

AGENDA

THE BOARD

Friday 14 June 2019 @ 1pm

Waitara Library and Service Centre

Board Members: Mr Graham Armstrong (NPDC appointee)
Ms Pat Bodger (Te Kōwhatu Tū Moana appointee)
Ms Donna Eriwata (Te Kōwhatu Tū Moana appointee)
Ms Pauline Lockett (NPDC appointee)
Mr Darrel Nicholas (NPDC appointee)
Ms Mawhaturia White (Te Kōwhatu Tū Moana appointee)

Mr Rawiri Doorbar (Te Kōwhatu Tū Moana alternate)
Ms Marion James (NPDC appointee alternate)

1. Welcome (Verbal)
2. Election of Chairperson
3. Terms of Reference
4. Workplan
 - i) Development of draft policies for recommendation to Council
 - ii) Assessment of issues of importance to the Waitara Community
5. Name of "The Board"
6. Next meeting

* Unless otherwise stated, "the Act" in this document refers to the New Plymouth District Council (Waitara Lands) Act 2018.

ITEM 2 ELECTION OF CHAIRPERSON

Background

1. The Act states that the Board must appoint a member of the Board to be the Chairperson.
2. While the Chairperson may be changed at any time, each Chairperson holds office for one year. The Chairperson may be reappointed, but only if all members of the Board agree.
3. A Chairperson who is reappointed cannot hold that office for more than three years.
4. The Board's Terms of Reference, once adopted, will set the process for future election processes.

Recommended process

5. The Act does not articulate a process for electing a Chairperson. When electing Chairpersons of council committees, the Council can choose one of two options. System A involves multiple rounds of voting. System B involves a single round of voting. It is recommended that System B be used. The process is set out below:
 - a) The meeting convenor calls for nominations for Chairperson. Nominations can come from a single person (ie a "mover and seconder" is not required for each nomination).
 - b) Self-nominations are acceptable.
 - c) Once all nominations have been received, the meeting convenor will state the names of the nominees. If there is only a single nominee at close of nominations, the meeting convenor will declare that person the Chairperson.
 - d) The elected Chairperson will then take the Chair for the remainder of the meeting.
 - e) If there are multiple nominees at the close of nominations, the meeting convenor will advise that an election will be held.
 - f) The meeting convenor will ask for a show of hands when calling a nominee's name.

- g) A nominee is entitled to vote for themselves.
- h) The meeting convenor will repeat the process for all nominees.
- i) A nominee will be elected if he or she receives more votes than any other nominee.
- j) If two or more nominees tie for the most votes, the tie is resolved by lot.
 - For two candidates, this will be a coin toss undertaken by the meeting convenor or their nominee.
 - For three or more nominees, this could be a name drawn from the hat by the meeting convenor or their nominee.

ITEM 3 TERMS OF REFERENCE – THE BOARD

RECOMMENDATION

That the Board review the draft Terms of Reference and provide feedback to Te Kōwhatu Tū Moana and the Council.

Background

1. The Council and Te Kōwhatu Tū Moana will adopt the terms of reference for the Board.
2. Both parties are seeking the input of the Board prior to confirming the Terms of Reference.
3. The function of the Terms of Reference is to set out the purpose and scope of the Board, the limits of its authority and the reporting requirements to New Plymouth District Council and Te Kōwhatu Tū Moana.
4. In addition, the draft Terms of Reference include a range of more procedural matters. These are included to assist the Board on more practical matters.
5. Some areas of the draft Terms of Reference are incomplete. The Terms of Reference will need to be reviewed in the medium term. For example, the process for seeking funding applications will, to a certain extent, be influenced by completion of work to determine the issues of importance to the Waitara community.
6. The Act requires the Terms of Reference to provide for the following matters:
 - a) The calling of, and quorum for, meetings of the Board.
 - b) How the Board will be administered
 - c) The procedure relating to meetings of the Board, decision making by the Board, and dispute resolution, and procedures for the Board to refer applications for distributions to the Council for comment.
 - d) How the costs of administering and operating the Board will be approved and met, including the commissioning and costs of any advice to be sought by the Board.
 - e) How applications for distributions from the annual release will be sought and considered.

