

**Council Members**

Chairman Allan Birchfield  
Cr Stuart Challenger (Deputy)  
Cr Brett Cummings  
Cr Peter Ewen

Cr Debra Magner  
Cr Laura Coll McLaughlin  
Cr John Hill



**Emergency Meeting of Council**  
*(Te Huinga Tu)*

**6.00 p.m, Monday, 24 May 2021**

**West Coast Regional Council Chambers, 388 Main South Road, Greymouth**

**and**

**Live Streamed via Council's Facebook Page**

# Council Meeting

## *(Te Huinga Tu)*

### A G E N D A

#### *(Rarangi Take)*

1. Welcome (*Haere mai*)
2. Apologies (*Nga Pa Pouri*)
3. Declarations of Interest
4. **Report**
  - Delegation of Signing Authority

#### **Purpose of Local Government**

The reports contained in this agenda address the requirements of the Local Government Act 2002 in relation to decision making. Unless otherwise stated, the recommended option promotes the social, economic, environmental and cultural well-being of communities in the present and for the future.

#### **Health and Safety Emergency Procedure**

In the event of an emergency, please exit through the emergency door in the Council Chambers. If you require assistance to exit, please see a staff member. Once you reach the bottom of the stairs make your way to the assembly point at the grassed area at the front of the building. Staff will guide you to an alternative route if necessary.

H. Mabin  
**Acting Chief Executive**

<b>Report to:</b> Council	<b>Meeting Date:</b> 24 May 2021
<b>Title of Item:</b> Delegation of Authority	
<b>Report by:</b> Heather Mabin, Acting Chief Executive	
<b>Reviewed by:</b>	
<b>Public excluded?</b> No	

### **Report Purpose**

The purpose of this paper is to outline the steps that need to be formally taken at an Emergency meeting of Council so that the required evidence of delegated authority can be provided to Simpson Grierson.

### **Report Summary**

Simpson Grierson act for Council in the matter of \$2,000,000 debt held with LGFA that is due to be rolled over on 26 May 2021. The rollover of debt is in line with Council's overall strategy for interest rate risk management and is in line with Council's policy and Long-term Plan 2018-2028.

For Simpson Grierson to be able to complete their part of the rollover process, they have requested formal evidence confirming that, in the absence of the Chief Executive, the Acting Chief Executive, Heather Mabin, has the required authority to execute documentation. They have also recommended that signing authority be delegated to the Chair and Chair of Council's Audit & Risk Committee.

To meet this request and in line with their recommendation, an Emergency meeting has been called so that Council can:

- confirm the appointment of Heather Mabin as Acting Chief Executive; and
- confirm delegation of authority to the Acting Chief Executive for the execution of the necessary documents to roll-over existing debt Council holds with LGFA; and
- approve the delegation of signing authority to the Chair Allan Birchfield and Cllr Debra Magner (Chair of Council's Audit and Risk Committee) to execute the Final Terms for debt securities and any other such documents that are required.

### **Draft Recommendations**

**It is recommended that Council in relation to:**

#### **Acting Chief Executive**

1. *confirm that Heather Mabin is the Acting Chief Executive of the Council, with effect from 7 May 2021 until such date as the Council determines otherwise; and*
2. *confirm that, while Heather Mabin is the Acting Chief Executive of the Council, she has all of the delegations, responsibilities and powers of the Chief Executive.*

#### **New Zealand Local Government Funding Agency Limited (LGFA)**

3. *approve the issue a \$2,000,000 zero coupon debt security to LGFA on 26 May 2021 (or such other date as agreed between the Council and LGFA) for six months, effectively rolling over the Council's existing 7 June 2019 \$2,000,000 zero coupon debt security so that the new maturity will be 22 November 2021;*
4. *delegate authority to the Acting Chief Executive to execute the following documents (to give effect to recommendation 3. above):*
  - *Security Stock Certificate (in relation to the security stock to be issued to LGFA);*
  - *Stock Issuance Certificate (in relation to the above Security Stock Certificate); and*

