 1988; or
- (d) resigns from office by notice in writing to the board; or
- (e) is absent without leave for three consecutive meetings of the board; or

- (f) in an opinion of the majority of three-quarters of the board expressed in the form of a resolution that member is for any reason unfit to carry out his or her duties as a Trustee.

**7. Meetings of the Board**

- (a) The board shall from time to time appoint from its members a Chairman who shall preside at every meeting of the board at which he or she is present. In the absence of the Chairman from any meeting of the board the members present shall elect one of their number to be the Chairman for the purpose of that meeting.
- (b) The first meeting of the board shall be held immediately following incorporation under the Charitable Trusts Act 1957.
- (c) Subsequent meetings of the board shall be held at such times and places as the board determines.
- (d) A special meeting of the board may at any time be called by the Chairman and the Chairman shall call a special meeting whenever he or she is requested to do so in writing by two members of the Board; provided that not less than seven clear days notice of every special meeting and the business to be transacted at any such special meeting shall be given to each member for the time being in New Zealand and no business other than that specified in the notice shall be transacted at such special meeting.
- (e) At all meetings of the board the quorum necessary for the transaction of business shall be 60% of the board members.
- (f) Every question before the board shall be determined by a majority of the valid votes of the members recorded thereon; provided that a resolution signed or assented to by letter or telegram or fax by a majority of the members of the board shall have the same effect as a resolution duly passed at a meeting of the board.
- (g) The Chairman at any meeting shall have a deliberative vote and in each case of an equality of votes a casting vote.

- (h) There shall be not less than one meeting of the board in each financial year.
- (i) All proceedings of the board shall be recorded in the form of minutes entered in a proper minute book. *who take minutes*
- (j) Subject to the provisions of these presents and to the rules of the board the board may regulate its own proceedings in such manner as it thinks fit.

**8. Special Committees and Delegations of Powers**

- (a) The board may from time to time under resolution appoint, discharge, alter, continue or reconstitute special committees for particular purposes and any person may be appointed to a special committee notwithstanding that he or she is not a member of the board.
- (b) The board may delegate to any special committee such of its powers as it thinks fit.
- (c) Subject to any general or special directions given or conditions attached by the board any powers and functions so delegated may be performed and exercised by any such special committee with the same effect as if those powers and functions had been directly conferred by these presents and not by delegation.
- (d) Every committee purporting to act under any delegation pursuant to this clause shall be presumed to be acting in accordance with the terms of the delegation in the absence of proof to the contrary.
- (e) Any such delegation shall be revocable at will and no such delegation shall prevent the performance or exercise of any power by the board.
- (f) Until such delegation is revoked it shall continue in force according to its tenor notwithstanding any change in the membership of the board or committee.
- (g) Subject to the rules of the board each committee may regulate its own proceedings in such manner as it thinks fit.

**9. Rules of the Board**

- (a) The board may by resolution make rules not inconsistent with these presents for all or any of the following purposes; namely:
- (i) Regulating the proceedings of the board and of any committee of the board and the conduct of meetings of the board or any such committees;
  - (ii) Providing for the custody of the property of the board and the custody and use of the common seal of the board;
  - (iii) Providing for such matters as may be deemed necessary or expedient for duly carrying out the work of the board.
- (b) Notice of every resolution proposed to be submitted to any meeting for the making amendment or revocation of any such rules aforesaid shall be given to every member of the board for the time being in New Zealand not less than seven clear days before the day fixed for the meeting.

**10. Proceedings of the Board not affected by Irregularities**

No act or proceeding of the board or of any committee thereof or any person acting as a member of the board shall be invalidated in consequence of there being a vacancy in the membership at the time of the act or proceeding or the subsequent discovery that there was some defect in the entitlement of any person so acting to be the board member or that he or she was incapable of being or had ceased to be such a member or that an insufficient number of meetings of the board was held in any financial year.

**11. Functions of the Board**

The general functions of the board shall be:

- (a) To carry out the objects of the trust;
- (b) To administer the trusts including all money and property vested in the Trustees.

**12. Authorised Expenditure**

Subject to the provisions of these presents the board may apply any capital and income of the funds for the time being of the board in such manner as the board thinks fit for all or any of the following purposes:

- (a) For payment of the costs of administration of the affairs of the board including its committees and the provision of office accommodation;
- (b) For payment of all expenses and outgoings, wages, salaries and allowances as are necessary for carrying out the objects of the trust;
- (c) Provided that no member of the Board shall participate in or materially influence any decision made by the Board in respect of the payment to or on behalf of that member or any associated person or organisation of any income, benefit or advantage whatsoever. Any such payment made shall be reasonable and relative to that which would be paid in an arm's length transaction (being the open market value).

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**13. Powers of Investment**

In the administration of the trusts the board shall have the following powers and discretions:

- (a) To buy, sell, exchange and partition real and personal property for cash or on terms by private treaty or by public auction as fully as if the board were the absolute owner and upon such terms and conditions as the board may think fit.
- (b) To invest any moneys forming part of the trust fund and from time to time available for investment in any of the modes of investment for the time being authorised by law for the investment of trust funds and in debentures or debenture stock guaranteed preference ordinary or deferred shares or guaranteed preference ordinary or deferred stock issued or guaranteed by any incorporated company and whether bearing a liability for uncalled capital or not and on the security of contributory mortgages over any real or personal property and to vary or transpose such investments into or for others of any nature hereby authorised.

- (c) To buy real and personal property including freehold or leasehold land and other property of a wasting nature and to expend moneys in erecting, demolishing, altering, repairing, maintaining and insuring of buildings and other erections or improvements thereon or thereunder and in managing and developing such land.
- (d) To lease and take on lease freehold or leasehold lands for such terms at such rents and subject to such terms and conditions as the board may in its absolute discretion think fit.
- (e) To borrow or raise money either upon the security of all or a part of the trust fund or without any security whatsoever in such manner and upon such terms as to repayment and in general as the board shall think fit.
- (f) To accept, acquire or disclaim from any source any property whether real or personal of whatsoever kind and nature and whether encumbered or unencumbered as an addition to the trust deed.
- (g) The board may set aside such sum as the board thinks fit to allow for depreciation of any buildings, erections, plant, machinery or other assets comprised in the trust fund.
- (h) The board may at any time and from time to time set apart as a reserve fund the whole or any part of the income produced by the board in any year in which the same is not at the sole discretion of the board applied for the purposes of the trust and may invest any sum so set apart and the resulting income with power at any time to vary such investments.
- (i) The board may at any time sell or realise any investments representing the capital or income of the reserve fund and apply the proceeds thereof and any money forming part of the capital or income of the reserve fund as though the same were income produced during the then current year.

**14. Money to be Banked**

- (a) All money belonging to the board shall be banked as soon as practicable after it has come into the hands of the secretary or other proper officer be paid into such bank as the board may from time to time appoint.

- (b) No money shall be withdrawn from the bank except by authority of the board and by a cheque signed by two board members or by one board member and the secretary or other officer of the board appointed by the board for that purpose.
- (c) The board may from time to time authorise the opening of an imprest account in the name of an officer of the board and may direct what payments shall be made from such imprest account.
- (d) The board shall from time to time by resolution fix the maximum amount that may be held at any time in the imprest account.
- (e) A statement of all accounts paid from the imprest account shall be submitted to the board for approval at its first ordinary meeting thereafter.

**15. Accounts**

The board shall as soon as possible after the end of every financial year ending with the 31<sup>st</sup> day of January cause the accounts of the board for that financial year to be balanced and prepare a statement of assets and liabilities of the board as at the end of that financial year together with an account of income and expenditure showing the financial transactions for that year.

*Amended*

**16. Appointment of Officers**

- (a) The board may from time to time employ and dismiss a secretary and other such officers and employees as are considered necessary to carry out the objects of the trust and the functions and powers of the board.
- (b) The board may pay its officers and employees such salaries wages and allowances as it thinks fit and determine the duties and powers of such officers and employees.

**17. Members of the Board not Personally Liable**

No member officer or servant of the board shall be personally liable for any act or default done or made by the board or by any member officer or servant thereof in good faith in the course of the operation of the board.



18. **Alteration of Rules**

The board may pursuant to a motion decided by a majority of votes by supplementary deed make alterations, additions or deletions to the terms and provisions of this deed PROVIDED THAT no such alteration or addition shall:



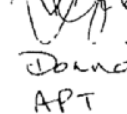
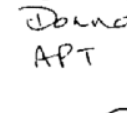
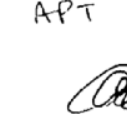

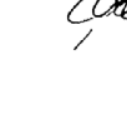






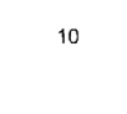






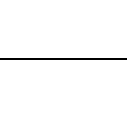
- (a) Detract from the exclusively charitable nature of the Trust.
- (b) Be made to the objects for which the Trust is established.
- (c) Be made to rules 12 or 19 unless it is first approved of in writing by the Timaru District Council and the Department of Inland Revenue.


19. **Dissolution and Disposal of Funds**

No resolution for dissolving the Trust shall take effect unless it shall have been consented to by all the Trustees at that time. Should the Trust be dissolved in accordance with this rule then any money and property remaining after the due settlement of the affairs of the Trust and the payment of all debts and claims shall be paid over or distributed to one or more of those organisations approved by both the board and the Timaru District Council and having charitable objects and being approved as charitable bodies by the Commissioner of Taxes for the time being.

IN WITNESS WHEREOF these presents have been executed the day and year first hereinbefore written.


SIGNED by the said  
**REX JAMES UNDERDOWN**  
in the presence of:

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Donna Hardie  
APT Secretary 

SIGNED by the said  
**GERALD AUSTIN MORTON**  
in the presence of:

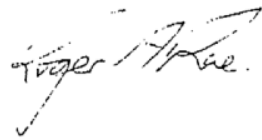

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Secretary

SIGNED by the said  
PETER JOHN O'CONNELL  
in the presence of:

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)  
) *Dana Hardie*  
APT Secretary *@Hardie*

SIGNED by the said  
ROGER ALEXANDER RAE  
in the presence of:

)   
)  
) 

\* SOLICITORS

GRESSON DORMAN & CO

**TRACY ANGELA LEE TIERNEY;**

**RICHARD LESLIE LYON;**

**MATTHEW KEVIN AMBLER;**

**and**

**TINA MARIE ROGERS**

("The Trustees")

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DEED OF VARIATION  
AORANGI STADIUM TRUST

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GRESSON DORMAN & CO  
SOLICITORS  
TIMARU  
KSG-093424-747-22-V1:KSG

THIS DEED made the 25 day of March

2014  
2013

PARTIES:

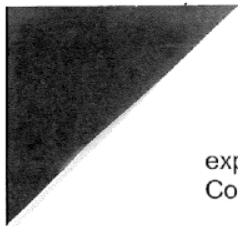
TRACY ANGELA LEE TIERNEY of Timaru, Councillor;  
RICHARD LESLIE LYON of Pleasant Point, Councillor;  
MATTHEW KEVIN AMBLER of Timaru, Property Manager; and  
TINA MARIE ROGERS of Timaru, Accountant  
("The Board of Trustees")

BACKGROUND:

- A. The parties are the present Board of Trustees of the AORANGI STADIUM TRUST pursuant to a Deed of Trust dated the 17<sup>th</sup> day of August 2001 ("the Trust").
- B. The Trust is a charitable trust incorporated as a Board of Trustees under the Charitable Trusts Act 1957 (incorporation number 1169018) and registered pursuant to the Charities Act 2005 (registration number CC22027).
- C. Pursuant to rule 18 of the Deed of Trust, the Board of Trustees has the power to make alterations, additions or deletions to the terms and provisions of the Deed of Trust PROVIDED THAT no such alteration or addition shall:
  - (a) Detract from the exclusively charitable nature of the Trust.
  - (b) Be made to the objects for which the Trust is established.
  - (c) Be made to rules 12 or 19 unless it is first approved of in writing by the Timaru District Council and the Department of Inland Revenue
- D. The Board of Trustees has resolved to exercise that power in order to effect certain changes to the Deed of Trust.

WITNESSES:

- 1. The existing rule 4 of the Deed of Trust is hereby amended by deleting the second paragraph and replacing it with the following:  
  
"The Board shall be persons appointed by the Timaru District Council ("Council") and the Council shall have the power to make such appointment and at any time to remove any such Board Member that it has appointed. The Council shall in exercising its power of appointment of Board Members have regard to the need for the Trust to have Board Members with skills and



experience in areas appropriate to the objectives of the Trust. Council Councillors may be appointed as Board Members.”

- 2. The existing rule 6(f) of the Deed of Trust is hereby deleted and replaced with the following:

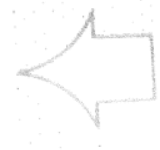
“In the opinion of the Council, that member is for any reason unfit to carry out his or her duties as a Trustee.”

IN WITNESS this deed is duly executed.

SIGNED by the abovenamed  
**TRACY ANGELA LEE TIERNEY**  
as Trustee in the presence of:

)  
)

*Tracy Lee Tierney*



*Jane Broune*  
Witness Signature

Jane Broune  
Witness Name

Secretary  
Witness Occupation

Ta Preston St Toron  
Witness Address

SIGNED by the abovenamed  
**RICHARD LESLIE LYON**  
as Trustee in the presence of:

)  
)

*Richard Lyon*



*Jane Broune*  
Witness Signature

Jane Broune  
Witness Name

Secretary  
Witness Occupation

Ta Preston St Toron  
Witness Address



SIGNED by the abovenamed  
**MATTHEW KEVIN AMBLER**  
as Trustee in the presence of:

)  
)  
)

*Matthew Kevin Ambler*



*Tom Brownie*  
Witness Signature

Tom Brownie  
Witness Name

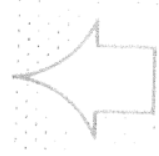
Secretary  
Witness Occupation

Ta Pregon St Timon  
Witness Address

SIGNED by the abovenamed  
**TINA MARIE ROGERS**  
as Trustee in the presence of:

)  
)  
)

*Tina Marie Rogers*



*Tom Brownie*  
Witness Signature

Tom Brownie  
Witness Name

Secretary  
Witness Occupation

Ta Pregon St Timon  
Witness Address

**RESOLUTION OF THE TRUSTEES OF THE AORANGI STADIUM TRUST**

**RESOLVED THIS** *25* **DAY OF** *March* **2013** *2014*


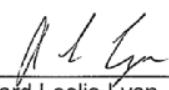

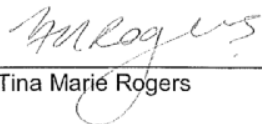
**BACKGROUND**

- A. The parties are the present Board of Trustees of the **AORANGI STADIUM TRUST** pursuant to a Deed of Trust dated the 17<sup>th</sup> day of August 2001 ("the Trust").
- B. Pursuant to rule 18 of the Deed of Trust, the Board of Trustees has the power to make alterations, additions or deletions to the terms and provisions of the Deed of Trust.
- C. The Board of Trustees has resolved to exercise that power in order to effect certain changes to the Deed of Trust.

**THE TRUSTEES RESOLVE:**

- 1. To amend existing rule 4 of the Deed of Trust by deleting the second paragraph and replacing it with the following:  
  
"The Board shall be persons appointed by the Timaru District Council ("Council") and the Council shall have the power to make such appointment and at any time to remove any such Board Member that it has appointed. The Council shall in exercising its power of appointment of Board Members have regard to the need for the Trust to have Board Members with skills and experience in areas appropriate to the objectives of the Trust. Council Councillors may be appointed as Board Members."
- 2. To delete the existing rule 6(f) of the Deed of Trust and replace it with the following:  
  
"In the opinion of the Council, that member is for any reason unfit to carry out his or her duties as a Trustee."
- 3. To execute a Deed of Variation to record the above variations to the Deed of Trust.
- 4. To register the Deed of Variation with both the Registrar for Charitable Trusts pursuant to section 23 of the Charitable Trusts Act 1957 and with the Chief Executive of the Department of Internal Affairs pursuant to section 40 of the Charities Act 2005.

**SIGNED by the Trustees:**

 _____ Tracy Angela Lee Tierney	 _____ Richard Leslie Lyon
 _____ Matthew Kevin Ambler	 _____ Tina Marie Rogers

KSG-093424-747-23-V1:KSG



## Director Appointment and Remuneration

<b>Approved by:</b>	Policy and Development Committee
<b>Date Approved:</b>	22 November 2016
<b>Keywords:</b>	Director Appointment, Director Remuneration, Council Controlled Organisation (CCO)

### 1.0 Purpose

The policy is intended to provide clear guidance and requirements on director selection, appointment and remuneration. This policy sets out an objective and transparent process for identifying the skills required of a director and appointing such directors, and the matter of remuneration.

### 2.0 Background

The Local Government Act 2002 (the Act) section 57 requires Council to adopt a policy on the appointment and remuneration of directors to council organisations.  
Definitions (refer section 6 of the Act)

### 3.0 Key Definitions

*Organisation: means any partnership, trust, arrangement for the sharing of profits, union of interest, cooperation, joint venture, or other similar arrangement.*

*Council Organisation (CO): Any organisation in which one or more local authorities controls any proportion of the voting rights or the right to appoint directors.*

*Council Controlled Organisation (CCO): Any organisation in which one or more local authorities control 50 per cent or more of the voting rights or have the right to appoint 50 per cent or more of the directors.*

*Council Controlled Trading Organisation (CCTO): Any council controlled organisation that operates a trading undertaking for the purpose of making a profit.*

*Director: The directors and the board include trustees, managers, or office holders (however described in that organisation).*

### 4.0 Policy

#### Council Controlled Organisations and Council Controlled Trading Organisations

Candidates for appointment to a CCO or CCTO are not restricted to Councillors. Staff or external candidates may be considered for appointment.

- 1 The Council will decide whether it is appropriate for the Mayor or a Councillor to fill a vacancy on a CCO or CCTO. If deemed appropriate, the appointment will be made at the Council meeting, although for a CCTO, a formal application will be required and if there is more than one applicant the Council may obtain external candidate assessment and advice.



- 2 If the Council determines to make an outside appointment then the process outlined below will be followed –

### **Identification of Skills Required**

For each director appointment the Council will develop a director profile for the role. It will detail the skills, knowledge and experience required for that directorship role and will take into account:

- The nature and scope of the organisation, the organisation's future directions and its constitutional set up.
- The strategic objectives of the organisation and the attributes, skills and knowledge, which will be required to deliver the strategic objectives of the organisation.
- The skills of the current directors or the required skills of all the directors.
- Any specific skill, knowledge and experience that is currently required or may be required in the future.
- The role specification will detail:
  - The organisation's context
  - The functional relationships of the role
  - The responsibilities and liabilities of the role
  - The key results areas for the role
  - The personal attributes for the role
  - The specific skills/qualifications required for the role.
- Council appointees to CCO's or CCTO's that operate as companies are expected to become members of the New Zealand Institute of Directors for the duration of their appointment.

### **Appointment Process**

The Council will decide whether to advertise a particular vacancy or make an appointment without advertisement. When making this decision the Council will consider the costs of advertising, the availability of qualified candidates, director turnover, and whether the incumbent wishes to be considered for reappointment.

A subcommittee of the Council, with the assistance of external assessment advice if required, will shortlist then interview shortlisted applicants and make a recommendation to the Council.

