

Explanation of Resolutions

RESOLUTION 1 – KVH Foundation Incorporated be the legal entity to enter into the Biosecurity Government Industry Agreement Deed and Operational agreements made under the Biosecurity Government Industry Deed and ask the Minister for Primary Industries to recommend to the Governor-General the creation of a Kiwifruit Industry Biosecurity Readiness and Response levy under section 100ZB of the Biosecurity Act 1993:

Explanatory Information

At last years KVH AGM, a resolution was agreed that “Kiwifruit Vine Health Incorporated be approved and authorised to enter into the Biosecurity Government Industry Agreement Deed on behalf of the New Zealand Kiwifruit Industry and that Kiwifruit Vine Health Incorporated be authorised to conclude and enter into a Fruit Fly Operational Agreement with Ministry for Primary Industries and other horticultural sectors”.

This resolution updates the one approved in 2013, in that it corrects the legal entity of KVH that will be used to enter into the agreement from the KVH Incorporated to the KVH Foundation Incorporated, and also includes the proposal to have a Biosecurity Act levy to fund the kiwifruit industry commitments under the Biosecurity Government Industry Agreement Deed.

The change of legal entity is as a result of the Foundation now being fully operational, and legal and financial advice is that this is the correct legal entity for KVH to use to sign the Biosecurity Government Industry Agreement. MPI have agreed to this change.

At the March 2014 Zespri Roadshows a proposal was presented to growers about how the industries commitments under Biosecurity Government Industry Agreement would be funded, along with the estimate of costs that would be involved. There was strong support for a levy being used to fund this activity, and the NZKGI Forum have unanimously endorsed the proposal. KVH has widely communicated to growers the proposal, including a letter sent out to all growers at the beginning of April seeking feedback on the proposed levy. As the representative on the industry’s views, The KVH Foundation Incorporated will continue to consult growers (through the AGM, SGMs, roadshows and by letter or email correspondence) on matters requiring joint government and industry decision-making under the Biosecurity Government Industry Agreement, including how the Biosecurity Levy will be spent.

There has been no substantive opposition to the approach being proposed, and as the Minister needs certainty that our industry can fund its commitments under the Biosecurity Government Industry Agreement before he approves KVH as being a party to the Agreement, this revised resolution is being presented to KVH members for approval.

The Chairman will invite members to discuss the content of the resolution and invite members to ask any questions. The Chairman will then put the resolution on the voting paper to the meeting. The resolution requires Zespri, NZKGI and 70% of the Registered Suppliers to vote in favour of the resolutions for it to pass.

The KVH Board **recommends** the Members approve the resolution authorising The KVH Foundation Incorporated to enter into the Biosecurity Government Industry Agreement Deed, Operational Agreements made under the Biosecurity Government Industry Agreement Deed and the collection of a Kiwifruit Industry Biosecurity Readiness and Response Levy.

RESOLUTION 2 – Amending the Purpose of The KVH Foundation Incorporated

Explanatory Information

The KVH Foundation Incorporated's Purpose at Clause 2 of its Rules states:

- 2.1 Purpose of Society:** The primary charitable purpose of the Society is to become a Management Agency under the Biosecurity Act 1993 and to do all things required of the Society for the implementation of a National Pest Management Strategy for *Pseudomonas Syringae* pv. *Actinidiae* (Psa) within New Zealand. Other charitable purposes of the Society are: ...

Kiwifruit Vine Health Incorporated has become the Management Agency for the Psa National Pest Management Plan and therefore this reference needs to be removed from The KVH Foundation Incorporated's Purpose. As The KVH Foundation Incorporated is taking on the wider biosecurity role for biosecurity readiness and responses it is appropriate to remove the reference to Psa related matters as the organisation's "primary charitable purpose" and re-categorise it as one of its four charitable purposes.

The Board therefore recommends that The KVH Foundation Incorporated's Purpose be amended to read as follows (strike out removes the current wording and the new wording is underlined):

- 2.1 Purpose of Society:** The charitable purposes of the Society are: ~~is to become a Management Agency under the Biosecurity Act 1993 and~~ (a) to do all things required of the Society for the implementation of a National Pest Management Plan for *Pseudomonas Syringae* pv. *Actinidiae* (Psa) within New Zealand; ...

Existing clauses 2.1(a), (b) and (c) will be renumbered to 2.1(b), (c) and (d) respectively.

The Chairman will invite members to discuss the content of this Rule Change and invite members to ask any questions. The Chairman will then put the resolution on the voting paper to the meeting. The resolution requires Zespri, NZKGI and 70% of the Registered Suppliers to vote in favour of the resolutions for it to pass.

The KVH Board **recommends** the Members approve this Rule Change.

Amendments to the Kiwifruit Vine Health Incorporated and The KVH Foundation Incorporated Rules

Explanatory Information

RESOLUTIONS 3 AND 4 – Changing the Financial Year – Rule 6.5

Rule 6.5 currently states:

Financial Year: The financial year of the Society begins on 1 July of every year and ends on 30 June of the next year.

The Proposed Amendment is to change the financial year to 1 April to 31 March so that Rule 6.5 will read:

Financial Year: The financial year of the Society begins on 1 April of every year and ends on 31 March of the next year.