- *Chief Executive Certificate.*
5. *delegate authority to any one or more of the Acting Chief Executive, Chair Allan Birchfield and Cllr Debra Magner (Chair of Council’s Audit and Risk Committee) to execute the Final Terms for the debt securities issued by the Council to LGFA on 26 May 2021 (to give effect to recommendation 3. above); and*
  6. *delegate authority to each of the Acting Chief Executive, Chair Allan Birchfield and Cllr Debra Magner (Chair of Council’s Audit and Risk Committee) to execute such other documents and take such other steps on behalf of Council as the Acting Chief Executive considers is necessary or desirable to execute or take to give effect to recommendation 3. above.*

## Issues and Discussion

### Background

#### Investment and Borrowing Policy

In line with Council’s Investment & Borrowing Policy, Council maintains a spread of maturities for its various borrowings with LGFA. These include;

2,000,000	Rolling six-month Commercial paper maturing 26 May 2021
1,400,000	Maturing 30 May 2022
1,400,000	Maturing 30 May 2023
1,400,000	Maturing 30 May 2024
1,400,000	Maturing 30 May 2025
1,000,000	Maturing 30 May 2026
<b>8,600,000</b>	

#### Acting Chief Executive

Since 29 April Chief Executive Vin Smith has been on personal leave.

On 30 April Heather Mabin was asked to Act as Chief Executive on an Interim basis by Chair Allan Birchfield and Cllr Debra Magner (Chair of Council’s Audit and Risk Committee).

At an extraordinary meeting of the Council on 7 May 2021, the Council resolved that Heather Mabin be appointed as Acting Chief Executive, at a time when there was some uncertainty relating to the transition from her current role. These uncertainties are now resolved and it is now desirable to clarify her appointment and the period to which it applies.

#### New Zealand Local Government Funding Agency Limited (LGFA)

##### *Zero coupon debt security*

The Council is a member of the LGFA borrowing programme as a borrower. Under the LGFA borrowing programme, the Council issued a zero-coupon debt security (Debt Security) to LGFA for \$2,000,000 on 7 June 2019. On the maturity date of the Debt Security, the Council will be required to repay \$2,000,000 (plus an interest amount) to LGFA.

The Debt Security was originally due to reach maturity on 26 November 2019. However, the Council and LGFA agreed (on three separate occasions) to roll-over the Debt Security and the maturity date of the Debt Security is now 26 May 2021. If the Debt Security is not rolled-over for a further period of time the Council will be required to repay \$2,000,000 to LGFA on 26 May 2021.

##### *Conditions precedent to issue of Debt Security*

As a condition precedent to the issue of the original Debt Security in June 2019:

1. the Council was required to issue security stock to LGFA;
2. the Chief Executive was required to sign the following documents:
  - chief executive certificate;
  - officer’s certificate;
  - security stock certificate (in respect of the issue of security stock to LGFA); and
  - stock issuance certificate (in respect of the above security stock certificate); and
3. an authorised signatory of the Council was required to sign the “NZ Local Government Funding Agency Term Sheet” (which set out the terms of the Debt Security).

The Council will need to repeat this process for the new debt security (to give effect to the proposed roll over).

### **Current situation**

#### **Acting Chief Executive**

The Council now intends to reconfirm the appointment of Heather Mabin as Acting Chief Executive of the Council (including the term). The Council also intends to confirm what powers have been delegated to Heather Mabin as Acting Chief Executive of the Council or are otherwise conferred on her.

#### **Zero coupon debt security**

The Council intends to issue a new \$2,000,000 zero coupon debt security to LGFA on 26 May 2021 to, in effect, roll over the Debt Security (as defined in the Background section above) for a further six months.

As a condition precedent to the issue of the new debt security, the Council must issue further security stock to LGFA and the following documents must be signed:

1. Chief Executive Certificate;
2. Security Stock Certificate (in respect of the security stock that will need to be issued to LGFA);
3. Stock Issuance Certificate (in respect of the above security stock certificate); and
4. Final Terms for the debt securities issued by the Council to LGFA on 26 May 2021,

(the latest draft form of the documents noted at 1. – 3. above are attached to this report).

The documents at 1., 2. and 3. above have been prepared by Council’s solicitors, Simpson Grierson. The document at 4. above will be prepared by LGFA, will be provided directly to the Council and will set out the terms of the debt security to be issued by the Council on 26 May 2021.