All Council Director Appointments to Council Organisations must complete and sign the Director Consent Form as appears in Appendix A.

The Council decision will be made with the public excluded, as provided for in the Local Government Official Information and Meetings Act 1987. Public announcement of the appointment will be made as soon as practicable after the decision is made, and all applicants have been advised.

### **Conflicts of Interest and Reputational Risk**

The Council expects that directors of council organisations will strive to avoid situations where their actions could give rise to conflicts of interest or present a reputational risk to the Council. Directors will be expected to follow the provisions of the NZ Institute of Directors Code of Proper Practice for Directors. Breaches of this code could result in dismissal.

**Remuneration**

Remuneration of directors of council controlled organisations is a matter of public interest.

Remuneration and changes to it will therefore require Council approval, and will be based on the nature of the organisation, market rates for comparable positions and any specific process for determining remuneration specified in the organisation's constitution.

**Performance Reporting**

The Council's performance reporting obligations for CCTO's and CCO's are met via the statement of intent and financial reporting requirements in the Act (sections 64, 66, 67).

**Council Organisations (Other Than CCO'S and CCTO'S)****Identification of Skills Required**

For each appointment to a council organisation, the Council will give consideration to the nature of the organisation and the skills required for the role.

Candidates are not restricted to Councillors. Staff or external candidates may be considered for appointment.

**Appointment Process**

All Council appointments to Council organisations will be made by the Council, except staff appointees who will be appointed by the Chief Executive.

All Council Director Appointments to Council Organisations must complete and sign the Director Consent Form as appears in Appendix A.

If the appointments are made with the public excluded a public announcement will be made as soon as practicable after the decision is made.

**Remuneration**

The Council will not normally pay any remuneration to its appointee(s) except as may be specified in the Council's policy on Councillors' remuneration. Remuneration may be paid by the organisation, but Council appointed staff are not permitted to accept any remuneration.

**Conflicts of Interest and Reputational Risk**

The council expects that directors of council organisations will strive to avoid situations where their actions could give rise to conflicts of interest or present a reputational risk to the Council. Directors will be expected to follow the provisions of the New Zealand Institute of Directors Code of Proper Practice For Directors. Breaches of this code could result in dismissal.

**Performance Reporting**

The Council's performance reporting obligations for CO's are met via the requirement that all Council appointees report to the Council at least annually following the organisation's annual general meeting.

**Appendix A – Director Consent Form**

**Application Form Timaru District Council CCO Board Appointments**

**1. Consent and Certificate of Director - (Section 152 of the Companies Act 1993)**

Company Name: .....

Company Number:.....

Director’s first name(s):.....

Director’s surname(s): .....

*(Please ensure your full legal name is provided - Initials are not allowed)*

I consent to be a director of the above company and certify that I am not disqualified from being appointed or holding office as a director of a company

Signature: .....

*(Please read the disqualification details below)*

Date of appointment: .....

Director’s residential address:.....

.....

**2. Disqualification Details**

Please ensure that you are not disqualified from being a director for this company before signing this consent form.

A person cannot be a director of a company if he or she is any of the following:

- a. Under 18 years of age; or
- b. An undischarged bankrupt. Search the bankruptcy database online for free at [www.insolvency.govt.nz](http://www.insolvency.govt.nz); or
- c. Prohibited from being a director or promoter of, or being concerned or taking part in the management of a company under any statutory provisions. This includes (but is not limited to) people who have been convicted of a crime involving dishonesty in the last 5 years or have been prohibited from managing a company by the Registrar of Companies. It also includes people who have been prohibited from being a director or promoter of, or being concerned or taking part in the management of, an overseas company under an order made, or notice given, under the law of a prescribed overseas jurisdiction in accordance with section 151(2)(eb) of the Companies Act 1993; or e.g. Auckland Council Property Limited 3025668; or
- d. subject to a property order under sections 30 or 31 of the Protection of Personal Property Rights Act 1988; or
- e. Not eligible because of requirements contained in the company’s constitution (if any); or
- f. A person who is disqualified under another Act.

A person who is not a natural person cannot be a director of a company.

For more information refer to sections 151 and 382 to 385 of the Companies Act 1993. A copy of the Act can be viewed online for free at [www.companies.govt.nz](http://www.companies.govt.nz).

**3. Disclosure of Interests**

You are required to disclose the nature and extent (including monetary value, if quantifiable) of all interests that you have or are likely to have, in matters relating to the CCO.

**4. Other Questions**

4.1 Has there been (or is there now pending) any claim against you in your capacity as director, officer, secretary, board or committee member, or employee of either the company/trust or any other company, association, trust or entity?

Yes No

4.2 Are you aware of any circumstances that might give rise to a claim against you or an investigation, examination or inquiry involving you?

Yes No

4.3 Have you ever been involved in a company that has been in receivership or non voluntary liquidation?

Yes No

4.4 Have you ever been involved in any criminal conduct, had a statutory demand placed on you, been the subject of any disciplinary action, been fined or penalised or been the subject of any inquiry in the last 5 years?

Yes No

4.5 Have you ever been refused Directors and Officers Liability insurance or had an insurer refuse to renew a policy as apply special terms or conditions in relation to your cover?

Yes No

If yes to any of these questions, please give details:

.....  
.....  
.....  
.....

**5 Nomination Confirmation**

I, .....  
(full legal name)

Confirm that the information I have given in this disclosure form is complete, true and correct.

In the event of any actual or potential conflict of interest or probity issue arising, I agree to promptly declare that conflict or probity issue to the Chair of the Board, who will consider how the conflict or probity issue can best be managed. I also agree to abide by any decisions about the management of that conflict or probity issue. I acknowledge that, in the event that a conflict or probity issue cannot be managed, the Chair will inform Timaru District Council. I acknowledge that, in the event I am appointed to the Board, the Timaru District Council will be informed of any interests I have declared.

I authorise the Timaru District Council and/or its nominated agency to verify the accuracy of the information I have provided in my application for appointment.

Signature: .....

Date: .....

## 5.0 Delegations, References and Revision History

*5.1 Delegations - Identify here any delegations related to the policy for it to be operative or required as a result of the policy*

*5.2 Related Documents - Include here reference to any documents related to the policy (e.g. operating guidelines, procedures)*

*5.3 Revision History – Summary of the development and review of the policy*

### 5.1 Delegations

Delegation	Delegations Register Reference
Subcommittee of Council – shortlist and interview applicants and make a recommendation to Council	

### 5.2 References

Title	Document Reference

### 5.3 Revision History

Revision #	Policy Owner	Date Approved	Approval by	Date of next review	Document Reference
1	Chief Executive	29/7/2014	Policy and Development Committee	December 2016	#829946, F2121 Council Policy Register
2	Chief Executive	22/11/16	Policy and Development Committee	November 2019	#829946, F8525 Council Policy Register

## **Aorangi Stadium Trust**

### **Statement Of Intent**

**2019/20**





## **Aorangi Stadium Trust Statement of Intent 2019/2020**

### **1 Preamble**

Aorangi Stadium Trust is a Council Controlled Organisation as defined by Section 6 of the Local Government Act 2002.

This Statement of Intent sets out the overall intentions and objectives for Aorangi Stadium Trust for the period 1 July 2019 to 30 June 2020 and the two succeeding financial years.

Aorangi Stadium Trust contracts its administration from the Timaru District Council and as such does not have staff employed. The Stadium is leased to Timaru District Council, who operate the facility.

### **2 Objectives Of The Trust**

The purpose of the Trust is to continue development, maintenance and operation of the Aorangi Stadium and adjoining areas on Aorangi Park, Timaru for the use of the public.

#### **General objectives are:**

- a. To promote the development and ongoing maintenance of the Aorangi Sports Stadium on the Morgans Road Recreation Reserve and for that purpose to enter into satisfactory arrangements with the owner of the land, the Timaru District Council.
- b. To support and promote facilities for indoor and outdoor sport or any other recreational pursuit.
- c. To acquire any real or personal property for the purpose of the Trust to extend the buildings and to develop land for the general purposes of the Trust.
- d. To promote and encourage community activities and to assist sports bodies, community organisations and organisations devoted to the welfare of youth in the district of South Canterbury.

**3 Nature And Scope Of Activities To Be Undertaken**

Aorangi Stadium Trust owns the Stadium and Events centre located at Aorangi Park, Timaru. The facility, known as the Southern Trust Events Centre, is leased to the Timaru District Council, who manages and operates the facility. Many of the objectives of the Trust have now been delegated to Timaru District Council.

The Trust is responsible for the major maintenance and building renewals.

**4 Governance**

Aorangi Stadium Trust oversees the building maintenance to ensure the facility is well maintained. Day to day operation of the building is undertaken by Timaru District Council.

**5 Ratio of Consolidated Shareholders' Funds To Total Assets**

- a. This ratio shows the proportion of total assets financed by equity.
- b. The Trust will ensure that the ratio of Equity to Total Assets remains above 90.00%.
- c. For the purposes of this ratio Equity is as per the financial statements for the Trust
- d. Total assets are defined as the sum of all current and fixed assets of the group.

**5 Statement Of Accounting Policies**

Aorangi Stadium Trust is a registered charity.

Details of the current accounting policies and their application are contained in Appendix A.

**6 Performance Targets**

- a. Significant maintenance projects are completed on time and on budget.
- b. Regular liaison occurs with the tenant (Timaru District Council) on at least a six monthly basis to ensure the facility is operating to the satisfaction of both parties.

## 7 Financial Forecasts

The financial forecasts are based on estimated revenue flows and estimated capital structures.

			2019/20	2020/21	2021/22
<b>Income</b>			90,600	90,600	90,600
Operating Expenses			40,600	40,600	40,600
Depreciation			173,300	173,300	173,300
<b>Operating Surplus/(Deficit)</b>			<u>(123,300)</u>	<u>(123,300)</u>	<u>(123,300)</u>
Movement in Maintenance Reserve			(6,000)	(13,000)	(13,000)
<b>Surplus/(Deficit)</b>			<u>(129,300)</u>	<u>(136,300)</u>	<u>(136,300)</u>
<b>Equity</b>			<u>1,018,345</u>	<u>895,045</u>	<u>771,745</u>
Current Assets			282,116	302,117	310,117
Non-Current Assets			741,230	597,929	466,629
<b>Total Assets</b>			<u>1,023,346</u>	<u>900,046</u>	<u>776,746</u>
Current Liabilities			5,000	5,000	5,000
Non-Current Liabilities			0	0	0
<b>Total Liabilities</b>			<u>5,000</u>	<u>5,000</u>	<u>5,000</u>
<b>Net Assets</b>			<u>1,018,346</u>	<u>895,046</u>	<u>771,746</u>
			(0)	(0)	(0)

## 8 Reporting To Shareholders

The following information will be available to shareholders based on an annual balance date of 30 June.

### a. Draft Statement of Intent

By the 1<sup>st</sup> of March each year, the Trustees shall (for so long as the Trust remains a Council Controlled Organisation), deliver to the Council a draft Statement of Intent for the following financial year which fulfils the requirements of Section 64 of the Local Government Act 2002.

**b. Completed Statement of Intent**

By the 30<sup>th</sup> June each year the Trustees shall deliver to the Council the final Statement of Intent for the following financial year which fulfils the requirements of Section 64 of the Local Government Act 2002.

**c. Half Yearly Report**

Within two months after the end of the first half of each financial year, the Trustees shall deliver to the shareholders an unaudited report containing the following information as a minimum in respect of the half year under review:

- i. A Statement of Comprehensive Income disclosing actual revenue and expenditure including a comparison of actual against budget, and comparative figures
- ii. A Statement of Movements in Equity
- iii. A Statement of Financial Position
- iv. A commentary on the results for the first six months, together with a report on the outlook for the second six months.

**d. Annual Report**

- i. Within three months after the end of each financial year, the Trustees shall deliver to the Council, and make available to the public, an annual report and audited financial statements of that financial year, containing the following information as a minimum: -
  - A Trustees' report including a summary of the financial results, a review of operations, a comparison of performance in relation to objectives;
  - A Statement of Comprehensive Income disclosing actual revenue and expenditure including a comparison of actual against budget, and comparative figures;
  - A Statement of Movements in Equity
  - A Statement of Financial Position
  - An Auditor's report on the above statements and the measurement of performance in relation to objectives.

**9 Distribution Policy**

The Trust is a non-profit organisation and does not generate income or dividends for the Timaru District Council.

**10 Procedures For Acquisition Of Other Interests**

The Trust will only purchase an interest in another business or invest in the shares of another company or organisation with prior approval of the Timaru District Council.

**11 Activities For Which Compensation Is Sought From Any Local Authority**

It is anticipated that the Trust will continue seek compensation from Timaru District Council relating to funding long term maintenance items for the stadium and reimbursement of insurance costs in terms of the lease agreement.

**12 Estimate Of Commercial Value Of The Shareholders Investment**

The Trustees estimate that the balance of funds in the annual accounts will represent the value of Aorangi Stadium Trust. The Trustees will advise Timaru District Council if they believe the value to differ materially from this state.

## Appendix A

### Statement Of Accounting Policies

#### Reporting Entity

The Aorangi Stadium Trust was incorporated on 14 August 2001 under the Charitable Trusts Act 1957. The Trust is controlled by Timaru District Council and is a council-controlled organisation as defined in section 6 of the Local Government Act 2002.

#### Entity Purpose

The purpose of the entity is to continue development, maintenance & operation of the Aorangi Stadium and adjoining areas on Aorangi Park, Timaru.

#### Trust Structure

The Trust comprises a board of 4 trustees who oversee governance of the Trust. The facility is leased to Timaru District Council who manage the facility and undertake administration of the Trust.

#### Sources of cash & resources

The main source of cash and resources for the Stadium Trust is income from grants from the Timaru District Council.

#### Basis Of Preparation

From 1 July 2014, the Aorangi Trust was required to move to the new Public Benefit Entity simple reporting format accrual standard (SFR-A). Previously annual reports were [prepared in accordance with the framework for differential reporting. Therefore these annual accounts have been prepared in accordance with Tier 3 of this standard for Public Benefit Entities.

The Aorangi Trust is deemed eligible for Tier 3 reporting given it does not have public accountability or annual expenses greater than \$2 million as defined in the requirements of the standard.

#### Measurement Base

All transactions in the financial statements are reported using the accrual basis of accounting. This report also treats the entity as a going concern and uses the basis of historical cost basis with the exception of those items for which specific accounting policies have been identified.

**Changes In Accounting Policies**

This is the second set of financial statements prepared using the new PBE SFA-A (PS) standard.

**Reporting Entity**

The Aorangi Stadium Trust was incorporated on 14 August 2001 under the Charitable Trusts Act 1957. The Trust is controlled by Timaru District Council and is a council-controlled organisation as defined in section 6 of the Local Government Act 2002.

**Entity Purpose**

The purpose of the entity is to continue development, maintenance & operation of the Aorangi Stadium and adjoining areas on Aorangi Park, Timaru.

**Trust Structure**

The Trust comprises a board of 4 trustees who oversee governance of the Trust. The facility is leased to Timaru District Council who manage the facility and undertake administration of the Trust.

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The Aorangi Trust is deemed eligible for Tier 3 reporting given it does not have public accountability or annual expenses greater than \$2 million as defined in the requirements of the standard.

### Measurement Base

All transactions in the financial statements are reported using the accrual basis of accounting. This report also treats the entity as a going concern and uses the basis of historical cost basis with the exception of those items for which specific accounting policies have been identified.

### Specific Accounting Policies

The following specific accounting policies, which materially affect the measurement of financial performance and financial position of the entity, have been applied:

**a. Goods & Services Tax (GST)**

Aorangi Stadium Trust is registered for GST and the financial statements have been prepared on a GST exclusive basis.

**b. Fixed Assets**

Fixed assets are valued at cost less accumulated depreciation.

**c. Trade & Other Receivables**

Trade & other receivables are valued at expected realisable value after due allowance for bad and doubtful debts.

**d. Inventory**

All inventories on hand are recorded at cost price less any impairment losses

**e. Creditors & accrued expenses**

Creditors & accrued expenses are recorded at the amount owed

**f. Income Tax**

The Trust has charitable status and no income tax is therefore payable.

**g. Other Revenue**

Other Revenue is recognised upon receipt of funds.





**9.5 Timaru District Holdings Limited Review: Work Programme****Author:** Bede Carran, Chief Executive**Authoriser:** Bede Carran, Chief Executive**Recommendation**

That Council approves the attached work programme for implementing the recommendations of the MartinJenkins' Review of Timaru District Holdings Limited

**Purpose of Report**

- 1 To present the work programme to implement the recommendations contained in the MartinJenkins' Review of Timaru District Holdings Limited (TDHL).

**Assessment of Significance**

- 2 This matter has low significance in terms of Council's Significance and Engagement Policy.

**Background**

- 3 At its meeting on 10 December 2019, Council considered and approved in principle the MartinJenkins Report (the Report) on the review of TDHL. The Report noted that TDHL was performing well and put forward a number of recommendations on how governance arrangements can move from their current acceptable practice to good practice. The recommendations were designed to build resilience in the system, and ensure good governance structures and practices were formalised and embedded in TDHL's operations and relationship with Council whilst maintaining the advantages of a council controlled organisation.
- 4 Council requested that officers report back to it with a proposed work programme to implement the recommendations. The recommendations were contained under six headings as follows:
  - (i) Clarify and document roles and responsibilities of TDHL and Council
  - (ii) Change the composition of the TDHL Board to an equal number of external and elected members, plus an independent Chair (with a view to moving to having more independent than elected members over time)
  - (iii) Strengthen mechanisms to set direction, oversee and monitor performance, and manage conflicts of interest
  - (iv) Strengthen practices for TDHL Director appointment and induction, and create a programme to develop future Board members
  - (v) Build public understanding of the nature and role of TDHL, including benefits to the community, and how Council shapes its direction and monitors performance
  - (vi) Review and refresh the TDHL constitution to codify the transition of activities to good practice.

- 5 The recommendations detailed further specific work streams and key changes that should be considered when implementing the recommendations, such as when reviewing and refreshing the TDHL constitution [Attachment-to-report-1301829-Title-Martin-Jenkins-Review-in-relation-to-TDHL-Final-Report.pdf](#) - *full recommendations are at pp37-42*
- 6 Attached as Attachment 1 is a summary draft work programme showing the timelines for each of the work streams arising from the recommendations. The work streams will be overseen by the Chief Executive and the Group Manager for Commercial and Strategy.

### **Discussion**

#### **Options and Preferred Option**

- 7 Council is being requested to approve the timeline for the work streams to implement the recommendations from the MartinJenkins' Review of TDHL.
- 8 Council may wish, after discussion, to alter the proposed timelines for the work streams.

### **Consultation**

- 9 Internal consultation between officers to determine implementing the work streams in conjunction with other work streams and programmes officers are presently working on. There has also been discussions with MartinJenkins team members who assisted with the Report to ensure the timelines are achievable.
- 10 The timelines are drafted to provide opportunity for various pieces of work arising to be presented to elected members (either at Council or Committee Meetings) so they can provide comment and input prior to finalisation of the work streams.

### **Relevant Legislation, Council Policy and Plans**

- 11 Local Government Act 2002, Companies Act 1993.

