



Report 09.260
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Committee Council
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Review of the constitutions for the WRCH Group of companies

1. Purpose

To consider proposed changes to the constitutions for the companies within the WRC Holdings Group (excluding CentrePort Ltd).

2. Significance of the decision

The matters for decision in this report do not trigger the significance policy of the Council or otherwise trigger section 76(3)(b) of the Local Government Act 2002.

3. Background

A company's constitution is a formal document which sets out the rules for running the company. The constitutions for the WRC Holdings Group of companies were initially drafted in 1997 and it is appropriate they are reviewed and updated to modern practice.

Any changes to a constitution must be approved by the shareholder(s) of a company. In respect of WRC Holdings Ltd this will require the approval of the Council. As 100 percent shareholder, WRC Holdings Limited will consider for approval amendments to the constitutions of the five companies it is shareholder of. In accordance with its constitution, WRC Holdings Limited must first obtain the written consent of the Council before it amends the constitutions of the five companies.

A copy of the proposed constitution for WRC Holdings Limited is attached (refer **Attachment 1**). The proposed shareholder resolutions are attached as **Attachment 2**.

The Directors of the WRC Holdings Group are aware of, and support, these proposed changes.

4. Proposed changes

4.1 Management of the company

The current constitutions restrict the management of the WRC Holdings Group by requiring the Board to obtain shareholder approval before authorising a distribution such as a dividend. This approval is not required by the Companies Act 1993 and we believe that this requirement is unnecessary.

4.2 Quorum and casting vote

The current constitutions of the WRC Holdings Group require that a majority of directors be present and that half of that majority be 'Shareholder Representatives' in order to constitute a quorum. Company management feels that the current quorum requirements are onerous and propose that the requirement for a quorum be changed to three directors, two of whom must be 'Shareholder Representatives'.

Company management recommends that the clauses enabling the Chair to have a casting vote be removed. The effect of removing this clause is that resolutions need to be passed by a majority of votes cast.

4.3 Miscellaneous

While reviewing the constitutions, company management has identified a number of references to re-registration. Company management believes that these references should be removed where they are no longer relevant to the companies.

Company management considers that the constitutions should not provide for the companies to make loans to directors. We recommend that this clause be removed.

A number of other minor amendments are proposed to update references to legislation.

5. Legal review

The proposed changes to the constitutions have been reviewed by our solicitors Chapman Tripp.

6. Communication

No communications are necessary.

7. Recommendations

That the Council as sole shareholder of WRC Holdings Limited:

- (1) **Receives** the report.*
- (2) **Notes** the content.*
- (3) **Resolves** by way of the written resolutions included within Attachment 2 to adopt the constitution of WRC Holdings Limited.*
- (4) **Authorises** the Divisional Manager – Corporate and Strategy to affix the Council’s Common Seal to the resolutions of the sole shareholder (Attachment 2).*
- (5) **Consents** to WRC Holdings Limited, as sole shareholder of Pringle House Limited (PHL), Port Investments Limited (PIL) Greater Wellington Infrastructure Limited (GWIL), Greater Wellington Rail Limited (GWRL), and Greater Wellington Transport Limited (GWTL) amending the respective constitutions of PHL, PIL, GWIL, GWRL and GWTL by:*
 - (a) Removing the requirement for the Board to obtain shareholder approval before authorising a distribution such as a dividend;*
 - (b) Replacing the current quorum requirements so that a quorum be changed to three directors, two of whom must be ‘Shareholder Representatives’;*
 - (c) Removing the ability for the Chair to have a casting vote;*
 - (d) Removing the ability for the Company to make loans to Directors; and*
 - (e) Making any such minor amendments that are deemed necessary to update references to legislation and/or provide clarity to the constitutions.*
- (6) **Requests** that the Chair of the Council confirms this consent in writing to WRC Holdings Limited.*
- (7) **Notes** that the amendments to the constitutions of WRC Holdings Limited, PHL, PIL, GWIL, GWRL AND GWTL will be registered with the Companies Office.*

Report prepared by:

Report approved by:

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Attachment 1: Proposed constitution for WRS Holdings Limited
Attachment 2: Shareholder resolutions