The Council intends to delegate authority to:

1. the Acting Chief Executive to sign the documents noted at 1. – 3. above; and
2. any one or more of the Acting Chief Executive, Chair Allan Birchfield and Cllr Debra Magner (Chair of Council’s Audit and Risk Committee) to execute the document noted at 4. above.

### **Considerations**

#### **Implications/Risks**

By formally clarifying the appointment of the Acting Chief Executive and the delegation of signing authority to the Acting Chief Executive, the Chair and the Chair of Council’s Audit and Risk Committee, Council mitigates two key risks:

1. the financial risk of needing to repay a significant amount on 26 May; and

2. the legal risk of an unauthorised person signing documents on Council's behalf.

#### **Significance and Engagement Policy Assessment**

There are no issues within this report which trigger matters in this policy.

#### **Tangata whenua views**

Not applicable

#### **Financial implications**

Not applicable

#### **Legal implications**

Council's provision of required evidence to Simpson Grierson and the subsequent execution of the documents in the proper manner is in compliance with the Local Government Act 2002, the Local Government Borrowing Act 2011 and the Financial Markets Conduct Act 2013.

#### **Attachments**

Attachment 1: Chief Executive Certificate

Attachment 2: Security Stock Certificate

Attachment 3: Stock Issuance Certificate

## CHIEF EXECUTIVE CERTIFICATE

I, Heather Mabin, the Chief Executive of West Coast Regional Council ("**Council**") certify as follows:

### 1. RESOLUTIONS

- 1.1 The Council has, by all necessary resolutions duly passed ("**Resolutions**"):
- (a) approved the transactions contemplated by the documents referred to in the schedule to this certificate ("**Documents**"), or delegated sufficient authority to the person(s) who has approved those transactions to give that approval; and
  - (b) authorised execution of the Documents by the Council, or delegated sufficient authority to the person(s) who authorised execution of the Documents to give that authorisation.
- 1.2 The Resolutions remain in full force and effect.

### 2. DUE EXECUTION

The Documents have been or, in the case of the Document specified at paragraph 1 of the schedule to this certificate, will be properly executed by the Council.

### 3. COMPLIANCE WITH THE ACT

For the purposes of section 118 of the Local Government Act 2002 ("**Act**"), in entering into the Documents and performing its obligations under the Documents, and all other documentation contemplated by or entered into in connection with the Documents, the Council has complied with the Act.

### 4. MULTI-ISSUER DEED

- 4.1 For the purposes of clauses 2.2 and 4.5 of the multi-issuer deed ("**Multi-Issuer Deed**") dated 7 December 2011 (as amended from time to time) between various local authorities and New Zealand Local Government Funding Agency Limited ("**LGFA**") and subsequently acceded to by the Council, that:
- (a) all necessary regulatory or statutory authorisations, consents, approvals or licenses in relation to the Council's entry into the Multi-Issuer Deed, the Accession Deed, the Notes Subscription Agreement, the issuance of the Security Stock Certificates issued in respect of the Multi-Issuer Deed and the Securities and the issuance of the Securities from time to time have been obtained and are current and satisfactory;
  - (b) the Council has complied with the conditions specified in clause 2.2 of the Multi-Issuer Deed;
  - (c) the representations and warranties set out in clause 6.1 of the Multi-Issuer Deed are true, accurate and correct in all material respects as of the date of this certificate by reference to the facts and circumstances existing on that date;
  - (d) no Event of Default, Potential Event of Default or Event of Review has occurred and is continuing in relation to the Council and no such event

will occur on or after the Issue Date as a result of the Council issuing the Securities; and

- (e) the Council is in compliance with the Multi-Issuer Deed and the Notes Subscription Agreement.

4.2 Words and expressions defined in the Multi-Issuer Deed have the same meanings in this paragraph 4.

**5. DEBENTURE TRUST DEED**

The Debenture Trustee Deed entered into between the Council and Covenant Trustee Services Limited dated 26 February 2019 is in full force and effect. No amendments have been made to the Debenture Trust Deed since it was entered into.