### **Financial and Funding Implications**

- 12 There are some budgetary implications arising with implementation. Much of the work can be undertaken internally. Professional advice will be required for some work streams, for example the redrafting of TDHL's constitution (estimated at \$5000-8000 plus GST). Other work streams, such as documenting the roles and developing the monitoring framework, competency framework and monitoring will likely require some level of external professional input to ensure what is proposed to be adopted meets good practice and that it has had a level of independent review. These costs are estimated to be in the range of \$10,000 - \$15,000.
- 13 The implementation of other work streams may be met by either of TDHL or Council, for example the costs associated with recruitment of directors. While the exact costs of this cannot be quantified for the purposes of this Report it is likely to be approximately \$25,000. Overall an amount of \$40,000 - \$50,000 may be incurred for the implementation of the recommendations.

### **Other Considerations**

- 14 None identified.

**Attachments**

1. **TDC-TDHL outline of work programme** [!\[\]\(633dd45d48d71eb51a85c6dd83ee51e9\_img.jpg\) !\[\]\(bdddf9191a284aa0945448444083c5b0\_img.jpg\)](#)
2. **Martin Jenkins Review Report** [!\[\]\(944943bcf87a12c5b9337bf7ed1ef546\_img.jpg\) !\[\]\(77e1e368d53d3ed6ec2a15bf2432e026\_img.jpg\)](#)

TDC/TDHL outline of work programme - implementation of recommendations from the Review of TDHL												
Recommendation #	Task	Week						Council			Council	
		20 Jan	27 Jan	3 Feb	10 Feb	17 Feb	18 Feb	24 Feb	2 March	9 March-6 April	7 April	April and beyond
All	Develop work programme for signoff at Council meeting											
Relates to recommendation #5	Develop and communicate workprogramme to public											
Recommendation #1	Document the roles and responsibilities of TDC,TDHL and Council officers											
Recommendation #4 s1	Develop competency framework											
Recommendation #4 s2	Develop appointments process											
Relates to recommendation #4 ss1 and 2	Run appointments process											
Recommendations #2, #4 and #6	Make changes to the TDHL constitution - change the composition - role of TDC, TDHL and CE - letter of expectations - rotation and appointment of Directors - conflict of interests register											
Recommendation #3 s1	Develop and issue Letter of Expectations											
Recommendation #3 s1	Draft Statement of Intent (SoI) developed and reviewed by Commercial and Strategy Committee											
Recommendation #3 s2	Develop monitoring framework											
Recommendation #3 s3	Develop and document mechanisms for Council officers to manage conflicts of interest											
Recommendation #3 s3	Conflict of interest training for Council officers											
Recommendation #4 s3	Develop TDHL induction programme											
Recommendation #4 s4	Develop succession plan and talent management programme											
Recommendation #5	Develop TDHL branding											
Recommendation #5	Programme of communication activities on role and value of TDHL											

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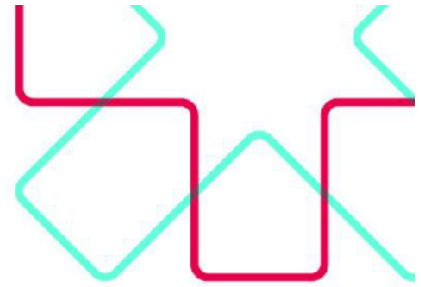
# REVIEW IN RELATION TO TIMARU DISTRICT HOLDINGS LIMITED

Final Report

5 December 2019







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## PREFACE

This report has been prepared for Timaru District Council by MartinJenkins (Martin, Jenkins & Associates Limited).

MartinJenkins advises clients in the public, private and not-for-profit sectors. Our work in the public sector spans a wide range of central and local government agencies. We provide advice and support to clients in the following areas:

- performance improvement and monitoring
- business improvement
- organisational improvement
- public policy
- evaluation and research
- strategy and investment
- employment relations
- economic development
- financial and economic analysis.

Our aim is to provide an integrated and comprehensive response to client needs – connecting our skill sets and applying fresh thinking to lift performance.

MartinJenkins is a privately-owned New Zealand limited liability company. We have offices in Wellington and Auckland. The company was established in 1993 and is governed by a Board made up of executive directors Kevin Jenkins, Michael Mills, Nick Davis, Allana Coulon and Richard Tait, plus independent director Sophia Gunn.



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# 1 EXECUTIVE SUMMARY

Timaru District Holdings Limited (TDHL) is performing well. It recently provided strong financial returns which improved Council's balance sheet, and from a governance perspective it has a strong Board with the right mix of skills. The current governance arrangements all meet acceptable practice and comply with previous legislative requirements. Some current practices expose both Timaru District Council and TDHL to risk however, and should be strengthened to align with good practice. This will build resilience into the system, enable it to withstand shocks, and reduce risk over the long-term.

The Review identified a number of insights relating to TDHL's governance functions, the Board appointment, composition and remit, and TDC's monitoring and oversight approach:

- The Statement of Intent sets the direction for TDHL, but is not informed by a direction set by TDC. As a document, the Statement of Intent is generic. We also heard through the review process that Council has rarely provided feedback or comment on draft versions of the document
- TDHL maintains oversight of subsidiary companies through directorships. When these directorship positions are held by elected members, there is a stronger perception of conflict of interest
- Overall, the Constitution serves TDHL well. It has mechanisms for managing conflicts of interest, but the review notes that this also relies on good judgement
- It is timely to consider refreshing the Constitution to strengthen the role of TDC, codify the appointment and rotation of members, and strengthen required practices relating to conflicts of interest
- TDHL currently has a board comprised of elected members and external (independent) directors. Views on the optimal board make-up differ, with varying views on what the balance should be between elected members and external directors
- The current Board has a good mix of skills, but this has not been informed by a skills matrix. We also heard that Council's approach to appointing Directors has been inconsistent, with variations over time for both elected and external directors. The position of Board Chair has traditionally been the Mayor, which is unique and has caused issues with perception of conflict of interest
- Council has revised the induction approach for new Councillors in 2019. The review notes that further work to codify the role and responsibility of TDHL Directors would help. We also found that Council does not have a succession plan for future Directors
- TDHL's reports are independently audited. Beyond this audit process, there is no formal approach for TDC to gain regular, independent advice on TDHL reports
- Council does not have a formal monitoring framework. The Review notes that reports are provided regularly, and reports to TDC are viewed positively
- Communication between TDHL and Council hasn't been as clear as it could be, but is improving. This is not through a lack of TDHL trying, and greater understanding of the Council's monitoring role will assist with this
- TDHL's success is not often shared with the community.

TDC officers provide support for TDHL, and TDHL seeks external advice and guidance when needed. These arrangements are appropriate, given the nature of work undertaken by TDHL and its current scope. However, the review notes that the current approach relies on the good judgement of officers



when and if conflicts of interest arise. Council would benefit from providing greater clarity on managing this. The emerging observer role for the CE is an improvement from previous practice.

To strengthen current practices and reduce exposure to risk, we have developed a number of recommendations:

- 1 Clarify and document roles and responsibilities of TDHL and Council
- 2 Change the composition of the TDHL Board to an equal number of external and elected members, plus an independent Chair (with a view to moving to having more independent than elected members over time)
- 3 Strengthen mechanisms to set direction, oversee and monitor performance, and manage conflicts of interest
- 4 Strengthen practices for TDHL Director appointment and induction, and create a programme to develop future Board members
- 5 Build public understanding of the nature and role of TDHL, including benefits to the community, and how Council shapes its direction and monitors performance
- 6 Review and refresh the TDHL constitution to codify the transition of activities to good practice.

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## 2 INTRODUCTION AND CONTEXT

### 2.1 Background and scope for the Review

MartinJenkins has been engaged by Timaru District Council (TDC) to undertake a review of the governance arrangements of Timaru District Holdings Limited (TDHL) to ensure they align with good practice, and are appropriate for a Council Controlled Organisation (CCO) – or council-controlled trading organisation (CCTO) - of its nature.

Timaru District Council has two CCO's, in addition to Trusts<sup>1</sup> that manage facilities:

- Timaru District Holdings Limited (TDHL)
- Aoraki Development – the economic development agency for the Timaru District.

TDHL was established in 1997 to hold the commercial assets of TDC (as its shareholder). The objective was to provide an improved level of commercial oversight on behalf of Council, in respect of the governance of various companies providing significant economic and community benefit. TDHL contracts its administration from the TDC, and as such does not employ staff.

Public consultation in 2018 raised concerns regarding TDHL's current governance arrangements – including the need for independence from Council, balancing institutional knowledge and new thinking, and processes to manage conflicts of interest. Council subsequently decided to commission an independent review as a positive and timely opportunity for both TDC and TDHL to learn and become stronger.

Specifically, this review was commissioned by Council to understand, and make recommendations for improvements or changes in the following areas:

- How well TDHL's structures and policies align with good practice, with the appropriate checks and balances in place, and are appropriate for a CCO of its nature (or similar parent-holding company arrangements)?
- What is the appropriate and optimal make-up of the Board as between independents and elected members for a CCO of this nature?
- What is the appropriate council policy in relation to the appointment of directors (whether they are independents and elected members)?
- Are any amendments required to the TDHL constitution, particularly as it relates to Board make-up, the appointment of directors, and the management of conflicts of interest?
- What is an appropriate monitoring / oversight framework or regime for TDHL?
- What is the appropriate communication approach between TDHL, TDC, and TDC's stakeholders?

The scope of the review includes a focus on the make-up of the board, the appointments process, the constitution, the monitoring and oversight framework, and appropriate levels of transparency and communication. A performance review of the Board and a review of remuneration are out of scope.

Timaru District Council has nine elected members plus a Mayor, and a usually resident population of around 47,000.<sup>2</sup> In this review, we have taken account of the fact that Timaru is a mid-sized council, which impacts on the choice of appropriate arrangements. We have also considered the nature of TDHL as a holding company, rather than an operating company.

<sup>1</sup> For example, Timaru District Council has control over Aorangi Stadium Trust, which was established to focus on development, maintenance and operation of the Aorangi Stadium and adjoining areas on Aorangi Park, Timaru for the use of the public.

<sup>2</sup> The estimated resident population of the Timaru District as at June 2018 was 47,300. Source: TDC Annual Report 2018/19



## Our approach

We undertook a two-stage approach to develop this report:

- 1 In the first stage, we reviewed relevant documents from Council and TDHL to understand current state, and reviewed online commentary relating to TDHL following the Alpine consultation. We also undertook 10 interviews to understand current practices. Our approach, consistent with other reviews of this nature, was to undertake interviews with representatives of Council and TDHL, and some senior Council officers, keeping in mind the terms of reference for the review which focused on the governance system, and budget constraints. In this instance, we interviewed elected members of TDC (including those who are board members of TDHL), external board members of TDHL, and representatives of senior council staff.
- 2 The second stage of work involved development of a set of insights and potential areas for improvement. The insights and areas for improvement have been assessed against our understanding of good practice governance approaches for CCOs of this nature, developed from desk-based research and our own experience of comparable organisations.

A list of interviewees, and documents reviewed for this work is included in Appendix 2. Examples of how other comparable CCOs operate is included in Appendix 3.

## This document

This document outlines insights for TDHL and TDC, and good practice approaches appropriate to the context. It also outlines options for consideration by Council, and recommendations which have arisen as a result of the review process.

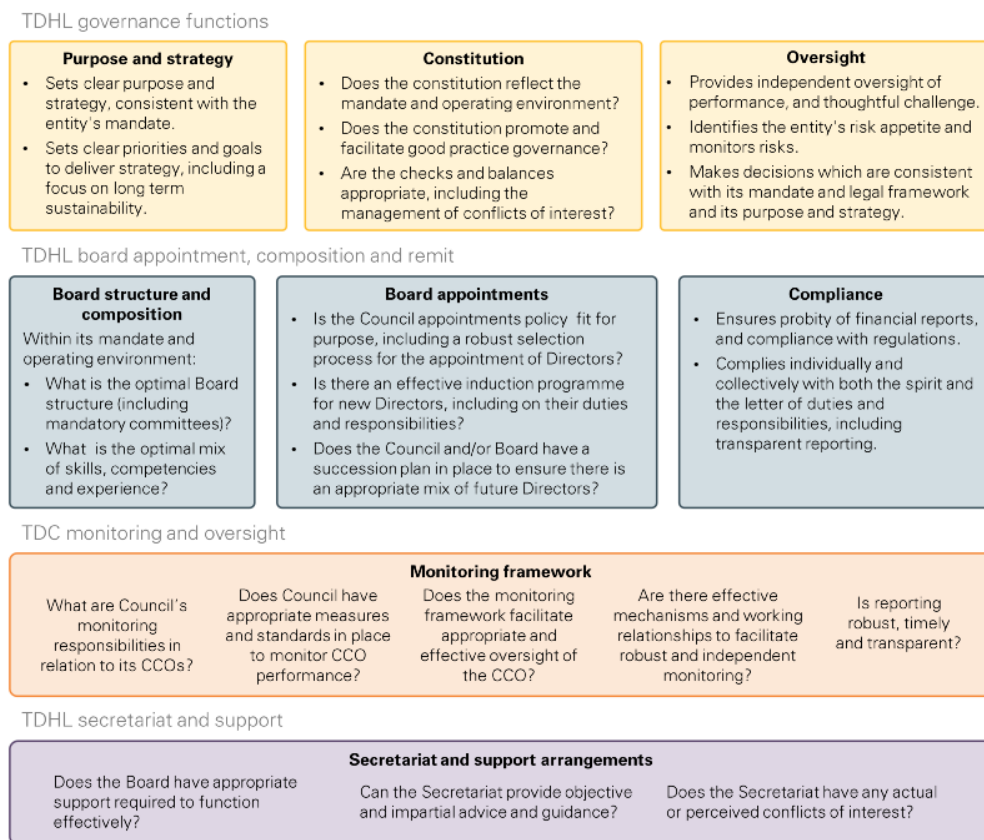


## 2.2 Framework for the review

Our approach to the Review is underpinned by our governance framework. This framework has been developed from our experience, and aligns with Institute of Directors New Zealand, state sector and international good practice guidance.

The governance framework, shown in Figure 1, outlines core governance arrangements for TDHL and key questions which have been explored through the review process.

**Figure 1: Governance framework**





### 3 REVIEW INSIGHTS

This section outlines good practice approaches for each component of the governance framework, and provides insights on TDC/TDHL’s current approach. Where possible, we have noted the difference between what is ‘accepted practice’ and what is ‘good practice’ in relation to governance arrangements.

#### 3.1 Overall commentary

##### **TDHL is performing well**

All interviewees agree that TDHL is performing well and “isn’t broken”. It is seen to have a strong Board with the right skills. People we spoke with were of the view that the current TDHL Directors are commercially astute, and balance risks and interests of the community, as well as commercial activities, in discussions and decisions.

The strong performance of TDHL over the past six years – in both commercial, and non-commercial activities – was cited as evidence of the strength of the current approach:

- a strong commercial performance reflected by growth in the value of total assets, increased shareholder equity, and improved cash dividends <sup>3</sup>
- strong consideration for community benefit in decision-making, such as supporting the Ngāi Tahu Rock Art project and selective land purchases.<sup>4</sup>

Interviewees were generally of the view that TDHL’s independence from Council provides an ability to discuss commercially sensitive matters away from public view, and gives it greater agility to respond to opportunities as they arise. TDHL’s level of responsibility for a large balance sheet means it needs separate focus and expertise from Council, with dedicated capacity for this work.

*“TDHL isn’t broken, and there are no concerns about performance. We don’t want to destroy this.”*

##### **The respective roles and responsibilities of TDHL and TDC are not clear to all**

There are mixed views as to whether the public understands TDHL’s role and its ‘once-removed’ separation from Council. Some interviewees were confident that the separation of roles was clear, whereas others cited the recent consultation in relation to TDHL selling its shareholding in Alpine Energy Limited as an example of “blurry” boundaries between TDC and TDHL (where the public may not have understood TDHL’s separation or role). One interviewee noted that at the time, the Mayor’s role as Chair of TDHL and Board member of PrimePort may have also conflated this view.

We also note that Council only recently established a separate email address for TDHL, which is a step in the right direction. Previous referrals to a TDC email address may have caused further perceptions of “blurriness” between the two entities.

<sup>3</sup> TDHL increased total assets from approximately \$114.4 million to \$148.8 million; increased shareholders equity by \$37.2 million (from \$74 million to \$111.2 million); and paid cash dividends totalling \$12.5 million.

<sup>4</sup> The showgrounds land purchase was provided as an example of community considerations in commercial decision-making



**Should TDHL remain as a CCO?**

Some wider views we saw on-line questioned whether TDHL should remain as a CCO, advocating that its responsibilities should instead be undertaken directly by Council. Whilst out of scope for this review, the literature provides useful guidance to determine whether a CCO is the right vehicle for delivering the outcomes required by a council.

Guidance from the Controller and Auditor General (OAG)<sup>5</sup> is clear on the factors that a local authority needs to take into account when deciding if a CCO model is appropriate, including whether a CCO is the best means of delivering the desired outcomes, and whether the local authority itself has the capability and capacity to manage a relationship with and monitor the performance of the CCO. OAG guidance suggests considering whether the option of a CCO is cost effective and of sufficient size and capability to be a viable business - although this is less relevant in the case of TDHL as a holding company (rather than an operating company).

There are a number of benefits that come with a CCO model in the context of this Review. Insights from interviewees indicate that these have been realised given the performance of TDHL since its creation. These include:

- improved commercial focus arising from a company operating with a commercially focused board of directors
- independence arising from greater separation from political direction
- greater nimbleness and agility from less bureaucracy
- an ability to recruit and retain board members with the necessary skills, experience and commercial acumen.

It could be argued that based on scale and capacity to monitor performance alone, it is not clear that there would be a strong case for TDHL operating as a separate CCO. A CCO can result in less direct accountability, additional operating costs and reduced ability to directly manage risk. However, the Review believes that this has been – and can continue to be – sufficiently managed, so that TDC can continue to leverage the benefits of TDHL as a CCO.

TDHL’s performance (in particular recent financial returns) indicates that retaining TDHL as a CCO is optimal. Remaining as a CCO allows TDHL to make nimble decisions, and bring commercial and independent expertise to decision-making through appointment of independent (external) directors, which in turn benefits the community.

The review notes that the cost of unwinding TDHL as a CCO would outweigh any benefit of bringing it in-house. Bringing TDHL activities in-house might also raise concern with other major shareholders such as Ports of Tauranga in PrimePort. Improvements can be made to the transparency of TDHL operations and to the monitoring and oversight by TDC, which would help address concerns of some members of the community.

<sup>5</sup> Controller and Auditor General, Governance and Accountability of Council Controlled Organisation, September 2015



## 3.2 TDHL governance functions

### 3.2.1 Purpose and strategy

Includes:

- ✓ why the entity exists
- ✓ what the entity seeks to achieve, over a defined period of time
- ✓ priorities and goals to deliver the strategy.

