

SOUTH WAIRARAPA DISTRICT COUNCIL

15 MAY 2019

AGENDA ITEM C4

JOINING THE LOCAL GOVERNMENT FUNDING AGENCY (LGFA) AS A GAURANTOR

Purpose of Report

To inform councillors of the legal requirements in regard to becoming a Local Government Funding Agency (LGFA) guarantor.

Recommendations

Officers recommend that the Council:

1. *Receive the information.*
2. *Notes the contents of the report*
3. *Confirms Council's intention to join LGFA as a guarantor (noting it has already acceded as a borrower in 2016) as per Council's 3 April 2019 resolution (DC2019/47).*
4. *Delegates authority to the Acting Chief Executive to execute the following documents for the purposes of recommendation 3. above:*
 - a. *Security Stock Certificate (in relation to the Equity Commitment Deed);*
 - b. *Security Stock Certificate (in relation to the Guarantee);*
 - c. *Stock Issuance Certificate;*
 - d. *Section 118 Chief Executive Certificate; and*
 - e. *Officer's Certificate.*
5. *Authorises any two of the Council's elected members to execute the following deeds for the purposes of recommendation 3. above:*
 - a. *Accession Deed to Equity Commitment Deed; and*
 - b. *Accession Deed to Guarantee and Indemnity.*
6. *Delegates authority to the Acting Chief Executive to execute such other documents and take such other steps on behalf of Council as the Chief Executive considers it is necessary or desirable to execute or take to give effect to recommendation 3. above.*

1. Executive Summary

The Council joined the New Zealand Local Government Funding Agency (LGFA) borrowing scheme as a borrower in 2016. In order to increase the amount it may borrow through LGFA, Council now wishes to accede to the LGFA programme as a guarantor and thereby guarantee the indebtedness of LGFA. Any council that borrows in aggregate NZ\$20 million or more from LGFA must be a guarantor.

2. Discussion

In order to accede as a guarantor, Council must execute the following legal documents:

- *Accession Deed to Equity Commitment Deed;*
- *Accession Deed to Guarantee and Indemnity;*
- *Security Stock Certificate (in relation to the Equity Commitment Deed);*
- *Security Stock Certificate (in relation to the Guarantee);*
- *Stock Issuance Certificate;*
- *Section 118 Chief Executive Certificate; and*
- *Officer's Certificate.*

2.1 Documents in the form of deeds should be executed by two elected members.

2.2 The documents and certificates at 2.1, 2.2, 2.6 and 2.7 will be reviewed and approved by Council's solicitors at Simpson Grierson prior to their execution. The certificates at 2.3, 2.4 and 2.5 have been prepared by Simpson Grierson. Simpson Grierson has extensive LGFA experience, both with Council and with other local authorities.

2.3 It is appropriate to have clear authority for the execution of the documents and certificates. It is proposed that authority be specifically delegated to two elected members to sign deeds and to the Acting Chief Executive to sign all other necessary documentation and certificates.

3. Conclusion

Council officers recommend that all legal documents required are executed, that Simpson Grierson act on behalf of SWDC in this matter, and that the Acting Chief Executive be given authority to sign all necessary documentation.

The draft legal documents will be available electronically and on Council's website [Council Agenda and Minutes 2019 | South Wairarapa District Council](#) and available in hard copy on request.

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