The Rationale for this proposed amendment is this is a better fit for KVH's funding arrangements because:

- The current financial reporting ending 30 June includes only approximately 50% of each year's levy income and requires significant accruals across that balance date.
- A 31 December balance date would align with the levy year, however the time frame for completing accruals received post December and reconciliations over the holiday season would be problematic.

- The March date aligns with Zespri's year end, allows time to process end of year adjustments and accruals and incorporates a full levy season.

The Chairman will invite members to discuss the content of this Rule Change and invite members to ask any questions. The Chairman will then put the resolutions on the voting paper to the meeting. The resolution requires Zespri, NZKGI and 70% of the Registered Suppliers to vote in favour of the resolutions for it to pass.

The Board recommend that Kiwifruit Vine Health Incorporated's financial year is changed to 1 April to 31 March. The same change is recommended for KVH Foundations Incorporated's Rules to keep both organisations aligned.

RESOLUTIONS 5 AND 6 – Composition of KVH Board

It is proposed that these Changes to the Rules of both organisations take effect from the AGM of both organisations on 26 November 2014.

Clause 4.2

Clause 4.2 will be amended to reduce the number of directors from a minimum of six (and currently seven) to five at the AGM on 26 November 2014. Each of NZKGI, Zespri and the post-harvest suppliers (jointly) will be able to appoint one (currently two each) directors. Government will have the right to appoint one director until the \$50 million PSA Response Fund has been expended. One independent director (increasing to two once Government no longer has the power to appoint) will be nominated by the Board and approved in General Meeting.

Reason for change

The Board considers that it is time to rationalise the Board's composition now that the Psa crisis has abated and wishes to ensure that the Society is operated in a cost effective manner. Appointment of an independent director will allow for an appropriate skills set mix on the Board. As the Society focusses on wider biosecurity, the Board will look to nominate an independent director with appropriate biosecurity knowledge and experience.

Clause 4.4

Clause 4.4 will be amended to provide for the retirement in 2014 of one half of the directors appointed by NZKGI, Zespri and the post-harvest suppliers. The following year and every two years thereafter, the remaining directors appointed by those parties shall retire (but may be reappointed). Each alternate year, the independent director(s) shall retire (but may be reappointed).

Reason for change

This Rule change will give effect to the proposed change in governance structure. The change to the rotation provisions clarifies how the two year rotation will work among the five directors. The Board considers a two year appointment and rotation of directors to be beneficial to retain organisational knowledge and experience on the Board.

New clause 4.5

This new Rule will give directors the power to appoint an alternate director if they cannot be present at one or more meetings.

Reason for change

The Rule puts the Society in line with standard commercial practice and is expedient for holding Board meetings when appointed directors may not be available.

Clause 4.8

This rule change provides that when there is a casual vacancy for an independent director position, the Board may exercise its discretion to call a Special General Meeting to appoint a replacement or carry on with the vacancy unfilled until the next AGM.

Reason for change

This change is a corresponding change arising from the change in board structure.

The Chairman will invite members to discuss the content of this Rule Change and invite members to ask any questions. The Chairman will then put the resolutions on the voting paper to the meeting. The resolution requires Zespri, NZKGI and 70% of the Registered Suppliers to vote in favour of the resolutions for it to pass.

The KVH Board **recommends** the Members approve these Rule Changes.

RESOLUTION 7 – Rule 10.1 of The KVH Foundation Incorporated Rules

This change corrects the incorrect Rule reference in clause 10.1 from 9.5 to 8.5 and replaces the words “clause” with the word “rule” in Rules 3.4(d) and 6.3.

The Chairman will invite members to discuss the content of this Rule Change and invite members to ask any questions. The Chairman will then put the resolution on the voting paper to the meeting. The resolution requires Zespri, NZKGI and 70% of the Registered Suppliers to vote in favour of the resolutions for it to pass.

The KVH Board **recommends** the Members approve these Rule Changes.

Copies of both organisations’ set of Rules with the amendments annotated are available on request from Board Secretary.

RESOLUTION 8 - Approval of KVH Director Technical Skillset Policy

Explanatory Information

Rule 4.6 of both Kiwifruit Vine Health Incorporated and The KVH Foundation Incorporated requires:

In selecting appointees to the Board, each member shall have regard to the ability and willingness of a candidate to make a substantial commitment to the Society and the commercial experience and any relevant background of the appointee to be a Director. The Members recognise the desirability of reaching a suitable balance of skills and experience on the Board of Directors. In this respect, Members agree to take the balance of skills and experience of the whole Board into account in making recommendations and in appointing Directors to the Board.

The Board recommends that members adopt a policy on the KVH Director Technical Skillset to balance the Board’s skills so that it is ideally a mix of: kiwifruit grower knowledge and experience, kiwifruit marketing knowledge and experience, kiwifruit postharvest knowledge and experience, accounting and/or legal knowledge and experience and biosecurity knowledge and experience.

This Policy will be used to guide the Board in making recommendations to the Annual General Meeting for independent directors who are to be elected by the Annual General Meeting of members.

The Chairman will invite members to discuss the content of this resolution and invite members to ask any questions. The Chairman will then put the resolution on the voting paper to the meeting. The resolution requires Zespri, NZKGI and 70% of the Registered Suppliers to vote in favour of the resolutions for it to pass.

The KVH Board **recommends** the Members approve this policy.

General Business

Business to be taken from people in attendance at the meeting provided that no motions are required to be passed of which five days written notice in accordance with the Rules has not been given.