#### Good practice approaches

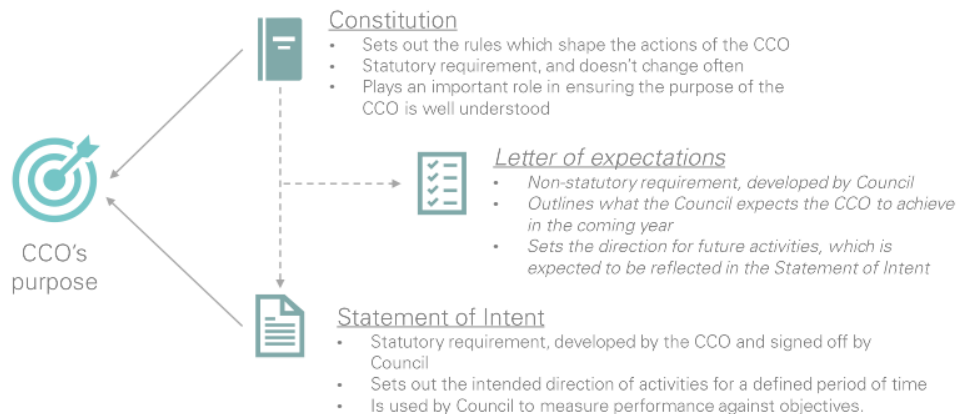
##### CCOs must have a well-defined purpose

The Office of the Auditor-General (OAG) highlights the importance of council-controlled organisations having a well-defined purpose.<sup>6</sup> Good practice, according to the OAG, is that the “purpose of the entity is clearly stated and reviewed on a periodic basis.”<sup>7</sup>

The purpose statement is an avenue in which Council can influence the scope and remit of the CCO. A CCO’s purpose will also impact what is in the constitution, who is selected for governance positions, and the monitoring framework that is used by the Council.<sup>8</sup>

The purpose is reinforced through formal mechanisms such as a constitution and Statement of Intent, and can be enhanced through other mechanisms (e.g. a letter of expectations). These foundational artefacts work together to provide the CCO with a clear strategic direction, driven by council.<sup>9</sup> The relationship between a CCO’s purpose and formal mechanisms is set out in Figure 2 below.

**Figure 2: Relationship between the purpose, constitution and statement of intent**



Source: OAG, Governance and accountability of council-controlled organisations (2015)

<sup>6</sup> Controller and Auditor-General, *Governance and accountability of council-controlled organisations*. (September 2015). Page 21. Retrieved from <https://www.oag.govt.nz/2015/cco-governance/docs/cco-governance.pdf>.

<sup>7</sup> Ibid, p.10

<sup>8</sup> Ibid, p.21

<sup>9</sup> Ibid, p.24



Good practice approaches include local authorities assessing a CCO's purpose to ensure it aligns with the purpose of local government, since the legislation changed in 2012. The OAG indicates the change from referencing "promoting the social, cultural, economic, and environmental well-being of communities, in the present and in the future", to now concentrating on the local authorities own "district or region for local infrastructure, local public services, and regulatory functions."<sup>10</sup> This has since been changed to the local authority playing a "broad role in promoting the social, economic, environmental and cultural well-being of their communities, taking a sustainable development approach".<sup>11</sup>

### **CCOs need to comply with the Local Government Act 2002**

CCOs are required to comply with the *Local Government Act*. Directors, in their appointed roles, are also required to comply with the *Companies Act*. Section 59 of the *Local Government Act* outlines the principal objectives of a CCO:

- "(a) achieve the objectives of its shareholders, both commercial and non-commercial, as specified in the statement of intent; and*
- (b) be a good employer; and*
- (c) exhibit a sense of social and environmental responsibility by having regard to the well-being of the community in which it operates and by endeavouring to accommodate or encourage these when able to do so.*
- (d) if the council-controlled organisation is a council-controlled trading organisation, conduct its affairs in accordance with sound business practice."<sup>12</sup>*

### **The Statement of Intent should outline short-term objectives and activities**

Under the *Local Government Act*, a CCO and its board members are required to develop a Statement of Intent (SOI) outlining the strategic direction of the CCO. The Act describes the purpose of the SOI:

- (a) state publicly the activities and intentions of a council-controlled organisation for the year and the objectives to which those activities will contribute; and*
- (b) provide an opportunity for shareholders to influence the direction of the organisation; and*
- (c) provide a basis for the accountability of the directors to their shareholders for the performance of the organisation."<sup>13</sup>*

Good practice is for the SOI to include the CCO's objectives, the type and scope of activities, and a defined period of time for delivering them. The SOI should also provide objectives for any organisations which report to a CCO, and should be consistent with the constitution.<sup>14</sup>

Good practice approaches include Council being involved in the development of the SOI, as well as providing comment on a draft version. This is Council's chance to shape the strategic direction of the CCO, as well as to shape the actions of the CCO moving forward.<sup>15</sup> Council needs to ensure the SOI

<sup>10</sup> Ibid, p.21 - 22

<sup>11</sup> Part 1, Local Government (Community Well-being) Amendment Act 2019

<sup>12</sup> Section 59, Local Government Act 2002; Section 14 amended, Local Government (Community Well-being) Amendment Bill

<sup>13</sup> Section 64, Schedule 8, Local Government Act 2002

<sup>14</sup> Section 64, Local Government Act 2002

<sup>15</sup> Controller and Auditor-General, *Governance and accountability of council-controlled organisations*. (September 2015). Page 42 Retrieved from <https://www.oag.govt.nz/2015/cco-governance/docs/cco-governance.pdf>



aligns with the local authority's objectives. According to the *Local Government Act*, the local authority needs to provide comment on the draft statement of intent and agree to the final version as soon as practicable once it has been delivered.<sup>16</sup>

The *Local Government Act* ensures that all decisions about the operation of a CCO are aligned to the SOI.<sup>17</sup> This makes it a critical document for Council to ensure that CCO activities align with Council objectives and deliver for the community.

Research undertaken by the OAG identified that CCO's and local authorities may not place enough value and significance on the SOI. Entities tended to see it as a compliance exercise instead of as a tool to support planning, management reporting, and accountability to the public.<sup>18</sup> When the Council and the CCO are both engaged in the creation of the SOI, it can effectively be used as a vehicle to be clear about roles, responsibilities and the strategic priorities of the CCO for the specified time period, as agreed by both parties.<sup>19</sup>

#### **A letter of expectations can be a useful tool for shaping future activity**

Issuing a Letter of Expectations is not a statutory requirement for Councils or CCOs. Typically used with Crown Entities, a Letter of Expectations can be helpful in defining roles and responsibilities as well as creating distinct expectations for how a board will meet its responsibilities. Letters of Expectation are also used with State Owned Enterprises, and can set out non-commercial objectives required of the enterprise by its shareholder.

Use of a Letter of Expectations in local government is not uncommon. Other Councils use a Letter of Expectations to "provide direction on issues that are important to Council" and outline short-term goals for a CCO.<sup>20</sup> For example, Tauranga City Council develops a Letter of Expectation for Bay Ventures (the CCO responsible for aquatic and indoor sport and recreation facilities). The OAG indicates that a Letter of Expectations can be a valuable addition to a local authority's monitoring regime.<sup>21</sup>

Recent changes to the *Local Government Act* introduce the concept of a 'Statement of Expectations', which Councils may use to specify how a CCO must conduct relationships with other organisations, and expectations in relation to community engagement and collaboration.

#### **Insights on TDHL's current approach**

##### **The Statement of Intent sets the direction for TDHL, but is not informed by a direction set by TDC**

TDHL's mission, as outlined in the Statement of Intent (SOI), is:

*To be a successful and growing business increasing the value of the Company and its return to its shareholder, while taking into account the special needs of the shareholder.*<sup>22</sup>

<sup>16</sup> Section 65, Local Government Act 2002

<sup>17</sup> Section 60, Local Government Act 2002

<sup>18</sup> Controller and Auditor-General, *Governance and accountability of council-controlled organisations*. (September 2015). Page 42 Retrieved from <https://www.oag.govt.nz/2015/cco-governance/docs/cco-governance.pdf>

<sup>19</sup> Ibid. p.42

<sup>20</sup> Ibid. p.44

<sup>21</sup> Ibid. p.44

<sup>22</sup> Timaru District Holdings Limited, *Statement of Intent 2019/20*





The SOI outlines TDHL’s objectives, as well as ‘general objectives’ for TDHL (such as maximising returns from subsidiary companies to Council, and monitoring activities of subsidiary companies), and ‘specific objectives’ for the financial year.

The SOI indicates that “*TDHL’s business is that of an investor for the benefit of the district and to provide a commercial return to the Council.*”<sup>23</sup> This broad remit has enabled TDHL to expand its activities over the last few years from solely focusing on investment in Alpine Energy Ltd, PrimePort Timaru Ltd and (to a lesser extent) Hunter Downs Water, to developing a portfolio of strategic property investments. Interviewees indicated that expansion into strategic property investments has been primarily driven by TDHL, rather than directed by Council.

Interviewees we spoke with believe that TDHL balances its commercial and community focus well. It is acknowledged that TDHL is primarily commercially focussed, but consideration is given to the impact of decisions on the community, particularly through the elected members on the board. As one interviewee explained, “the Board is cognisant of the community shareholder, and can balance this with commercial decisions.” The showgrounds land purchase was provided as an example of the TDHL Board integrating community considerations in investment decisions.

Under current practice, TDHL does not receive a Letter of Expectations (LoE) from Council, and TDHL’s non-commercial objectives have largely been driven by TDHL rather than by TDC. The SOI is the only document which outlines expectations and mandate, and this is developed as a draft by TDHL.

There would be benefit in Councillors being more involved in TDHL’s planning process, to set direction prior to development of the SOI, including non-commercial objectives. The Review notes that TDHL has an annual Board Calendar, which includes ‘deep dive’ sessions to explore potential future investments. These ‘deep dive’ sessions are for TDHL Directors, but workshops with Councillors are a mechanism provided for in the TDHL constitution that can be used to discuss the strategic direction of TDHL prior to development of the annual Statement of Intent. It is likely that the direction will be consistent over a four or five year period, and then be refreshed. The direction could be reflected in a Letter of Expectations prior to the development of the SOI.

**The Statement of Intent is generic, and rarely challenged by Council**

We understand from discussions with interviewees that the SOI is seen as relatively generic, and has not previously received feedback or changes from Council. While this has not impacted TDHL’s commercial performance, concern was expressed that Council may not be engaging sufficiently with TDHL’s strategy or direction, as the shareholder.

As one interviewee noted, there is both a benefit and risk of Councillors on the Board: the benefit is that elected members are involved in the process as Directors; the risk is that other Councillors may not interrogate the proposed future direction, as they may assume the discussion has already happened. It is also possible that Councillors may not fully understand the purpose or role of the SOI in shaping the direction of TDHL, or how they can influence this and the strategy behind it.

For example, several interviewees mentioned that it has been unclear in the past whether Council wants TDHL to be active and aggressive in its investment decisions, or more passive. We understand that recent ‘aggressive’ activity has been driven by TDHL, rather than Council. Irrespective of the level of proactivity in investment, there has been a clear direction from Council for TDHL to have a financial buffer in the event of reduced dividends from assets.

<sup>23</sup> Ibid.  


Some interviewees we spoke with mentioned the potential for TDHL to expand its role into other operations currently delivered by Council. They mentioned the potential to leverage TDHL's commercial mindset and approach to other Council assets, with the intention of improving financial performance. No specific examples were explored, but the thought was that TDHL could be involved in key community assets that aren't currently performing. The breadth of TDHL's purpose allows TDHL to operate beyond the function of a 'holding' company and it is at least in part evolving into a more active investment (operating) company. The status of TDHL, as a holding or an operating company, is not explored in depth in this Review, but included as a point which Council may consider in the future, and would have implications for governance and monitoring arrangements.

### 3.2.2 Oversight by TDHL

Includes:

- ✓ independent oversight of performance, and thoughtful challenge
- ✓ monitoring of risks
- ✓ decision-making.

### **Good practice approaches**

#### **Roles and responsibilities should be clearly defined and understood**

Clarity about the roles and responsibilities of both the CCO and the local authority is essential to good governance. The Financial Markets Authority (FMA) summarises that clear roles of the board and its executives improves efficiency and accountability.<sup>24</sup> It is important for both parties to realise the local authority should not only be seen as a shareholder of the CCO (as it has to keep the interests of the community in mind) – it is responsible for the performance of the CCO.<sup>25</sup> The performance monitoring role is discussed further in the monitoring framework section of this report.

There is also a distinction between a Council's role in governing the CCO, and the CCO's role in governing the subsidiaries that it is a shareholder in, in the best interests of the Council.

The OAG suggests that a protocol which explains the different roles and responsibilities the CCO and local authority helps to define the overall governance arrangement. This can also be useful if the organisation has a commercial aspect to their role, where goods and services are being procured.<sup>26</sup>

The OAG also recommends giving thought to providing clarity around the roles and responsibilities of "board members, shareholders, councillors and other parties (such as council and entity staff)."<sup>27</sup>

#### **Risk management**

The FMA advises that directors need a good knowledge of the main risks an entity may encounter and needs to periodically confirm they have sufficient processes established to discover and mitigate them.<sup>28</sup>

<sup>24</sup> Financial Markets Authority (2018), *Corporate Governance in New Zealand, Principles and Guidelines, A Handbook for directors, executives and advisers*, page 11. Retrieved from: [https://www.fma.govt.nz/assets/Reports/\\_versions/10539/180228-Corporate-Governance-Handbook-2018.1.pdf](https://www.fma.govt.nz/assets/Reports/_versions/10539/180228-Corporate-Governance-Handbook-2018.1.pdf)

<sup>25</sup> Controller and Auditor-General, *Governance and accountability of council-controlled organisations*. (September 2015). Page 26. Retrieved from <https://www.oag.govt.nz/2015/cco-governance/docs/cco-governance.pdf>

<sup>26</sup> Ibid. p.26

<sup>27</sup> Ibid. p.10

<sup>28</sup> Financial Markets Authority (2018), *Corporate Governance in New Zealand, Principles and Guidelines, A Handbook for directors, executives and advisers*, page 21. Retrieved from: [https://www.fma.govt.nz/assets/Reports/\\_versions/10539/180228-Corporate-Governance-Handbook-2018.1.pdf](https://www.fma.govt.nz/assets/Reports/_versions/10539/180228-Corporate-Governance-Handbook-2018.1.pdf)



**Insights on TDHL’s current approach**

**TDHL maintains oversight of the performance and risks of subsidiary companies through directorships**

TDHL has a role in monitoring the performance of companies which it is a significant shareholder of. As outlined in the TDHL Annual Report 2018/19, “TDHL Directors take a number of steps to keep themselves well informed of all matters relating to the activities of Alpine Energy and PrimePort, such as receiving regular reports and briefings from the governing body and executive management of the respective companies”.<sup>29</sup>

A change to the TDHL Constitution in 2015 allows TDHL to appoints Directors to be on the Boards of PrimePort and Alpine Energy. In some circumstances these appointments are people who are also TDHL Directors, and other appointments are independent Directors. In the current arrangement, a Councillor-Director of TDHL is appointed to the Board of PrimePort, and two independent Directors (who are not Directors of TDHL) have been appointed to the Board of Alpine Energy.

Appointments to subsidiary boards need to consider both actual and perceived conflicts of interest. Perceived conflicts of interest are more likely to arise with elected members on subsidiary boards.

**3.2.3 Constitution**

- Includes the extent to which the Constitution:
- ✓ reflects the mandate and operating environment
  - ✓ promotes and facilitates good practice governance
  - ✓ includes checks and balances, especially for managing conflicts of interest.

**Good practice approaches**

**It is important to get a CCO’s constitution right**

A local authority is responsible for developing a CCO’s constitution. This is an important artefact that specifies the regulations for governing the conduct of a CCO.<sup>30</sup> Operational decisions must be made in accordance with a CCO’s statement of intent and constitution, so the information inputted into, and decisions made around, these documents is essential to get right.<sup>31</sup>

The constitution is a vehicle through which a local authority is able to:

- clarify whether an issue can be decided by the CCO directors, or whether it should be decided by a local authority
- instead of acting in the CCO’s interests, authorising directors of the CCO to act in the interests of the local authority or holding company, as provided by section 131(2) of the *Companies Act* 1993

<sup>29</sup> TDHL Annual Report 2018/19

<sup>30</sup> Controller and Auditor-General, *Governance and accountability of council-controlled organisations*. (September 2015). Page 24. Retrieved from <https://www.oag.govt.nz/2015/cco-governance/docs/cco-governance.pdf>.

<sup>31</sup> Section 60, Local Government Act 2002





- outline processes around the management of conflicts of interest.<sup>32</sup>

The OAG found that most local authorities they studied included a section 131(2) provision in the constitutions of subsidiary companies enabling a director of the subsidiary to act in what they believe to be the best interests of the parent rather than the subsidiary, as permitted by section 131(2) of the *Companies Act*.<sup>33</sup>

#### **A process must be followed for conflicts of interest**

The IOE emphasises that directors need to avoid conflicts of interest as much as they can.<sup>34</sup> With a country the size of New Zealand (and a community as small as Timaru) it is likely that conflicts of interest will occur. If this happens it must always be disclosed. The steps for dealing with conflict of interests outlined in the CCO's constitution must then be followed and, at a minimum, the conflict should be recorded, and directors should excuse themselves from taking part in discussions or making decisions around the conflict.<sup>35</sup>

Conflicts of interest are particularly important to manage in a CCO context because there is usually a high amount of public interest in their affairs, and a conflict of interest – both real and perceived – can damage a CCO's reputation, and that of its shareholder.<sup>36</sup> Having good processes in place, and following them closely, mitigates the chance of conflicts of interest becoming a problem. Both actual and perceived conflicts should be declared, so as not to undermine the integrity of a CCO.

The chair should work through the issue to try and find a solution. If a conflict is of a material nature which is unable to be settled the director should reflect on their resignation. This is especially important where the conflict is ongoing and will impact the director's judgement and capacity to fulfil their obligations to the board.<sup>37</sup>

#### ***Insights on TDHL's current approach***

##### **Overall, the Constitution serves TDHL well**

TDHL's current Constitution was adopted in 2015. Interviewees we spoke with agree that the Constitution is good, but may need a refresh to ensure it continues to reflect the intent of TDHL and changes in the company, and is appropriate for current and future activities.

The Constitution aligns with other frameworks for local government, and is understood to align with the *Companies Act*, including the section 131(2) provision.

##### **The Constitution has appropriate mechanisms for managing conflicts of interest**

The Review notes that in the Constitution, there is a requirement for Directors to declare conflict of interest, as implied in section 13.1.1:

###### *13.1 Director's Declaration of Interest*

<sup>32</sup> Controller and Auditor-General, *Governance and accountability of council-controlled organisations*. (September 2015). Page 24. Retrieved from <https://www.oag.govt.nz/2015/cco-governance/docs/cco-governance.pdf>.

<sup>33</sup> Ibid. p.25

<sup>34</sup> IoD Code of Practice for Directors, *Institute of Directors, Four Pillars 2017 Edition, p1*. Retrieved from: <https://www.iod.org.nz/Portals/0/Publications/Founding%20Docs/Code%20of%20Practice.pdf>

<sup>35</sup> Ibid. p.2

<sup>36</sup> Controller and Auditor-General, *Governance and accountability of council-controlled organisations*. (September 2015). Page 54. Retrieved from <https://www.oag.govt.nz/2015/cco-governance/docs/cco-governance.pdf>.

<sup>37</sup> IoD Code of Practice for Directors, *Institute of Directors, Four Pillars 2017 Edition, page 2*. Retrieved from: <https://www.iod.org.nz/Portals/0/Publications/Founding%20Docs/Code%20of%20Practice.pdf>



13.1.1 Failure to declare an interest shall not disqualify the Director from office or invalidate any contract or arrangement or render the Director liable to account.