This certificate is given by me in my capacity as Chief Executive of the Council in good faith on behalf of the Council and I shall have no personal liability in connection with the issuing of this certificate.

**DATED:** 26 May 2021

**SIGNED:**

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Heather Mabin  
Acting Chief Executive  
West Coast Regional Council



## SCHEDULE "Documents"

1. Final Terms for the debt securities issued by the Council to New Zealand Local Government Funding Agency Limited on 26 May 2021 under the Multi-Issuer Deed dated 7 December 2011 (as amended from time to time) between various local authorities and LGFA and subsequently acceded to by the Council ("**Multi-Issuer Deed**").
2. Security Stock Certificate in favour of LGFA in relation to the Council's obligations in respect of Zero Coupon securities issued by the Council during the calendar year from 1 January 2021 to (and including) 31 December 2021 under the Multi-Issuer Deed.
3. Stock Issuance Certificate in respect of the issue of the Security Stock evidenced by the Security Stock Certificate referred to above.

**Stock Certificate No:** 7

**WEST COAST REGIONAL COUNCIL**  
(the **Council**)

**Principal Office:** West Coast Regional Council  
388 Main South Road  
Paroa  
GREYMOUTH 7805

**Stock Transfer Office:** Computershare Investor Services Limited  
Level 2, 159 Hurstmere Road  
Takapuna  
AUCKLAND  
(the **Registrar** and **Paying Agent**)

**Security Stock in respect of the issue of debt securities to LGFA from  
1 January 2021 to (and including) 31 December 2021**

**Security Stock Certificate**

The Security Stock referred to in this Certificate is Security Stock constituted and secured by a debenture trust deed (**Trust Deed**) dated 26 February 2019 between the Council and Covenant Trustee Services Limited and is issued with the benefit and subject to the provisions of the Trust Deed, the conditions endorsed on and/or otherwise applicable to such Stock and this Certificate, including the further conditions (included in the term **Conditions**).

**THIS IS TO CERTIFY THAT**

1. New Zealand Local Government Funding Agency Limited (**Holder**) will, upon registration of the Stock pursuant to the Trust Deed, be the registered Holder of Security Stock (**Stock**) in a nominal amount equal to the aggregate amount, from time to time, of the liabilities, advances and other accommodation or obligations referred to in clause 2 of this Certificate;
2. **SUBJECT** to the provisions of clause 3 of this Certificate, the Stock is issued by way of continuing security for the due payment and satisfaction to the Holder of all obligations and liabilities of the Council to the Holder in respect of the debt securities (being "Zero Coupon Securities" as defined in the Multi-Issuer Deed dated 7 December 2011 (as amended from time to time) between the Holder and various local authorities and subsequently acceded to by the Council (**Multi-Issuer Deed**)) (**Securities**) issued by the Council on issue dates from 1 January 2021 to (and including) 31 December 2021 in accordance with the Multi-Issuer Deed, whether incurred before or after the issue of the Stock and whether matured or not and whether incurred by the Council alone, or jointly, or jointly and severally with others and whether as principal or surety and whether absolute or contingent and shall include, but not by way of limitation, obligations and liabilities in respect of interest (whether capitalised or otherwise compounded or current);
3. **THE** Stock is issued on the special condition that at any date (**Relevant Date**) the Priority Total Amount relating to the Stock is not more than:
  - (a) the lesser of:
    - (i) the aggregate amount (as finally determined) of all the liabilities, advances and other accommodation or obligations referred to in clause 2 of this

Certificate at the Relevant Date, including capitalised interest owing at the Relevant Date but excluding any interest accrued pursuant to the terms of the Securities and owing at the Relevant Date; and

(ii) the nominal amount of the Stock,

(such lesser amount being referred to in this Certificate as the **Priority Principal Amount**); and

(b) as interest, all interest (for the avoidance of doubt excluding capitalised interest) accrued pursuant to the terms of the Securities and payable to the Holder on the amount referred to in paragraph 3(a)(i) above (up to the Priority Principal Amount) but excluding any interest accrued pursuant to the Securities which has been due and owing since a date more than six months prior to the Date of Enforcement,

