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| **HIGH LIFE HIGHLAND**  **REPORT TO BOARD OF DIRECTORS**  **22 August 2017** | AGENDA ITEM  REPORT No HLH /17 |

**REAPPOINTMENT OF INDEPENDENT DIRECTORS AND CHANGES TO MEMORANDUM AND ARTICLES OF ASSOCIATION**

**Report by the Company Secretary**

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| **Summary**  This report outlines a proposal to extend the terms of office for Independent Directors, whereby formal planned recruitment would take place every second year, and to other required changes previously discussed by the Board to the Memorandum and Articles of Association.  It is recommended that the Board agree to ask the Highland Council to amend Articles 61 and 112.1 respectively of the Company’s Memorandum and Articles as follows:-   * At the conclusion of *every second* annual general meeting, two of the Independent Directors shall retire from office, but shall then be eligible for re-appointment under article 56. *For the avoidance of doubt, references to the Annual General Meeting in article 61 relates to the biennial Annual General Meeting.* * the chief executive of the company, the principal finance officer *and the head of performance* of the company |

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| **1.** | This report supports the highlighted Business Outcomes from the High Life Highland (HLH) Business Plan:-   1. **To advance sustainable growth and financial sustainability** 2. Deliver the Service Delivery Contract with THC 3. Improving staff satisfaction 4. Improving customer satisfaction 5. **A positive company image** 6. Services designed around customers and through market opportunities 7. Sustain a good health and safety performance 8. A trusted partner |
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| **2.** | **Background** |
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| 2.1 | In terms of the Memorandum and Articles of Association, the question of which Independent Directors are to retire requires to be determined six months or more in advance of the anticipated date of the Annual General Meeting (AGM). |
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| 2.2 | In addition, Directors are reminded that the Head of Resources has now transferred over to deal with the development of Inverness Castle. In terms of the Memorandum and Articles of Association this post-holder is a member of the Finance and Audit Committee. |
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| **3.** | **Proposed Amendments – Article 61** |
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| 3.1 | Article 61 states that if no Independent Director puts himself/herself forward for retiral at the forthcoming annual general meeting, the Independent Directors who are to retire at that annual general meeting shall be the two Independent Directors who have been longest in office since they were last appointed/re-appointed; and on the basis that as between individuals who were last appointed/re-appointed on the same date, the question of which of them is to retire shall be determined by some random method conducted at the board meeting. |
| 3.2 | Consequently, at the Autumn meeting of the Board, Directors would be required to intimate whether or not they are willing to be re-appointed with effect from the conclusion of the AGM with any such declaration being final and conclusive. The two longest serving Director are Ian Ross and Ken Nicol and, unless any other Director elects to retire, Directors Ross and Nicol would be required to intimate their intentions in regard to possible reappointment. For the avoidance of doubt, any Director wishing to return after reaching the end of their term still has to re-apply and be considered against any new applicants. |
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| 3.2 | However, Directors are reminded that at the Board meeting held in September 2016 discussion took place about the merits of extending the terms of Independent Directors so recruitment would take place every 2 years instead of annually, as at present. |
| 3.3 | The Council has now entered the next phase of its Redesign process and the view is that the time is now right to seek to have the Memorandum and Articles of Association revised by Highland Council on 7 September 2017 to appoint independent Directors for a longer period of time. This would in no way prevent any Independent Director from resigning mid term should they so wish. |
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| 3.4 | Extending the terms would provide additional stability and continuity and would compare more fairly with the terms of office of Council Directors. |
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| 3.5 | The proposed amendment would therefore be:-  Article 61 At the conclusion of *every second* annual general meeting, two of the Independent Directors shall retire from office, but shall then be eligible for re-appointment under article 56. |
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| **4**. | **Proposed Amendments – Article 112.1** |
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| 4.1 | Articles 111-113 of the Memorandum and Articles of Association deals with the Finance and Audit Committee. In particular, Article 112 refers to the membership of the Committee and Article 112.1 states that “the chief executive of the company, the principal finance officer of the company and the head of resources of the company” are members of the Committee. |
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| 4.2 | As the Head of Resources is acting as project manager for the Inverness Castle regeneration project it is proposed that reference to this post is deleted from Article 112.1 and that the head of performance be added in its place. The amended Article would therefore read as follows:-  Article 112.1 the chief executive of the company, the principal finance officer *and the head of performance* of the company; |
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| **5.** | **Implications** |
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| 5.1 | Resource Implications - there are no new resource implications arising from the recommendations of this report. |
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| 5.2 | Legal Implications - there are no new legal implications arising from the recommendations of this report. |
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| 5.3 | Risk Implications - there are no new risk implications arising from the recommendations of this report. |

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| **6. Recommendation** |
| It is recommended that the Board agree to ask the Highland Council to amend Articles 61 and 112.1 of the Company’s Memorandum and Articles as follows:-   * At the conclusion of *every second* annual general meeting, two of the Independent Directors shall retire from office, but shall then be eligible for re-appointment under article 56. *For the avoidance of doubt, references to the Annual General Meeting in article 61 relates to the biennial Annual General Meeting.* * the chief executive of the company, the principal finance officer *and the head of performance* of the company |

Designation: Company Secretary

Date: 4 July 2017