13.1.2 For the purposes of this declaration of interest, a Director shall not be regarded as interested in a contract or arrangement or transaction by virtue only of the fact that he or she is a ratepayer in the Timaru district.

There is also a requirement for Directors to “voluntarily abstain from voting” (see section 13.4.1) if they do have a conflict of interest in relation to a particular decision.

Interviewees mentioned no concern with how conflicts of interest are covered in the Constitution, or how they are managed in practice. One interviewee indicated that they are “handled well” and that practice of declaring any actual or perceived conflicts of interest has improved over time. However, the process is reliant on the good judgement of individuals and the constitution does not require a register of interests.

**It is timely to consider refreshing the Constitution**

TDHL’s constitution has stood the test of time, but several interviewees mentioned it may be timely to review its contents. We heard specific suggestions for inclusion or amendment, which are outlined in Table 1. In other parts of this Review, we have identified additional areas of the constitution which would benefit from review.

**Table 1: Suggested changes to the Constitution**

Part / section	Current text	Commentary and suggestions
Part IV Section 11.1	<u>Number of Directors</u> <i>The number of Directors shall at all times be a minimum of three (3) and a maximum of five (5), at least one (1) of whom must be an External Director, and at least two (2) of whom shall be duly elected members of the Timaru District Council or its statutory successors.</i>	<ul style="list-style-type: none"> <li>Suggestion that this should be changed to reflect decisions made following the Review relating to the Board make-up.</li> <li>Suggest change so that if after a robust appointment process Council can’t find an appropriate Councillor, then an additional external Director may be considered.</li> <li>Suggestion that the Chair should be an independent Director.</li> </ul>
Part IV Section 11.4(c)	<u>Vacation of Office of Director</u> <i>In addition to section 157 of the Act, the office of Director shall be vacated, if the Director; (c) is a duly elected member of the Timaru District Council at the time of appointment and subsequently ceases to be such a member for any reason whatsoever.</i>	<ul style="list-style-type: none"> <li>Suggestion to amend this section so that there is a transition period between elections and those who were previously elected leaving the TDHL Board. This is needed to safeguard existing knowledge and ensure continuity on the Board.</li> <li>This could be worded as a transition period, or that the elected member can be considered as an external member of the Board (however, this may impact the clause relating to the number of directors) until vacancies have been filled.</li> </ul> <p><i>Note: this could be covered already under Section 12.2 of the Constitution which provides for the appointment of Casual Directors.</i></p>



Part / section	Current text	Commentary and suggestions
Part IV Section 12	<u>Rotation of Directors</u> <i>At the annual meeting of the Shareholders in each year, one-third (1/3rd) of the Directors, or if their number is not a multiple of three then the number nearest to one-third (1/3rd), shall retire from office, but shall be eligible for re-election at that meeting. Those to retire shall be those who have been longest in office since they were last elected or deemed elected. If 2 or more Directors were last elected on the same day, the Directors to retire shall (unless they agree among themselves) be determined by lot.</i>	<ul style="list-style-type: none"> <li>Suggestion to add in a clause which allows for greater flexibility to extend a Director's tenure, if required. This would also require a clause which outlines the appointment process and timing for positions which have been extended (if it is separate from the existing process).</li> </ul>
Part IV Section 14.1	<u>Duty</u> <i>A Director when exercising powers or performing duties, must act in good faith and in what the Director believes to be the best interest of the Company.</i>	<ul style="list-style-type: none"> <li>Suggestion to have more explicit references to community consideration in decision-making.</li> </ul>
Part V Section 26.1	<u>Statement of Corporate Intent</u> <i>The Directors of the Company shall deliver to Shareholders a draft Statement of Intent in accordance with the requirements set out in Section 64 of the Local Government Act 2002 not later than 1 March each year.</i> <i>The Directors shall consider any comments on the draft Statement of Corporate Intent that are made to it by the Shareholders or any of them within two (2) months of 1 March and shall deliver the completed Statement of Intent to the Shareholders on or before 30 June each year.</i>	<ul style="list-style-type: none"> <li>Support for reporting mechanisms such as the Statement of Intent and regular reporting being enshrined in the Constitution.</li> <li>Suggestion to add in the development of the Statement of Intent in response to Council's Letter of Expectations.</li> </ul>

Note: Changes to the constitution should be developed and/or reviewed by a legal expert.

### 3.3 Board appointment, composition and remit

#### 3.3.1 Board structure and composition

- Includes:

  - ✓ make-up of the Board
  - ✓ mix of skills, competencies and experience.

#### **Good practice approaches**

##### **Views on optimal Board make-up vary**

Literature relating to the optimal balance of elected members and independents on CCOs varies. While the FMA states that every Board "can benefit from an appropriate balance of executive and



non-executive directors”,<sup>38</sup> the OAG suggests that CCO boards should only select elected members as directors as an exception.<sup>39</sup>

The mix of independent and elected councillor-directors will vary depending on the needs of the CCO, its size, and the nature of its operations, and its context. As shown in Appendix 3, comparable CCO holding companies have different approaches to Board composition, ranging from fully independent boards to a mix of councillor-directors and independents. We note that none of the comparative CCOs have the Mayor as Chair.

The OAG argues that councillor-directors are not needed on a CCO Board if there is an effective monitoring framework in place which is clear about its purpose and strategic priorities.<sup>40</sup> The OAG does point out that the potential for conflict of interest between councillor-directors and their Council responsibilities, and their role on the board decreases when they are part of a CCO holding company. This is because the holding company in theory should “be focused on managing the local authority’s investment in its CCOs, rather than on the specific business of each CCO.”<sup>41</sup> Regardless of this, the director still needs an element of commercial experience to sit alongside their governance experience.

Options and considerations for the optimal Board make-up are set out in detail in Section 4.

#### **A broad mix of skills, knowledge and experience brings a balanced view to decision-making**

The size and skills mix on the board will differ depending on the needs of the entity the board serves. For a Board to be balanced, the Institute of Directors (IOD) states that “a broad mix of skills, knowledge and experience” is needed to enable directors to collectively bring a balanced view to decision making.<sup>42</sup> Recent amendments to the Local Government Act also encourage Councils to “consider whether knowledge of tikanga Māori may be relevant to the governance of that council-controlled organisation” when identifying the skills, knowledge and experience that is required of directors.<sup>43</sup>

The FMA discusses the concept of ‘independence of mind’ as a basic requirement for directors.<sup>44</sup> All directors should endeavour to bring an unbiased opinion to decision making so the interests of the CCO are put first. When a director has independence of mind, the effectiveness of the board improves as they are more likely to usefully test concepts, local authorities, and other directors.<sup>45</sup>

The Institute of Directors expands on this by explaining that in order to be balanced, board members must be able to “think and contribute outside of their own areas of expertise and interact

<sup>38</sup> *Financial Markets Authority (2018), Corporate Governance in New Zealand, Principles and Guidelines, A Handbook for directors, executives and advisers, page 11.* Retrieved from: [https://www.fma.govt.nz/assets/Reports/\\_versions/10539/180228-Corporate-Governance-Handbook-2018.1.pdf](https://www.fma.govt.nz/assets/Reports/_versions/10539/180228-Corporate-Governance-Handbook-2018.1.pdf)

<sup>39</sup> *Controller and Auditor-General, Governance and accountability of council-controlled organisations.* (September 2015). Page 33. Retrieved from <https://www.oag.govt.nz/2015/cco-governance/docs/cco-governance.pdf>

<sup>40</sup> *Ibid.* p.34

<sup>41</sup> *Ibid.* p.33

<sup>42</sup> *IoD Code of Practice for Directors, Institute of Directors, Four Pillars 2017 Edition, page 4.* Retrieved from: <https://www.iod.org.nz/Portals/0/Publications/Founding%20Docs/Code%20of%20Practice.pdf>

<sup>43</sup> Section 21b, Local Government Act 2002 Amendment Bill (No 2)

<sup>44</sup> *Financial Markets Authority (2018), Corporate Governance in New Zealand, Principles and Guidelines, A Handbook for directors, executives and advisers, page 11.* Retrieved from: [https://www.fma.govt.nz/assets/Reports/\\_versions/10539/180228-Corporate-Governance-Handbook-2018.1.pdf](https://www.fma.govt.nz/assets/Reports/_versions/10539/180228-Corporate-Governance-Handbook-2018.1.pdf)

<sup>45</sup> *Ibid.* p.11



appropriately in order to reach collective decisions.”<sup>46</sup> To create this environment, directors should hold a combination of “business, strategic, analytical, and knowledge competencies, as well as appropriate ethical and personal qualities.”<sup>47</sup>

### ***Insights on TDHL’s current approach***

#### **TDHL’s Board comprises of three elected members and two external (independent) directors**

The current TDHL Constitution states that the board should have between 3 and 5 members, at least one of whom must be an external (independent) director and at least two who should be dually elected members of the Timaru District Council.<sup>48</sup>

At the time of undertaking this Review, TDHL has five Directors. Two Directors are external, and three Directors are elected members of Council. Interviewees we spoke with mentioned the benefit of having a mix of external directors and elected members:

- External directors were seen to bring commercial expertise (but may not always understand community interests)
- Elected members bring business knowledge as well as an understanding of what is important to the community, and ensure that community assets are managed appropriately. As one person mentioned, “having Councillors on the Board balances the focus from purely commercial decisions”.

*“The mix of elected representatives and externals has brought a richness to the table”*

The review notes that the Constitution does not specify that the Mayor is required to be on the Board of TDHL. By convention the Mayor of TDC has been both Board member and Chair of TDHL since its inception – however this has changed in the last six months.

#### **Should Council change the mix of the Board?**

When asked whether the current mix of elected and external directors was optimal for TDHL’s Board, we heard several views:

- Most people we spoke with mentioned that a mix of three elected members and three external Directors would be optimal, to continue the existing balance of focus on commercial and community interests. In this way of operating, a majority view would be appropriate for decisions to be made.
- Most interviewees wouldn’t want to see the Board increase substantially – most indicated that six members would be appropriate, with three independents and three Councillors.
- Consideration could be given to having three external directors and two elected members, noting that all Directors are accountable to achieve the best interest of TDHL.
- There is a preference to have Councillors involved in the conversation and decision-making of TDHL.
- One interviewee we spoke with indicated a preference for the majority of the Board to be elected members, recognising that these individuals could seek independent advice.

<sup>46</sup> IoD Code of Practice for Directors, *Institute of Directors, Four Pillars 2017 Edition, p4*. Retrieved from: <https://www.iod.org.nz/Portals/0/Publications/Founding%20Docs/Code%20of%20Practice.pdf>

<sup>47</sup> Ibid. p.4

<sup>48</sup> Constitution of Timaru District Holdings Limited, 2015.





It is clear from our discussions that there is little support for TDHL to have a Board comprised of only external members. If this was the case, there is a perception that TDHL could lose focus on community interests in commercial decisions. One interviewee noted concern that a Board comprised of only external directors would steer activities in a way which is more ‘private sector’ focused, which would risk Council bringing TDHL activities back ‘in-house’.

### 3.3.2 Board appointments

Includes:

- ✓ the policy and process to select and appoint new Directors
- ✓ induction programmes for new Directors.

#### **Good practice approaches**

##### **CCOs must adhere to the Local Government Act’s rules for the appointment of directors**

The *Local Government Act* outlines that Councils with CCOs should have a policy which “sets out an objective and transparent process for:

- (a) the identification and consideration of the skills, knowledge and experience required of directors of a council organisation; and
- (b) the appointment of directors to a council organisation; and
- (c) the remuneration of directors of a council organisation.”<sup>49</sup>

The Act also outlines that appointments to director positions can only be made if the local authority believes the person has the skills, knowledge or experience to guide the organisation and contribute to the achievement of organisational objectives.<sup>50</sup>

As outlined by the OAG, if a local authority does choose to appoint elected members the process needs to be ‘open and transparent’ and they should be chosen based on the same criteria as independent directors.<sup>51</sup>

The OAG found that many local authorities exclude the CCO chair from the process of appointing directors, though some chairs felt it would be helpful to be involved. The OAG acknowledged there could be value in this.<sup>52</sup>

#### **Appointment of directors is critical**

The appointment of directors is a core way for Councils to influence CCO performance.<sup>53</sup> Good governance relies on the performance of the directors, and their ability to hold subsidiary organisations to account. It is important that the community has confidence that directors have been

<sup>49</sup> Section 57, Local Government Act 2002

<sup>50</sup> Ibid.

<sup>51</sup> Controller and Auditor-General, *Governance and accountability of council-controlled organisations*. (September 2015). Page 33. Retrieved from <https://www.oag.govt.nz/2015/cco-governance/docs/cco-governance.pdf>

<sup>52</sup> Ibid. p.35

<sup>53</sup> Ibid. p.31



chosen on ability and have been selected from a wide range of possible sources, through a transparent process.<sup>54</sup>

The composition of a CCO board should contain directors from a wide range of backgrounds, who can bring their views and applicable skills to the CCO. The board will be most valuable when the directors are able to question and test each other based on their diverse knowledge and capabilities.<sup>55</sup>

The FMA recommends using a skills and capability matrix to identify the current and future skill and diversity needs of the entity.<sup>56</sup> This provides another layer of transparency to the appointment process and allows the CCO to provide the rationale behind how appointed board members can best support strategic priorities.

#### **CCOs should address gaps new directors may have during their induction**

Local authorities need to be aware of the differences between the private and public sector, as well as the unique challenges that occur when working in a political environment. There is also a social responsibility that CCO board members have that they may not on other boards.

CCO's should offer an induction that addresses any gaps new directors may have in these areas, as well as the relationship between the local authority and the CCO.<sup>57</sup> The FMA expands on this by highlighting the need for boards to provide time and resources to inductions, allowing directors to achieve a comprehensive knowledge of their obligations.<sup>58</sup> All directors should have ongoing training to ensure this knowledge base is maintained.

#### **Ensuring a future pipeline of suitable board members**

Board evaluation and succession planning are encouraged to ensure that an active plan is in place for rotation and selection of future board members. The FMA recommends the make-up of the board and its plans for succession are reported annually (at least).<sup>59</sup>

##### **DCHL Intern Director Programme – the Graham Crombie Intern Director Programme**

Dunedin City Holdings Limited established an Intern Director Programme in 2017. The objective of the programme is to enhance governance capability in Dunedin, and broaden the city's pool of emerging directors.

###### *What it involves*

The programme offers emerging directors the opportunity to gain experience and insight into governance by working alongside an experienced commercial board for 18 months. Intern Directors attended all board and committee meetings of their respective companies, and participated fully in board activities (without voting rights or decision-making responsibilities). Intern Directors also received mentoring from company directors, and \$1,000 towards governance education with the Institute of Directors.

###### *Benefits*

The programme gives participants valuable insight into the roles of company directors, and helps them to develop their own governance skills and knowledge of their company's sector.

For the Boards, Intern Directors have provided fresh perspectives and diversity of thought.

Source: Dunedin City Holdings Limited 2019 Annual Report, accessed from [https://www.dunedin.govt.nz/\\_data/assets/pdf\\_file/0008/736415/Dunedin-City-Holdings-Limited-2019-Annual-Report.pdf](https://www.dunedin.govt.nz/_data/assets/pdf_file/0008/736415/Dunedin-City-Holdings-Limited-2019-Annual-Report.pdf)

<sup>54</sup> Ibid. p.31

<sup>55</sup> Financial Markets Authority (2018), *Corporate Governance in New Zealand, Principles and Guidelines, A Handbook for directors, executives and advisers*, page 10. Retrieved from: [https://www.fma.govt.nz/assets/Reports/\\_versions/10539/180228-Corporate-Governance-Handbook-2018.1.pdf](https://www.fma.govt.nz/assets/Reports/_versions/10539/180228-Corporate-Governance-Handbook-2018.1.pdf)

<sup>56</sup> Ibid. p. 11.

<sup>57</sup> Controller and Auditor-General, *Governance and accountability of council-controlled organisations*. (September 2015). Page 32. Retrieved from <https://www.oag.govt.nz/2015/cco-governance/docs/cco-governance.pdf>

<sup>58</sup> Financial Markets Authority (2018), *Corporate Governance in New Zealand, Principles and Guidelines, A Handbook for directors, executives and advisers*, page 10. Retrieved from: [https://www.fma.govt.nz/assets/Reports/\\_versions/10539/180228-Corporate-Governance-Handbook-2018.1.pdf](https://www.fma.govt.nz/assets/Reports/_versions/10539/180228-Corporate-Governance-Handbook-2018.1.pdf)

<sup>59</sup> Ibid. p. 11.

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Commercial In Confidence



### **Insights on TDHL's current approach**

#### **The current Board has a good mix of skills**

There is a strong perception that the current TDHL Board has "the right mix of skills at the moment". Interviewees specifically indicated that the Board needs:

- a mix of commercial and non-commercial skills
- expertise in areas that TDHL covers
- Institute of Directors good practice knowledge or experience
- people with strong business acumen and good professional judgement.

However, there is currently no documented skills matrix for the board, against which potential appointments can be assessed.

Ensuring the right skills mix on the board is foundational to TDHL's success, and is one of the most important roles of the shareholder.

#### **Consideration needs to be given to the remuneration approach if Council seeks to appoint good external candidates**

Commentary on remuneration of the Board is out of scope for this review, however several interviewees noted that the level of remuneration for external members may need to be reconsidered if Council seeks to appoint top talent to the Board. Interviewees mentioned that Council was fortunate to have secured the skills and experience of the current independent Directors at the level of remuneration provided, noting the value these Directors placed on contributing to the community. However, this remuneration level might limit the pool of potential future independent Directors as it "might not be seen as enough for top applicants" and "if we don't pay correctly, we won't get good candidates".

*"They aren't really commercial director roles. If we move to a more commercial model, the remuneration would have to also follow"*

#### **Council's approach to appointing Directors is inconsistent, and has varied over time**

Council has a different appointment process for elected and external members. Council's *Director Appointment and Remuneration Policy* allows for this, providing the opportunity for Council to "decide whether to advertise a vacancy or make an appointment without advertisement".<sup>60</sup>

The Review team heard differing approaches to the appointment process from those we spoke to (based on their own experience), ranging from:

##### *For elected members*

- A process where individuals submit a CV and cover letter to self-nominate for a position. Nominations are then evaluated by a sub-committee of Council which is comprised of those who haven't nominated for a position.

##### *For external Directors*

- External Directors are 'shoulder tapped' if they have specific skills that Council is looking for.

<sup>60</sup> Timaru District Council, 'Director Appointment & Remuneration Policy'. Accessed from <https://www.timaru.govt.nz/council/publications/policies/director-appointment-and-remuneration>





- An open recruitment process is run by an external recruitment firm. Shortlisted candidates are presented to a Council sub-committee with a recommended candidate. The Council sub-committee votes to confirm the external Director.

*“The appointment process is far more robust for externals”*

There are mixed views on the current approach, which are influenced by individual experiences. Some believe it works well and doesn’t need to change; others would like to see a more robust process with greater use of independent, external advice.

Most people we spoke to mentioned that there should be more consistency in the process, for both elected members and external Director positions.

The Review notes a need for a consistent and robust approach to the recruitment and induction of TDHL directors.

**Previous recruitment processes have not been informed by a skills matrix**

We understand from conversations with interviewees that TDHL does not have a documented list of skills that they seek to appoint to the Board (as a group), or for specific roles.