**AND** upon any distribution of the money available to Stockholders pursuant to the provisions of clause 15 of the Trust Deed the Stock shall entitle the Holder to payment pari passu with the other Stockholders in respect only of their Priority Principal Amount together with interest calculated pursuant to the provisions of paragraph (b) above **PROVIDED ALWAYS** that any amounts owing to the Holder in respect of which this Stock is issued but which do not form part of the Priority Total Amount shall rank for payment subsequent to the Priority Total Amounts of the other Stockholders but pari passu with any amounts referred to in the equivalent to this proviso in Security Stock Certificates held by other Stockholders (and as consistent with clause 6.3.1(c) of the Trust Deed);

all in accordance with the Trust Deed (including the Conditions).

**GIVEN** by or on behalf of the Council this 26<sup>th</sup> day of May 2021

**SIGNED** for and on behalf of  
**WEST COAST REGIONAL COUNCIL**

\_\_\_\_\_  
Acting Chief Executive

**Witness:**

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Full name of witness

\_\_\_\_\_  
Occupation of witness

\_\_\_\_\_  
Address of witness

**NOTES:**

- (1) The Holder is entitled to the benefit of, is bound by, and is deemed to have notice of, all the provisions of the Trust Deed (including the Conditions) (which may be inspected at the Principal Office of the Council).
- (2) This Certificate must be surrendered to the Council or the Registrar before transfer of the whole or any part of the Stock can be registered.
- (3) All sums specified in this Certificate relate to New Zealand currency.
- (4) Words and expressions used in this Certificate and in the Conditions shall have the same definition as in the Trust Deed unless otherwise defined or the context otherwise requires.

## CONDITIONS

1. **SUBJECT** as herein provided, the Holder of the Stock is entitled pari passu and rateably with the holders of all other Stock constituted by the Trust Deed to the benefit of, and is subject to, the provisions of the Trust Deed (including the Conditions).
2. **EVERY** Holder will be recognised by the Council, the Paying Agent and the Registrar as entitled to its Stock and to the Principal Money and interest payable thereon free from any equity, security interest, set-off or cross-claim or counter-claim between the Council and the original or any intermediate holder of the Stock (not being the Holder).
3. **THE** Stock may, to the same extent as the debts, liabilities, advances or other accommodation or obligations to which it relates, be transferred in accordance with the Trust Deed by an instrument in writing in the usual or common form, and the following provisions shall apply:
  - (a) every instrument of transfer must be executed by the transferor in the manner required by the Council or the Registrar or as required by the FMC Act and the transferor shall be deemed to remain the owner of the Stock until the name of the transferee is entered in the Register (as defined in the Trust Deed) in respect thereof;
  - (b) every instrument of transfer must be left at the registered office of the Registrar for registration accompanied by any Certificate in respect of the Stock to be transferred and such other evidence as the Council or the Registrar may require to prove the title of the transferor or its right to transfer the Stock. Upon being satisfied as to the due execution of the transfer, and the due compliance with the provisions of any Act relating to stamp duties, the Registrar will register the transfer in accordance with the Registrar and Paying Agency Agreement (as defined in the Trust Deed) and will recognise the transferee as the Holder entitled to the amount of Stock comprised in the transfer;
  - (c) all instruments of transfer which shall be registered will be retained by the Council or the Registrar, but any instrument of transfer which the Registrar may decline (on reasonable grounds) to register shall be returned to the person who has delivered the same together with the reasons for such non-registration;
  - (d) the Registrar shall not be obliged to, but may, register any transfer of Stock during the period between the Registrar's close of business on the Record Date immediately preceding the date for repayment of the Principal Money (or any part of the Principal Money) or payment of interest and the date for repayment of the Principal Money (or any part of the Principal Money) or payment of interest, or the period between the Registrar's close of business on the date 14 days before any meeting (inclusive of the date on which such meeting is held) of Holders is convened in accordance with the Trust Deed and the date of such meeting. For the purposes of these Conditions, **Record Date** means the tenth day before the relevant date for payment of any Principal and/or interest in respect of any Stock or, if such day is not a business day then such day as determined by the Paying Agent in accordance with its usual practice;
  - (e) no fee shall be charged by the Council for the registration of a transfer;
  - (f) the Council, the Trustee, the Paying Agent and the Registrar will recognise only the Holder as the absolute owner thereof and, except as ordered by a court of competent jurisdiction or by statute, shall not be bound to take notice or see to the execution of any trust whether express, implied or constructive to which any Stock may be subject. The receipt of such Holder, or in the case of joint Holders