Those we spoke to mentioned that it would be helpful for TDHL (or Council) to “codify the skill set” by developing a skills matrix for the TDHL Board, which is reviewed and updated over time. It was suggested that the skills matrix should also note the requirement for TDHL Directors to be representatives on the Board of subsidiary organisations, and take into account the skills and knowledge which are also required for these appointments.

One interviewee suggested that the skills matrix for elected members may be different to what is sought in externals. Another mentioned that it is important for external Directors to have an understanding of the Timaru community.

We understand that the former Mayor wrote a report in January which recommended that TDHL develops a document outlining the desired skill mix for Directors. The Director Appointment & Remuneration Policy also mentions that Council will develop a ‘director profile’ for each director appointment.

*“We have always had an abundance of good independent candidates. They see it as a way of giving back to the community”*

**The Chair has traditionally been the Mayor**

Appointment of the TDHL has previously, by convention, been the Mayor of Timaru District Council. This was called into question by the public during the Alpine Energy consultation, and the then Mayor stepped down from his position as Chair. Since then, an external Directors has been the Chair of TDHL.

The Review team heard mixed views from interviewees on whether the Mayor should be the Chair in the future. We heard benefits and disadvantages for the Mayor, a Councillor, or an external Director as Chair. Along with good practice guidance, these options are outlined further in Section 4 of this report.

Several interviewees noted that they believe the Mayor should be on the Board, even if they are not the Chair. These people shared that the Mayor needs to have an active leadership role in building relationships (especially across Councils), and can bring the community voice to discussions.



The FMA recommends the Chair be independent to the parent entity, except in exceptional circumstances. Unless there is a condition in the CCO’s constitution that allows it the OAG found that typically, a local authority will appoint the Chair of the CCO board.

The Chair of TDHL is directly accountable to council. The appointee should be someone with sound governance experience as well as good comprehension of the local government setting that CCO’s are working in.

Having an independent Chair helps to manage actual or perceived conflict of interest, and allows Council, led by the Mayor, to be more objective in holding the CCO to account.

**Council has revised the induction approach for new Councillors in 2019, to help them understand their role**

The Review acknowledges that the Council has put together a revised induction process for new Councillors in 2019. Interviewees suggested that future induction processes should include explanations about conflict of interest, probity, and expectations (e.g. turn up to workshops or pencil in briefs so that Councillors know what is going on).

A recent CCO workshop for elected members, held by Simpson Grierson, was cited as a useful session for understanding the role of a CCO and expectations of Councillors. It was suggested that this session is run again in the future for incoming Councillors to help them understand their role in relation to TDHL.

Mechanisms such as codifying the roles, responsibilities and processes between board members, shareholders, councillors and other parties would further strengthen the induction process.

**Council does not have a succession plan for future Directors**

Concerns were raised with the Review team about recruiting potential future Directors, particularly external Directors. Council does not have a succession plan or approach to ensure there is a strong pipeline of future Directors. This is particularly of concern at the current point in time, where the result of the election and timing of the tenure of external Directors means that TDHL could have mostly new Directors in a few months’ time. As one person noted, this could leave TDHL with a Board who has little knowledge or expertise.

It was suggested that Council or TDHL develops a long-term plan of the next set of skills that would be needed, and develops an aspiring Director programme to build depth of knowledge and a pipeline of suitable future applicants for Board positions.

The Review notes that TDC does not have a pipeline of future independent directors for consideration at TDHL. Council should consider how it can ensure a pipeline of skilled future directors, either through running its own development programme, or working with other local authorities or organisations to develop directorship skills in the district.

A succession plan will assist with business continuity, and ensure a pipeline of directors with the right skills and knowledge for TDHL’s continued success.



### 3.3.3 Compliance

Includes:

- ✓ probity of financial reports
- ✓ compliance with regulations and legislation
- ✓ individual and collective compliance with both the spirit and letter of duties and responsibilities, including transparent reporting.

#### Good practice approaches

##### The CCO has reporting requirements, as outlined in the Local Government Act 2002

The FMA is clear about the role reporting plays in creating good governance. Well-rounded reporting and disclosure are crucial for a CCO to be accountable to its local authority.<sup>61</sup> The *Local Government Act* outlines that the board of a CCO must publish several reports, as outlined in Table 2 below.

**Table 2: Reporting requirements**

Report	Content	Timing
<b>Statement of Intent</b>	<ul style="list-style-type: none"> <li>• Outlines the CCO’s strategic intentions and medium-term plans and provides a base against which performance can later be assessed.</li> </ul>	<ul style="list-style-type: none"> <li>• A draft must be given to shareholders on or before 1 March each year.</li> <li>• Comments made need to be addressed within 2 months from 1 March.</li> <li>• Final document must be completed by 30 June.</li> </ul>
<b>Annual Report</b>	<ul style="list-style-type: none"> <li>• Includes a comparison of the CCO’s (and its subsidiaries) performance with the statement of intent, accounting for discrepancies uncovered in that comparison, dividends paid and audited financial statements.<sup>62</sup></li> </ul>	<ul style="list-style-type: none"> <li>• Must be delivered within 3 months after the end of each financial year.</li> </ul>
<b>Half-yearly or quarterly reports</b>	<ul style="list-style-type: none"> <li>• Report on the CCO’s operations for the period, including information required as per its statement of intent.<sup>63</sup></li> </ul>	<ul style="list-style-type: none"> <li>• Must be delivered within 2 months after the end of the first half each financial year.</li> <li>• If the shareholders notify the CCO that they require quarterly reporting, quarterly reports must be delivered within 2 months after the end of the first and third quarters of each financial year.</li> </ul>
<b>Additional plans (if requested)</b>	<ul style="list-style-type: none"> <li>• Shareholders may require the CCO to prepare and deliver additional plans, including:                             <ul style="list-style-type: none"> <li>– an asset management plan</li> <li>– a long-term plan</li> <li>– 1 or more thematic plans (for example, a climate change mitigation plan).</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Timing and matters to be addressed in the plan must be notified to the CCO in writing.</li> </ul>

<sup>61</sup> Financial Markets Authority (2018), *Corporate Governance in New Zealand, Principles and Guidelines, A Handbook for directors, executives and advisers*, page 17. Retrieved from: [https://www.fma.govt.nz/assets/Reports/\\_versions/10539/180228-Corporate-Governance-Handbook-2018\\_1.pdf](https://www.fma.govt.nz/assets/Reports/_versions/10539/180228-Corporate-Governance-Handbook-2018_1.pdf)

<sup>62</sup> Section 67 - 69, Local Government Act 2002

<sup>63</sup> Section 66, Local Government Act 2002



Councils have legislative requirements for reporting on CCO performance. The *Local Government Act* outlines that a local authority must:

- include its significant objectives and policies for ownership and control of CCOs in its long-term plan and signal any significant changes in its annual plans<sup>64</sup>
- include in its Annual Report a comparison of the CCO's actual performance with the intended performance set out in the local authority's long-term plan (or annual plan).<sup>65</sup>

### ***Insights on TDHL's current approach***

#### **TDHL's reports are independently audited**

TDHL's reports are independently audited by Audit New Zealand. The Independent Auditor's Report in the 2018/19 Annual Report states that:

- *the financial statements of the company on pages 13 to 35:*
  - *present fairly, in all material respects:*
    - *its financial position as at 30 June 2019; and*
    - *its financial performance and cash flows for the year then ended; and*
  - *comply with generally accepted accounting practice in New Zealand in accordance with New Zealand equivalents to International Financial Reporting Standards with reduced disclosure requirements; and*
- *the performance information of the company on pages 10 to 12 presents fairly, in all material respects, the company's actual performance compared against the performance targets and other measures by which performance was judged in relation to the company's objectives for the year ended 30 June 2019.*

Audits conducted for Council on TDHL's finances are carried out in accordance with the Auditor-General's Auditing Standards, which incorporate the Professional and Ethical Standards and the International Standards on Auditing (New Zealand) issued by the New Zealand Auditing and Assurance Standards Board.

#### **TDHL Directors declare conflicts of interest**

Directors declare, and maintain a register of, conflicts of interest, and we heard from people we spoke to that any new conflicts are declared at the beginning of meetings. As one interviewee mentioned, "people do the right thing". However, this is not necessarily transparent to the community, and perceptions of conflict of interest for example by multiple board memberships, was evident.

<sup>64</sup> Section 95 and Schedule 10, clause 7, Local Government Act 2002

<sup>65</sup> Schedule 10, clause 28(c), Local Government Act 2002



In any environment, there is a risk that the allocation of tasks and duties of individuals for efficiency does not allow for robust scrutiny and testing. Care needs to be taken to balance leveraging knowledge and skills, with robust testing and managing conflict of interest (perceptions of, as well as actual conflicts).

The Review recognises that TDHL’s financial statements are independently audited. However, there are no practices in place to provide independent and objective advice to Council on TDHL’s delivery of activities (beyond financial statements). Independent review of TDHL reports, and separate reports to Council providing commentary on TDHL reports, can increase transparency and probity.

### 3.4 Monitoring

#### 3.4.1 Monitoring framework

Includes:

- ✓ Council’s approach to monitoring CCO performance
- ✓ measures and standards in place, in a monitoring framework
- ✓ mechanisms and working relationships to facilitate robust and independent monitoring
- ✓ robust, timely and transparent reporting.

#### **Good practice approaches**

##### **Performance Monitoring is important to ensure compliance with the *Local Government Act***

Measuring the performance of a CCO is important in order for a local authority to assess whether the CCO has fulfilled the requirements of the *Local Government Act*.

- a the local authority’s objectives for the organisation
- b the desired results, as set out in the organisation’s statement of intent (if applicable)
- c the overall aims and outcomes of the local authority.<sup>66</sup>

Monitoring is broader than receiving reports from a CCO. The OAG describes how the local authority must establish a robust performance monitoring framework to assess how well the CCO is performing against the Councils priorities, and how it is supporting its overall strategic direction.<sup>67</sup> If the framework is successful, the local authority will have comfort the CCO is achieving the aims that have been agreed on, which provides a foundation for a productive relationship between the two entities.<sup>68</sup>

<sup>66</sup> Section 65, Local Government Act 2002

<sup>67</sup> Controller and Auditor-General, *Governance and accountability of council-controlled organisations*. (September 2015). Page 38. Retrieved from <https://www.oag.govt.nz/2015/cco-governance/docs/cco-governance.pdf..>

<sup>68</sup> Ibid. p.38





### **There is no one-size-fits-all monitoring framework**

There are different ways a local authority may choose to monitor its CCOs. There is no one size fits all approach to monitoring – the nature of the CCO, the size of its operation, historical performance and the context the CCO is working in need to be taken into account.<sup>69</sup>

For consistency and quality there needs to be a good practice framework to guide the focus of the monitoring, but which allows for flexibility to focus on areas relevant to the CCO's situation and performance. As outlined in the State Services Commission monitoring guidelines, 'monitoring is an art, not a science, and what is good practice is still emerging.'<sup>70</sup>

One approach commonly undertaken, which is accepted practice, is to appoint Councillors as directors. The OAG notes that if a local authority does choose to elect councillors to director roles within the CCO, they should ensure the councillor's presence on the board does not replace formal monitoring and accountability mechanisms a CCO and their local authority need to have in place.<sup>71</sup>

A monitoring framework needs to ensure there is space for genuine communication between the local authority and the CCO, at the right times, and at the right level, to be able to discuss and feedback on 'strategy and priorities and on the CCO's business performance and risks'.<sup>72</sup> It also needs to allow for the local authority to feedback on the CCO's draft statement of intent, fulfil legislative requirements, and be cost effective.<sup>73</sup>

As a baseline, the OAG outlines a best practice monitoring framework would include:

- agreement of the SOI
- regular reporting by the CCO, at least each quarter, on progress against the objectives set in the SOI
- a good relationship between the local authority and the CCO, at both a governance and officer level, which promotes early resolution of problems.<sup>74</sup>

In-house monitoring is a mechanism that Councils have in place to monitor performance of a CCO. This requires scale, capability and capacity. The advantage of this is that the CCO would have a dedicated and readily available contact in Council. However, there is a risk that the monitor becomes too involved in CCO operations.<sup>75</sup>

### **An effective relationship between the CCO and the local authority is essential**

The OAG emphasises how valuable an effective relationship between a local authority and a CCO is.<sup>76</sup> Regardless of the monitoring framework that is in place, they recommend that the main goal should be to have an approach that supports this relationship – which reaches past the obligations set out in the Act. A balance must be found between having a relationship that has enough oversight from the local authority to be able to have a grasp on the CCOs performance whilst still enabling the CCO to have a degree of independence over its own management.<sup>77</sup>

<sup>69</sup> Ibid. p.41

<sup>70</sup> <http://www.ssc.govt.nz/cegd3j> Guide for Departments: Monitoring Performance

<sup>71</sup> Controller and Auditor-General, *Governance and accountability of council-controlled organisations*. (September 2015). Page 34. Retrieved from <https://www.oag.govt.nz/2015/cco-governance/docs/cco-governance.pdf>.

<sup>72</sup> Ibid. p.41

<sup>73</sup> Ibid. p.41

<sup>74</sup> Ibid. p.41

<sup>75</sup> Ibid. p.45

<sup>76</sup> Ibid. p.40

<sup>77</sup> Ibid. p.40



The OAG has found through its work with local government that friction between CCOs and their Council can be caused by lack of communication, not lining up strategically, the CCO not valuing or recognising the local authorities’ responsibilities, and the local authority not respecting CCO confidentiality or allowing the CCO to have a degree of independence in managing its affairs.<sup>78</sup> A CCO was likely to be more successful if there were systems in place to avoid these tensions and the relationship between the CCO and its local authority was founded on “mutual respect and trust.”<sup>79</sup> They noted the relationship is something that must be continuously worked on – by both the CCO and the local authority.<sup>80</sup>

Fostering trust within the CCO environment can be difficult, as councillors are directly accountable to their community and will want to have oversight of a CCO.<sup>81</sup> The local authority’s formal and informal mechanisms for monitoring a CCO’s performance must be constructed in a way that enables each entity to trust each other, and for the Council to be able to trust that a CCO will work in their interest.<sup>82</sup>

**Additional monitoring can add value to the overall governance framework**

There are also informal ways for a local authority and its CCO to establish monitoring which are likely to achieve a positive impact on their relationship. These are not required by the *Local Government Act* but will contribute to an effective working relationship between the parties.

The OAG outlines some options below:

- issuing a letter of expectations – as previously mentioned – outlining Council expectations
- engaging with CCOs in strategic planning processes
- regularly assessing how the CCO is having an impact on the Councils objectives and outcomes<sup>83</sup>

The OAG also suggests the CCO and Council should consider:

- agreement to frequency of meetings between directors and councillors (both informally, and formally)
- the chair and Mayor to meet consistently
- communicating through agreed communication channels
- putting additional layers of communication in place e.g. briefings, workshops for important initiatives
- collectively deciding if additional reporting is useful (more than biannually).<sup>84</sup>

When built into the overall monitoring framework, these mechanisms support an improved relationship between the CCO and the local authority. Increasing engagement and communication lines enable risks to be identified earlier and mitigated at that point.<sup>85</sup>

**Council observers are an option to give added comfort to local authorities**

Another option for maintaining oversight over a CCO is to have a Council observer sent to the CCO board meetings. The OAG found several instances where a Council observer attended CCO board

<sup>78</sup> Ibid. p.41  
<sup>79</sup> Ibid. p.40  
<sup>80</sup> Ibid. P.40  
<sup>81</sup> Ibid. p.41  
<sup>82</sup> Ibid. p.41  
<sup>83</sup> Ibid. p.45  
<sup>84</sup> Ibid. p.46  
<sup>85</sup> Ibid. p.46



meetings and provided an informal summary back to the local authority on the meetings.<sup>86</sup> Council observers have the benefit of adding an additional layer of comfort for the local authority, and may be an on hand opportunity for the local authority's lens to be added into CCO board meetings.

The OAG feels that if the local authority and CCO have established a successful monitoring system, and the relationship between them is positive overall, then it is questionable whether a council observer will have much benefit.<sup>87</sup> If there is an observer, the OAG recommends it should be mutually beneficial to the CCO and local authority and should not be seen as an alternate option for formal performance monitoring.<sup>88</sup>

#### **A board's role in monitoring its own performance**

Good practice, according to the IOD, involves regular evaluation of the board and board members – including the Chair. They recommend an annual formal review in addition to informal reviews between the chair and individual directors throughout the year. These mechanisms “help address weaknesses, increases skill levels and demonstrates a commitment to accountability”.<sup>89</sup>

The FMA emphasises the role the board Chair plays in championing the evaluation processes. They feel the Chairs role is critical by “promoting cooperation, mediating between different perspectives, and leading informed debate and decision-making.”<sup>90</sup>

#### **Insights on TDHL's current approach**

##### **Council does not have a formal monitoring framework**

It was noted that Council does not have a formal monitoring framework for ensuring robust and independent monitoring. It appears that a lot of trust is placed in the elected members on the TDHL Board to ensure that TDHL is doing the right thing for Council and the community.

*“The current monitoring approach is fine. It helps having Councillors on the Board.”*

Trust can be enough when everything appears to be operating as it should, but is not enough to withstand scrutiny. A formal monitoring and reporting framework including independent oversight and advice to TDC, designed appropriately for the size and context, could build more resilience into the system over the long term.

##### **Council monitors TDHL's performance through reports**

Council currently monitors TDHL's performance through a series of documents and reports:

- A *Statement of Intent* is developed annually, which outlines objectives that Council seeks TDHL to achieve
- *Quarterly Reports* provide regular updates on financial performance, governance activities and information relating to the property portfolio

<sup>86</sup> Controller and Auditor-General, *Governance and accountability of council-controlled organisations*. (September 2015). Page 46. Retrieved from <https://www.oag.govt.nz/2015/cco-governance/docs/cco-governance.pdf>

<sup>87</sup> Ibid. p.46

<sup>88</sup> Ibid. p.46

<sup>89</sup> IoD Code of Practice for Directors, *Institute of Directors, Four Pillars 2017 Edition*, p2. Retrieved from: <https://www.iod.org.nz/Portals/0/Publications/Founding%20Docs/Code%20of%20Practice.pdf>

<sup>90</sup> *Financial Markets Authority (2018), Corporate Governance in New Zealand, Principles and Guidelines, A Handbook for directors, executives and advisers*, page 12. Retrieved from: [https://www.fma.govt.nz/assets/Reports/\\_versions/10539/180228-Corporate-Governance-Handbook-2018.1.pdf](https://www.fma.govt.nz/assets/Reports/_versions/10539/180228-Corporate-Governance-Handbook-2018.1.pdf)





- The *Annual Report* provides an update on financial performance, insights on activities, and commentary on the extent to which TDHL achieved its objectives.

The Statement of Intent and Annual Report are public documents, which are shared on Council’s website.

Council is ‘on a journey’ to strengthen its oversight and monitoring practices and make engagement with TDHL matters more meaningful. A legal advisor has previously talked to Councillors about what a CCO is and their role in monitoring performance, which has helped build understanding. However, there is no current system for independent advice to Council on TDHL’s performance, for example through a cover sheet accompanying TDHL’s reports.

**Reports are viewed positively**

Interviewees we spoke with mentioned that reports, such as the Quarterly Reports, are “appropriately bland” and “matter of fact”. They provide all information required, however are not perceived to be engaged with well enough by Council (as the Shareholder). TDHL has recently begun providing verbal updates from Council’s Chief Financial Officer and Directors of TDHL on the quarterly reports, to assist Councillors with understanding the financial components of reports. This was noted by one interviewee as particularly useful, and a step in the right direction.

Several interviewees also mentioned the need for additional workshops alongside delivery of quarterly reports, so that Councillors and Directors can have a discussion about past and future activities of TDHL. Workshops could provide an avenue to have robust reporting and insights on performance. These would need to run in a way which balances information sharing with commercial sensitivity.

**Communication between TDHL and Council hasn’t been as clear as it could be, but is improving**

Both TDHL Directors and Councillors we spoke with indicated that communication between TDHL and Council hasn’t been as clear as it could be in the past. As one TDHL Director noted, this isn’t through lack of trying – there have been meetings previously organised where only 1 or 2 Councillors would show up. One Director also noted that as there are elected members on the Board of TDHL, there is always a chance for Councillors to talk to one of their peers.

Councillors and Directors are aware that TDHL will have some topics or discussion points which are commercially sensitive, and cannot always be discussed in a public forum prior to decisions being made.

Efforts from TDHL Directors to engage Councillors (as the Shareholder) have been more successful recently, with renewed interest in TDHL’s activities following the Alpine consultation. Council and TDHL have discussed a ‘no surprises’ policy, which is not codified, but appears to be working well in practice.

**TDHL’s success is not often shared with the community**

Several interviewees mentioned that the community doesn’t understand the value that TDHL delivers, as it its success is not often shared publicly. Interviewees recognise that the community doesn’t need to know everything (and some information is commercially sensitive), but suggest that more could be done to share TDHL’s story in contributing to community success.

*“TDHL should get on with what it is doing, then Council should share the good news story.”*



It was suggested that Council is best placed to share positive news about TDHL's performance and the value it adds to the community, as it did in October through the Annual Report.<sup>91</sup>

Enhanced communications are needed to help the public understand the role and value of TDHL.

## 3.5 Secretariat and support

### 3.5.1 Secretariat and support arrangements

Includes:

- ✓ support for governance activities, including preparation of reports and distributing papers to members
- ✓ provision of advice and guidance (where applicable)
- ✓ supports induction processes for new Board members.

#### **Good practice approaches**

##### **The Board secretariat ensures efficient operation**

Secretariat functions are important in enabling effective board operations. As outlined by the IOD, the company secretary is the "administrator of the board" and "ensures that the board functions efficiently and in accordance with relevant legal and other requirements".<sup>92</sup> It is commonly understood that the secretariat functions assist the Chair with the organisation of papers, meetings, induction of new directors, and other duties to ensure the smooth running of a board.

#### **Insights on TDHL's current approach**

##### **Timaru District Council officers provide support for TDHL**

The TDHL constitution provides for the appointment of Secretaries. Members of Timaru District Council's leadership team provide support and advice for TDHL under a contractual arrangement which is cost effective for TDHL. The Group Manager, Commercial and Strategy provides general management support for TDHL, and the Chief Financial Officer provides financial assistance with accounts. Historically, the Chief Executive was in the position of advisor but now attends as an observer. However, the nature and scope of the observer role for the Chief Executive is not formalised. In their capacity supporting TDHL, Council officers do not provide advice and guidance for Council on TDHL's performance.

Some interviewees noted that this arrangement is working well, but recognise that it relies on the good judgement of officers, and could place individuals in a conflict of interest situation. Although no examples were provided, it is possible that staff might be conflicted if they are privy to information about TDHL that council is not aware of, but should be.

Councillors and Directors of TDHL noted that staff members are aware of conflicts, and are perceived to manage them well (for example. leaving the room if required, or stating that they are not representing Council when providing advice).

<sup>91</sup> Littlewood, M. 'Holdings company credited with good financial result for Timaru District Council'. *Timaru Herald*, 8 October 2019.

<sup>92</sup> IoD, <https://www.iod.org.nz/FirstDirectors/The-different-roles>



*“Council Officials need sophisticated judgement. Not everyone has this, but the current group delivers well.”*

As one interviewee mentioned that “Council Officer’s involvement is blurred”, but believe that TDHL doesn’t need its own separate staff when considering its current size and set up. Interviewees also recognise that TDHL’s objectives in serving the community are aligned with activities of Council. Further clarity on the Council Officers role could be useful to support good practice activities. As one person noted, “we are relying on individual professionalism and council policies”.

TDC’s current approach is heavily reliant on the good judgement of its officers when and if actual or perceived conflicts arise. Some support functions could be more easily outsourced to achieve a greater separation of roles, for example accounts, but it would be difficult to justify a separate secretariat for a holding company of TDHL’s size and nature. The independent audit also provides an additional check.

TDC and TDHL interests are largely aligned, and the identified council officers are best placed to support and advise TDHL with limited conflict of interest. The emerging role of the Chief Executive as observer is also an improvement on prior arrangements. However, greater clarity is needed as to how to address conflicts if they do arise.

**TDHL seeks external advice and guidance, when needed**

Council Officers do provide advice and guidance to TDHL, in relation to property, finances and legal matters. Directors we spoke to mentioned that it is useful to have people with these areas of expertise in meetings, and available if required.

The Review also notes that the Board brings in specialist advice, as required. As one person noted, there is a good culture in TDHL (and in Council) of “not skimping on getting the right advice in”. A recent example of this involved TDHL seeking financial advice to prepare options for the Alpine Consultation.



## 4 OPTIONS FOR CONSIDERATION

This Review has raised options for Council to consider in relation to TDHL’s governance approach. The options include:

- 1 Considerations for Board composition
- 2 Considerations for who is the Chair.

Both options assume a robust monitoring framework will be in place in the future.

This Review and its recommendations assume that TDHL remains a holdings company. However, consideration for these options is also dependent on whether Council intends for TDHL to transition in future to more of an operating company, or to a mixed model. Should that shift take place, TDC should reconsider governance arrangements and strengthen its oversight. Key differences between a holding company and an operating company are set out below in Table 3.

**Table 3: Differences in governance approaches**

	Holdings company	Operating company
<b>Purpose and remit</b>	The sole focus of holdings companies is to generate revenue for Council. The explicit focus and direction is reiterated through a Letter of Expectations and the Statement of Intent.	Operating companies are set up with a dual purpose: return a profit and deliver direct benefits for the community.  Direction can be provided from Council – via the Letter of Expectations and Statement of Intent – to generate a lower commercial return if there are specific community investments which can be made.
<b>Oversight</b>	Is responsible for ensuring that subsidiary companies deliver on expectations.	Is responsible for ensuring planned activities and initiatives outlined in the SOI are delivered.
<b>Compliance</b>	Ensures probity of financial reports and compliance with regulations, for its own work and subsidiaries.	Ensures probity of financial reports and compliance with regulations, for its own activities.
<b>Board composition</b>	Good practice is for the Board to be comprised of all independent members.  Accepted practice is that the Board is a mix of independent and elected members.	Good practice, and accepted practice, is for the board to be comprised solely of independent members.
<b>Board appointments</b>	Good practice is the existence, and alignment with, a robust appointment policy. An appointment process which stands up to scrutiny is accepted practice.	Good practice is the existence, and alignment with, a robust appointment policy. An appointment process which stands up to scrutiny is accepted practice.
<b>Engagement with the public</b>	Engagement and updates on activity is delivered through Council.	Direct engagement with the public.
<b>Monitoring framework</b>	Good practice is for Council to have a robust monitoring framework, in addition to oversight of reporting.	Good practice is for Council to have a robust monitoring framework, in addition to oversight of reporting.
<b>Secretariat and support arrangements</b>	The size of the CCO and nature of activities often does not warrant independent secretariat arrangements. It is accepted practice to have Council staff provide secretariat support, as well as more specific advice and guidance.	Secretariat and administrative support is often delivered internally, by the CCO’s own staff.



## 4.1 Considerations for Board composition

A key question for Council is: *should there be elected members on the Board?* In Table 4 we have outlined the benefits and limitations of Boards with elected members, and Boards comprised of all external members. In accordance with OAG guidance (see page 16), these options do not include consideration for having Councillors or the Mayor as observers on the Board.

**Table 4: Considerations for Board composition**

	Benefits	Limitations	Examples
<b>Board with elected members</b>	<p>Elected Board members can:</p> <ul style="list-style-type: none"> <li>bring a Council lens to CCO governance, ensuring that Council's objectives are incorporated into decision-making</li> <li>ensure the CCO has a good knowledge and understanding of the views and perspectives of local government and the local community</li> <li>bring 'political nous'</li> <li>add additional comfort that the CCO will be aligned to Council wants and needs</li> <li>manage issues about the CCO that are before the Council, strengthening lines of communication</li> <li>ensure that the Council has an informed debate that focuses on the main issues for decision. That said, councillor-directors may be unable to participate in decisions on matters about the CCO because of their interest as a director.<sup>93</sup></li> </ul>	<p>Depending on the proportion of elected members, the OAG found Boards with elected members may be limited by the following factors:</p> <ul style="list-style-type: none"> <li>councillor-directors may not have the commercial knowledge or skills, to be successful in their role as director</li> <li>fundamental conflict of interest arise as a councillor-director is accountable to both the Council, their community and the CCO (for example when commercial decisions do not align with community wishes)</li> <li>it is probable that councillor-directors will be more influenced (and have more pressure put on them) by the community – making it challenging to uphold CCO commercial / business confidentiality</li> <li>the dual role of Councillor and Councillor-Director can make it difficult for the elected member who has been party to the CCO decision to objectively hold the actions of the Board to account.<sup>94</sup></li> </ul>	<ul style="list-style-type: none"> <li>Christchurch City Holdings Limited has four elected board members and four independent board members</li> <li>The Marlborough District Holding Company has three elected members, the CEO and 2 independent members on the Board.</li> </ul>

<sup>93</sup> Controller and Auditor-General, *Governance and accountability of council-controlled organisations*. (September 2015). Page 32. Retrieved from <https://www.oag.govt.nz/2015/cco-governance/docs/cco-governance.pdf>

<sup>94</sup> Ibid. p.33



	Benefits	Limitations	Examples
<p><b>Board comprised of all external Board members</b></p>	<p>A Board comprised of all external members can:</p> <ul style="list-style-type: none"> <li>ensure independence from Council decision-making</li> <li>can bring autonomous judgment to board affairs, as well as experience and impartiality from an external perspective</li> <li>provide a greater opportunity for Council to bring commercial and governance expertise to the table</li> <li>be a buffer between the local authorities' political activities and the CCO's activities.</li> </ul> <p>Council may find it easier to hold a completely external Board to account, as it would not involve perceived or actual criticism of the actions of peers.<sup>95</sup></p>	<p>Depending on the external Board members, limitations may include:</p> <ul style="list-style-type: none"> <li>Board members may not always have an understanding of the local authority's statutory requirements, as a CCO's objectives can be different to those of a private entity</li> <li>Council may find it difficult to maintain awareness of the activities of the CCO</li> <li>External directors may lack knowledge about local government context, issues and transparency obligations.<sup>96</sup></li> </ul>	<ul style="list-style-type: none"> <li>Dunedin City Holdings Limited</li> <li>Auckland Councils substantive CCOs are prohibited statutorily from selecting councillor-directors to their board (except Auckland Transport, where two councillors may be appointed).<sup>97</sup></li> </ul>

Source: Controller and Auditor-General, *Governance and accountability of council-controlled organisations*. (September 2015). Page 32

<sup>95</sup> Controller and Auditor-General, *Governance and accountability of council-controlled organisations*. (September 2015). Page 32. Retrieved from <https://www.oag.govt.nz/2015/cco-governance/docs/cco-governance.pdf>

<sup>96</sup> Ibid. p.32

<sup>97</sup> Ibid. p.32





## 4.2 Considerations for appointment of the Chair

Council also needs to consider what its approach is for electing the Chair of TDHL. Conversations for the review identified several benefits and limitations relating to:

- The Mayor as Chair
- A Councillor as Chair
- An external director as Chair.

The benefits and limitations of each of these options are shown in Table 5 below.

**Table 5: Considerations for electing the Chair**

	Benefits	Limitations
<b>Mayor of TDC as Chair of TDHL</b>	<ul style="list-style-type: none"> <li>• The Mayor has good community engagement, so is aware of issues and challenges. This helps for identifying non-commercial projects</li> <li>• They are the only person elected by the entire district</li> <li>• Has a connection with senior management</li> <li>• Can provide leadership of council assets</li> <li>• Easier to engage with Council – has to bring other Councillors along with him/her, and can easily keep other Councillors in the loop</li> <li>• Brings mana to the director’s table, and brings the consensus view from the Council table.</li> </ul>	<ul style="list-style-type: none"> <li>• May make it difficult for Council to hold TDHL to account – the Mayor would be ‘writing a letter to himself/herself’</li> <li>• Could be perceived as making political decisions</li> <li>• Hard to say at which point the Mayor is Mayor, and at which point the Mayor is Chair</li> <li>• The Mayor role is busy in its own right, and demanding. This places strain on the incumbent as they are expected to perform all roles well</li> <li>• There is always a risk that the community may not elect someone with the right skills.</li> </ul>
<b>Councillor as Chair</b>	<ul style="list-style-type: none"> <li>• Brings awareness of community considerations</li> <li>• Allows Council to appoint the ‘right’ credentials, and maintain community interest.</li> </ul>	<ul style="list-style-type: none"> <li>• May find it difficult to persuade the Mayor of TDHL decisions.</li> </ul>
<b>External Director as Chair</b>	<ul style="list-style-type: none"> <li>• Brings expertise, time and capacity</li> <li>• Brings an objective view to discussions and decisions</li> <li>• Allows for TDC to recruit for specialist skills (e.g. corporate governance experience, commercial skills)</li> <li>• Allows for a healthy degree of separation between Council and TDHL</li> <li>• Provides assurance on the continuity of the chairperson as the incumbent is not subject to the 3 year electoral cycle</li> <li>• Enables the Mayor to independently and clearly set expectations for TDHL which reflect the community’s expectations</li> <li>• Enables the Mayor to objectively hold the board accountable for performance without being conflicted by also being the Chairperson.</li> </ul>	<ul style="list-style-type: none"> <li>• Can be difficult for an external Chair to engage with the CE of TDC or other Councillors – there are less opportunities for incidental conversations</li> <li>• The remuneration for this position may not be attractive to top candidates</li> <li>• May risk losing the community voice in decision and discussions (depending on the person)</li> <li>• An external Chair may not know the local politics or have strong relationships in Timaru.</li> </ul>



## 5 RECOMMENDATIONS

The governance arrangements reviewed in this report all meet acceptable practice. However, there are a number of current practices which do expose TDC and TDHL to risk, and would benefit from being strengthened to meet good practice. If implemented, these recommendations will build resilience into the system and enable it to withstand shocks. This will reduce risk over the long-term, whilst maintaining the advantages of a CCO model.

Our recommendations need to be taken together, as they balance the interests and needs of both entities across a system. They should be reflected in a refreshed Constitution, supported by documented policies and processes.

**Our recommendations are intended to be implemented over time through a programme of work to mature the skills, knowledge, systems and processes required for effective governance arrangements across both entities. This approach should include a managed transition to any new arrangements which ensures that TDHL board effectiveness and business continuity are maintained.**

### Recommendation 1: Clarify and document roles and responsibilities

Insights from the Review indicate that the distinction between roles and responsibilities of the Council and TDHL, are at times “blurry”. This extends to the roles and responsibilities of Council officers. Council should document the roles and responsibilities of the two entities and of council officers in a protocol, including that:

- TDC sets the strategic direction and objectives for TDHL, including any community objectives it requires of TDHL
- TDHL focuses on activities to generate revenue, and other activities only as directed by TDC
- The revenue from TDHL activities is used by Council to fund activities that Council determines
- In addition to receiving formal reports, Councillors should attend regular workshops with TDHL board members to discuss strategy and performance
- The Chief Executive advises and reports to TDC, and engages with TDHL in the capacity of an observer
- TDC is responsible for reporting on TDHL activities and performance to the public, and consulting on TDHL’s remit through the Long Term Plan and other mechanisms as required by legislation.





## Recommendation 2: Change the composition of the TDHL Board

- 1 TDHL should have an equal number of independent (external) and elected members on the Board, plus a Chair – with a view to transitioning to more independent than elected members over time.
- 2 To strengthen formal monitoring and accountability mechanisms in accordance with good practice, the TDC Mayor should not be a member of the TDHL Board. Instead, the Mayor should have a stronger role in monitoring the performance of TDHL and holding the Board to account on behalf of the community, as set out in Recommendation 3 below.
- 3 The TDHL Chair should be an independent member, appointed by TDC and accountable to the Council through the Mayor.
- 4 The number of TDHL Board members (in addition to the Chair) should be a minimum of 2 plus 2 and a maximum of 3 plus 3 (independent and elected members).
- 5 TDC should have the ability to appoint more independent members should there not be sufficiently skilled elected members available for appointment.
- 6 TDC should be able to retain the services of Councillor members on the TDHL Board who are not re-elected until a new elected member is appointed in their place.
- 7 Only independent board members should be appointed as a Director on a subsidiary company.

Together, these provisions:

- reduce the actual or perceived risk of conflict of interest of Councillor-elect members
- strengthen the ability of Council to hold the Board to account, led by the Mayor
- leverage Council's ability to bring commercial acumen to the TDHL Board
- ensure continuity of the TDHL Board during and post elections.

In order not to compromise performance, practical decisions will need to be taken about the pace at which these recommendations are implemented. Time will first be needed to develop a skills matrix and to design changes to recruitment processes, as set out in Recommendation 4 below, and potentially to prepare elected members to undertake their role on the Board. This is likely to require maintenance of current practices for a period.

## Recommendation 3: Strengthen mechanisms to set direction, oversee and monitor performance, and manage conflicts of interest

Even when the TDHL Board includes elected members, its activities should not take the place of due Council process, or usurp TDC's role in setting community objectives. The following recommendations are designed to strengthen TDC's role as the shareholder.



*Setting direction*

**1 Introduce an annual Letter of Expectations to inform the Statement of Intent**

- 1.1 The Letter of Expectations should be set at a strategic level, and be provided by the Mayor to the TDHL Chair. It should outline areas that Council has particular interest in for the coming year, and the outcomes that TDHL is expected to achieve in response to these. TDHL’s Statement of Intent should reflect the direction provided in the Letter of Expectations.
- 1.2 The Letter of Expectations should include direction on any community objectives, enabling a greater separation of roles between TDC and TDHL in determining commercial and non-commercial objectives.
- 1.3 The Letter of Expectations should be developed after an annual strategy workshop between Councillors and the TDHL Board. We recognise that the strategic direction of TDHL is likely to be stable for a few years at a time, however this process is a critical part of making sure that Councillors and Directors are aligned. The Long Term Plan process should also be used as an opportunity for TDC to consult with the community on any changes to the remit and direction of TDHL that emerge from the strategy workshop.
- 1.4 A suggested work programme for TDHL is provided in Appendix 4, which demonstrates the flow between current activities and the Letter of Expectations.