the receipt of any of them, of the Principal Money and the interest from time to time accruing due in respect thereof or for any other money payable in respect thereof, or the compliance with the payment directions of the Holders or any one of joint Holders, shall be a good discharge to the Council, the Trustee, the Paying Agent or to the Registrar, as the case may be, notwithstanding any notice it may have whether express or otherwise of the right, title, interest (including security interest) or claim of any other person to or in respect of such Stock, interest or money. No notice of any trust express, implied or constructive, nor of any security interest, shall be entered on the Register in respect of any Stock,

provided that the requirements for transfer in paragraphs (b), (c) and (d) shall not apply to the extent that the Council and the Registrar agree a different method of transfer either with the Trustee or, in respect of a particular transfer, with the relevant transferor and transferee.

## STOCK ISSUANCE CERTIFICATE

I, Heather Mabin, the Chief Executive of West Coast Regional Council (the **Council**) hereby certify that:

1. the issue of Security Stock with a nominal amount equal to the aggregate amount, from time to time, of the liabilities, advances and other accommodation or obligations referred to in the Stock Certificate for that Stock<sup>1</sup> (the **New Stock**) under the terms of the Debenture Trust Deed dated 26 February 2019 (the **Trust Deed**) has been duly authorised by the Council, or has been authorised by a person or persons within the delegated authorities approved by the Council;

2. as at the date of this certificate (but prior to the issuance of the New Stock if it is to be issued on the date of this certificate) the total nominal amount of Stock issued and outstanding under the Trust Deed (showing separately the respective total nominal amounts) is as follows:

(i)	Debenture Stock of:	\$0
(ii)	Security Stock (issued with a fixed nominal amount) of:	\$0

together with:

(iii)	Security Stock (issued with a floating nominal amount), which as at 26 May 2021 amounted to:	\$8,774,959 plus accrued interest
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3. no Enforcement Event has occurred and remains unremedied;

4. for the purposes of section 115(3) of the Act, the loans or obligations secured by the New Stock have been raised for the benefit of all of the Council's district;

5. for the purposes of section 118 of the Act, the Council has complied with the Act in entering into and the performance of its obligations under the Trust Deed, the Registrar and Paying Agency Agreement and all other obligations entered into by the Council in connection with the Council's borrowing and granting security under the Trust Deed, including in respect of the New Stock.

This Certificate is given by me as Chief Executive of the Council in good faith on behalf of the Council and I shall have no personal liability in connection with the issuing of this Certificate.

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<sup>1</sup> The initial nominal amount of the Security Stock issued with a floating nominal amount under this Certificate is \$2,000,000.

Unless otherwise defined or the context otherwise requires, terms with a defined meaning in the Trust Deed shall have the same meaning where used in this Certificate.

**Dated:** 26 May 2021

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Acting Chief Executive  
West Coast Regional Council



**THE WEST COAST REGIONAL COUNCIL**

To: Chairperson  
West Coast Regional Council

I move that the public be excluded from the following parts of the proceedings of this meeting, namely, -

Agenda Item No. 8.

8.1 Confirmation of Confidential Minutes of Extraordinary Meeting 7 May 2021

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<b>Item No.</b>	<b>General Subject of each matter to be considered</b>	<b>Reason for passing this resolution in relation to each matter</b>	<b>Ground(s) under section 7 of LGOIMA for the passing of this resolution.</b>
8.			
8.1	Confirmation of Confidential Minutes Of Extraordinary Meeting 7 May 2021		Clause 7 subclause 2 (a)  Clause 7 subclause 2 (a)  Clause 7 subclause 2 (i)

I also move that:

- Heather Mabin

be permitted to remain at this meeting after the public has been excluded, because of their knowledge on the subject. This knowledge, which will be of assistance in relation to the matter to be discussed.

The Minutes Clerk also be permitted to remain at the meeting.