*Monitoring performance*

**2 Develop a formal monitoring framework**

- 2.1 TDC should develop and document a monitoring framework to give assurance that assets are well governed, and that information which is held confidentially is done so with good reason. We recommend that the Mayor and the Chair of the Commercial and Strategy Committee have a lead role in monitoring the performance of TDHL. This role should include developing a letter of expectations, holding TDHL to account for performance, and ensuring decisions made align with the LoE and SOI. To further strengthen the Mayor’s role in holding the TDHL Board to account, consideration could be given to appointing the Mayor as Chair of the Commercial and Strategy Committee.
- 2.2 The monitoring framework should:
  - Facilitate good relationships through regular formal meetings between the Mayor and the TDHL Chair, and workshops between Councillors and the TDHL Board
  - Provide Councillors with independent analysis and advice on TDHL reports through a cover sheet developed by a Council officer not otherwise connected to TDHL, on behalf of the Chief Executive
  - Enable TDC to seek external independent advice, particularly on technical matters such as legal advice

*Manage conflicts of interest*

**3 Develop and document mechanisms to manage actual or perceived conflicts of interest**

In addition to the changes to Board composition which manage conflicts of interest, we recommend:



- 3.1 A separate secretariat for TDHL is not warranted at the moment, due to TDHL's size and scope of activities. Current Council officers should retain their roles in providing support and advice to TDHL. However, Council should develop policies and processes to ensure any actual or perceived conflict of interest can be managed. This should include:
- Formalising the role of the Chief Executive as an observer at TDHL Board meetings
  - The ability for Council officers to escalate an insurmountable conflict of interest to the Chief Executive for resolution. This can include the appointment of independent external parties to provide advice rather than the Council officer.
  - Training, guidance and support for Council officers in managing conflicts of interest.
- 3.2 Include a requirement for a TDHL Register of Interests in the constitution

## Recommendation 4: Strengthen practices for appointment, induction and succession planning

### 1 **Develop and maintain a Board competency matrix**

The TDHL Board should develop and maintain a competency matrix, approved by TDC, which documents the knowledge, skills and experience required of the Board. The matrix should be developed with consideration of:

- The knowledge, skills and experience that are needed now for TDHL to operate effectively and to deliver its objectives
- The knowledge, skills and experience that will be required in the future for TDHL to be successful
- What knowledge, skills and experience all Board members are expected to have
- What knowledge, skills and experience can be held with at least one individual across the mix of members on the Board
- Any specific knowledge, skills and experience required of the TDHL Chair

The matrix should be reviewed annually, as part of strategic planning processes.

### 2 **Develop a robust and transparent appointments process**

TDC should review and document its Board appointment process, to include:

- Council using the competency matrix to determine what knowledge, skills and experience are needed from each appointment
- Council establishing an appointments sub-committee and contracting an independent external agency to manage the recruitment process, including search, long and short-listing of potential candidates, designing and supporting interviews, and undertaking referee and probity checks.



- The sub-committee making a recommendation for approval to Council, which can include additional external Directors if the knowledge, skills and experience is not available from among elected members
- Council reviewing the recommendation and making an appointment.

The recruitment approach should be the same for elected members and independent directors.

The rotation and appointment of elected member Directors provided for in the Constitution should also be reviewed to minimise the impact of election cycles on TDHL's business continuity.

**3 Develop an induction programme for new TDHL Board members, and a programme of continuing professional development**

An induction programme should be developed by Council and current TDHL Board members, and delivered by Council in the future, drawing on external expertise if required. Induction should cover the roles and responsibilities of Board members (including duties to Council), and the importance of particular skills in the role such as the management of actual or perceived conflicts of interest.

**4 Develop a succession plan and talent management programme for future Board members**

Council should work with TDHL to develop a programme of succession planning to identify attract future external Board members for TDHL.

## Recommendation 5: Build public understanding of the nature and role of TDHL

Council should undertake communications activities to help build community understanding of the role of TDHL, as outlined in Recommendation 1.

Communications should focus on building community understanding of why TDHL has been set up as a CCO, and how Council shapes direction and monitors performance – ensuring that its activities benefit the community.

To support the distinction between TDHL and TDC, Council should also consider developing a separate website or branding for TDHL. This visual separation can be useful in confirming the separation between entities.

The Review does not recommend that TDHL engages directly with the community if it remains as a holdings company. This may change if it is decided that TDHL will transition to more of an operating company.

## Recommendation 6: Review and refresh the TDHL constitution

A constitutional document provides the legal framework for an organisation, and should include an appropriate level of flexibility. For this reason, some of the recommendations above are best provided



for in documented operational policies and procedures that can be adapted over time without requiring constitutional change. However, key changes to the constitution which should be considered are:

- stronger recognition that TDC is the shareholder of TDHL, and directs TDHL in the interests of the community through a description of the respective roles and responsibilities of TDC and TDHL, and of the Chief Executive in relation to both entities
- that TDC provides TDHL with a letter of expectations, is responsible for TDHL's performance, and will seek independent advice to provide assurance where required.
- changes to the composition of the TDHL Board, as set out in Recommendation 2
- flexibility of rotation and appointment of Directors, particularly Councillor members to cater for election cycles, as set out in Recommendation 4
- an explicit requirement of TDHL to maintain a conflicts of interest register.

This review should be undertaken by a legal expert.



## APPENDIX 1: INTERVIEWEES

People we engaged for this review are listed in Table 6 below.

**Table 6: People engaged during the Review**

Name	Role (at the time of interview)
Bede Carran	Chief Executive at Timaru District Council
Damon Odey	Mayor of Timaru and Director of TDHL
Dave Jack	Councillor at Timaru District Council
Donna Cross	Group Manager Commercial and Strategy at Timaru District Council
Ian Fitzgerald	Chairman of TDHL (external)
Kerry Stevens	Councillor at Timaru District Council and Director of TDHL
Nigel Bowen	Councillor at Timaru District Council
Peter Burt	Councillor at Timaru District Council
Richard Lyon	Councillor at Timaru District Council and Deputy Chairman of TDHL
Richie Smith	Director, TDHL (external)



## APPENDIX 2: DOCUMENTS REVIEWED

The MartinJenkins team reviewed a number of documents as part of this Review:

- Constitution of Timaru District Holdings Limited (2015)
- Controller and Auditor-General, *Governance and accountability of council-controlled organisations*. (September 2015). Retrieved from <https://www.oag.govt.nz/2015/cco-governance/docs/cco-governance.pdf>
- D Odey, *Timaru District Holdings Limited Governance Structure and Remuneration of Directors* (2 April 2019)
- Financial Markets Authority, *Corporate Governance in New Zealand, Principles and Guidelines, A Handbook for directors, executives and advisers*. (2018). Retrieved from [https://www.fma.govt.nz/assets/Reports/\\_versions/10539/180228-Corporate-Governance-Handbook-2018.1.pdf](https://www.fma.govt.nz/assets/Reports/_versions/10539/180228-Corporate-Governance-Handbook-2018.1.pdf)
- Institute of Directors, *IoD Code of Practice for Directors, Four Pillars 2017 Edition*. (2017). Retrieved from: <https://www.iof.org.nz/Portals/0/Publications/Founding%20Docs/Code%20of%20Practice.pdf>
- Larsen, W. 'Governance review of all companies in which Dunedin City Council and/or Dunedin City Holdings Ltd has an equity interest of 50% or more. (2011). Retrieved from [https://www.dunedin.govt.nz/\\_data/assets/pdf\\_file/0018/208053/Larsen-Report-February-2012.pdf](https://www.dunedin.govt.nz/_data/assets/pdf_file/0018/208053/Larsen-Report-February-2012.pdf)
- Littlewood, M. 'Holdings company credited with good financial result for Timaru District Council'. *Timaru Herald*, 8 October 2019
- TDHL 12-month work programme
- Timaru District Council CCO Workshop slides
- Timaru District Council Policy and Development Committee Meeting Agenda, *Item 7.1 – Timaru District Holdings Ltd Quarterly Report April to June 2019* (17 September 2019)
- Timaru District Council, *Director Appointment & Remuneration Policy*. (20 September 2017). Accessed from <https://www.timaru.govt.nz/council/publications/policies/director-appointment-and-remuneration>
- Timaru District Holdings Limited, *Annual Report for the Year Ended 30 June 2019* (5 September 2019)
- Timaru District Holdings Limited, *Report to Council for the Period January to March 2019* (3 May 2019)
- Timaru District Holdings Limited, *Statement of Intent 2019/20* (20 June 2019).





## APPENDIX 3: COMPARATIVE CCOS

As part of the Review, desk-based research was undertaken to find CCOs which have a similar remit to TDHL, a similar budget, or operate in a similar sized community. Insights from the research is shown below.

CCO / CCO	Council	Purpose / objectives	Subsidiary companies	Board composition	Operational activities of note
<b>Christchurch City Holdings Limited (CCHL)<sup>98</sup></b>	Christchurch City Council	CCHL is a wholly owned investment arm of Christchurch City Council. Its mission is to "support the future growth of Christchurch by investing in key infrastructure assets that are commercially viable, and environmentally and socially sustainable". CCHL was set up 1993 in response to calls for a confidential independent non-political buffer between the Council and the companies it owned.	Holds shares in eight trading companies which own and run some of the key infrastructure of Christchurch, including electricity delivery, the port, the airport, public transport, and recycling facilities, and are critical to the regional economy.	The CCHL Board currently comprises of four elected members and four independents: <ul style="list-style-type: none"> <li>Mayor</li> <li>Deputy Mayor</li> <li>City Councillor x2</li> <li>Independent x4</li> </ul> CCHL's constitution allows for flexibility in the number of Directors, indicating it must not be fewer than three nor more than eight. CCHL's Chair is an independent board member.	<ul style="list-style-type: none"> <li>The Board monitors the performance of the Chief Executive, who has been delegated responsibility for the day to day management of the company. He is assisted by his staff as required. The company may make use of external advisers from time to time.</li> <li>As outlined in the CCL Board Charter, "the Board will use its best endeavours to familiarise itself with issues of concern to the Shareholder. Regular workshops, briefings, informal session or seminars will be held with the shareholder as required."</li> </ul>
<b>Dunedin City Holdings Limited (DCHL)<sup>99</sup></b>	Dunedin City Council	DCHL's purpose is to achieve for Dunedin the best from its investments. DCHL provides leadership and oversight of its subsidiary and associated companies on behalf of the ultimate shareholder, the Dunedin City Council. Building opportunities for collaborative enterprise and capturing Group synergies is an objective of the Company.	DCHL undertakes on-going oversight of eight subsidiaries' financial and non-financial performance. The Board assesses the risks of the activities undertaken by its subsidiaries in the light of the financial sustainability needs of the Dunedin City Council.	The DCHL Board is comprised of solely independent Directors. DCHL holds responsibility for appointing directors to the boards of Aurora Energy Ltd, City Forests Ltd, Delta Utility Services Ltd and Dunedin Venues Management Ltd. DCHL is also responsible for appointing a limited number of directors to the boards of Dunedin Railways Ltd and Dunedin International Airport Ltd, and for appointing the Chair of Dunedin Stadium Property Ltd.	<ul style="list-style-type: none"> <li>Directors meet regularly to direct and control DCHL's proceedings.</li> <li>In addition to the obligations of the Local Government Act, DCHL is also subject to the requirements of the Companies Act 1993, and all other applicable legislative requirements.</li> <li>Dunedin City Holdings Ltd established an Intern Director Programme in late 2017, with the aim of enhancing governance capability in Dunedin, and broadening the city's pool of emerging directors.</li> </ul>
<b>Gisborne Holdings Limited<sup>100</sup> CCO</b>	Gisborne District Council	Established in 1998, with the intention of running council's commercial investments. It also manages the Airport Lease, Commercial forestry and community housing on behalf of GDC.	Gisborne Holdings Limited owns Tauwharepara Farm, Gisborne Vehicle Testing, Waikanae Beach Top 10 Holiday Park, and council's previously owned commercial property portfolio (including the municipal offices and supporting properties).	Gisborne Holdings Limited (GHL) is managed by an independent board of five directors who are committed to the region – all live, work and play in Gisborne and are driven to provide for the district.	<ul style="list-style-type: none"> <li>GHL's constitution contains a number of provisions relating to the appointment of directors. These include the need for there to be at least three and no more than nine directors at any time, and a limit of one director who can be a member or employee of any Local Authority.</li> <li>GHL's constitution prohibits a director from taking up a job at Council as an employee or as Councillor. All other provisions relating to the appointment of directors are included in this policy.</li> </ul>
<b>Whanganui District Council Holdings Limited<sup>101</sup> (WDCHL)</b>	Whanganui District Council	WDCHL's role is to manage and oversee the Council's commercial assets. They also advise the Council on new investment opportunities and the strategic management of assets. It has been operating since 2002 and is fully owned by Whanganui District Council.	WDCHL owns 100% of the share capital in GasNet Limited and 100% of the share capital of New Zealand International Commercial Pilot Academy Limited.	The Board is comprised of five independent directors. It is worth noting that the current Board Chair is a former Mayor of Whanganui District.	<ul style="list-style-type: none"> <li>The Whanganui District Council undertook a governance review in 2017. As part of the Review, three existing directors were re-appointed and two new directors were appointed.</li> <li>All Directors are appointed to the Boards of GasNet and NZICPA and share oversight of the AirPort and Port commercial activities.</li> <li>Financial proceeds from the assets are then directed by the Council into areas and activities that benefit the whole of the Whanganui community and our district.</li> </ul>
<b>Marlborough District Holding Company<sup>102</sup> CCO</b>	Marlborough District Council	Council Controlled Trading Organisation established to act as a holding company for its commercial entities. 100% owned by Council and in turn owns 100% of Marlborough Airport Ltd and Port Marlborough NZ Ltd and its subsidiaries.	MDC Holdings Limited oversees Marlborough Airport Limited and Port Marlborough NZ Limited.	<ul style="list-style-type: none"> <li>MDC Mayor x1</li> <li>MDC Councillor x2</li> <li>MDC CEO x1</li> <li>Independents x2</li> </ul>	
<b>Invercargill City Holdings Limited<sup>103</sup> CCO</b>	Invercargill City Council	The philosophy is to ensure the trading companies are operating efficiently to ensure that the maximum returns are made as a dividend. The role of Invercargill City Holdings Limited is to provide governance, funding and treasury support to subsidiary companies.	Owns shares in the following subsidiaries: <ul style="list-style-type: none"> <li>Electricity Invercargill Limited (100%)</li> <li>Invercargill City Forests Limited (100%)</li> <li>Invercargill Airport Limited (97.8%)</li> </ul>	The Board is comprised of three councillor/directors and two independent directors. The Chair is one of the independent directors.	In May 2019, Council voted to end elected members being Directors on Invercargill City Council controlled companies. This will come into effect after the elections in October 2019.

<sup>98</sup> Information relating to Christchurch City Holdings Limited was obtained from the CCHL website (<https://www.cchl.co.nz/>) and Christchurch City Council documents (<https://ccc.govt.nz/assets/Documents/The-Council/Plans-Strategies-Policies-Bylaws/Policies/Appointment-and-Remuneration-of-Directors-Policy-2017.pdf>)

<sup>99</sup> Information relating to Dunedin City Holdings Limited was obtained from the Dunedin City Council website (<https://www.dunedin.govt.nz/council/dunedin-city-holdings/>)

<sup>100</sup> Information relating to Gisborne Holdings Limited was obtained from the Gisborne District Council website (<https://gisborneholdings.co.nz/>)

<sup>101</sup> Information relating to Whanganui District Council Holdings Limited was obtained from the Whanganui District Council website (<https://www.whanganui.govt.nz/Your-Council/Whanganui-District-Council-Holdings-Ltd>) and (<https://www.whanganui.govt.nz/files/assets/public/reports/whanganui-district-council-holdings-td-annual-report-2018.pdf>)

<sup>102</sup> Information relating to Marlborough District Council Holding Company was obtained from the Marlborough District Council website (<https://www.marlborough.govt.nz/our-council/mdc-holdings-limited/>)

<sup>103</sup> Information relating to Invercargill City Holdings Limited was obtained from the Invercargill City Council website (<https://icHL.co.nz/>)

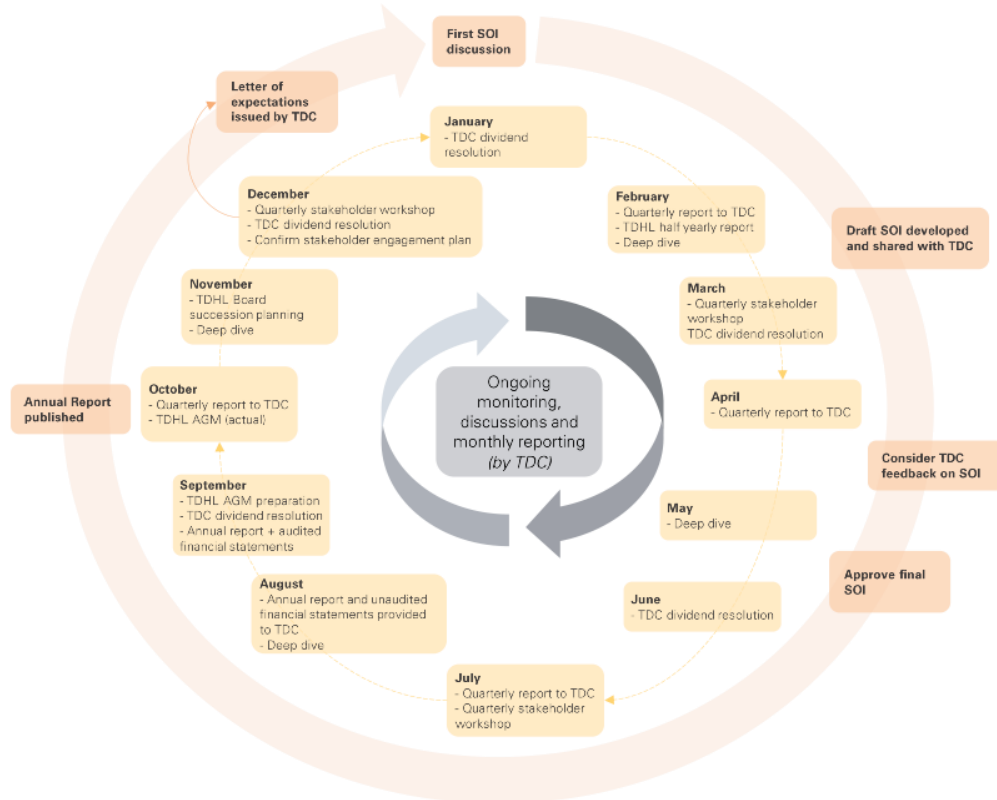






# APPENDIX 4: SUGGESTED WORK PROGRAMME

Figure 3: Suggested work programme for TDHL



**10 Consideration of Urgent Business Items**

**11 Consideration of Minor Nature Matters**

**12 Public Forum Items Requiring Consideration**



**13 Exclusion of Public**

**13.1 Delivery of Tourism and Visitor Promotions Services**

**Recommendation**

That the public be excluded from the following parts of the proceedings of this meeting on the grounds under section 48 of the Local Government Official Information and Meetings Act 1987 as follows:

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Plain English Reason
<p><b>13.1 - Delivery of Tourism and Visitor Promotions Services</b></p>	<p>s7(2)(a) - The withholding of the information is necessary to protect the privacy of natural persons, including that of deceased natural persons</p>	<p>To protect a person’s privacy</p>