- f) How the Board will engage in consultation with the Waitara community regarding issues of importance to the Waitara community as required by section 48(2).
7. The terms of reference can only be amended by agreement between the Council and Te Kōwhatu Tū Moana.
 8. The Council must ensure that the terms of reference are:
 - a) Published on the Council's website; and
 - b) Available for inspection at premises of the Council in Waitara. This will generally be by viewing the Council's website at the publicly available computers at the Waitara Library and Service Centre.
 9. Schedule 2 of the Act sets out other matters relevant to the Terms of Reference including:
 - a) Consensus decision making
 - b) Conflicts of interest
 - c) Remuneration and expenses
 10. A draft Terms of Reference is attached. This is a starting point only. The draft is subject to significant change.
 11. Quotes from the Act have been included as red text in the draft Terms of Reference. This explains why those sections have been included in the draft Terms of Reference. The red text will be removed from the final version.

DRAFT TERMS OF REFERENCE

THE BOARD

Tumuaki:	Chairperson:	XXXX (XXXX appointee – elected to Chairperson role by the Members)
Hūanga:	Members:	XX (Te Kōwhatu Tū Moana appointee) XX (Te Kōwhatu Tū Moana appointee) XX (Te Kōwhatu Tū Moana appointee) XX (New Plymouth District Council appointee) XX (New Plymouth District Council appointee) XX (New Plymouth District Council appointee)

The New Plymouth District Council (Waitara Lands) Act 2018 creates an enduring fund for the benefit of the Waitara community, including the Waitara hapū. The purpose of the Waitara Perpetual Community Fund is to improve the social, economic, cultural and environmental well-being of Waitara.

Kaupapa: Purpose

The purpose of the Board is:

- a) To make recommendations to the Council concerning –
 - i) The Council's investment policy for the Waitara Perpetual Community Fund (including recommendations about addressing the matters specified in section 105 of the Local Government Act 2002 for the purposes of section 50(1)(b)); and
 - ii) The policy for determining the amount of annual releases from the Waitara Perpetual Community Fund.
 - b) To determine the distributions from the annual release from the Waitara Perpetual Community Fund for each financial year:
 - c) To perform any other functions that may be conferred on it by the New Plymouth District Council (Waitara Lands) Act 2018.
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STATUTORY POWERS

The Board has all the powers necessary to enable it to perform its functions but must not –

- a) Acquire, hold, or dispose of money or property; or
- b) Borrow any money; or
- c) Purport to lend money or provide any other financial accommodation, indemnity, or guarantee; or
- d) Enter into contracts; or
- e) Employ any person; or
- f) Willingly be a party to any legal proceedings.

Specific matters within the delegated authority of the Board:

1. Renaming of the Board at any time
 2. Election of a Chairperson
 3. Providing to the Council its determinations of the distribution from the annual release from the Waitara Perpetual Community Fund for that financial year. This must be provided before the day that is nine months after the end of each financial year of the Council.
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Procedural matters

The procedure relating to meetings of the Board, decision making by the Board , and dispute resolutions, and procedures for the Board to refer applications for distributions to the Council for comment

1. Board Structure

1.1 Chairperson

- a) The Chairperson is elected by the Board members as set out in clause 1.2 of these Terms of Reference.
- b) The Board may change the Chairperson at any time.

- c) Each Chairperson has a term of one year
- d) The Board may not reappoint the existing Chairperson unless all the members of the Board agree.
- e) A Chairperson who is reappointed may not hold that office for more than three years.

1.2 Voting system for electing a Chairperson

The candidate will be elected if he or she receives more votes than any other candidate. This voting system has the following characteristics:

- a) There is only one round of voting; and
- b) If two or more candidates tie for the most votes, the tie is resolved by lot.

1.2 Membership

The board comprises –

- a) Three members appointed by Te Kōwhatu Tū Moana (who may, but need not be trustees or employees of Te Kōwhatu Tū Moana); and
- b) Three members appointed by the Council. The Council has resolved that elected members, including community board members, and staff are not eligible for appointment to the Board.

2. Quorum

~~The calling of and quorum for meetings of the Board~~

- a) The Board may not make any decision unless there is present a minimum of two members appointed by Te Kōwhatu Tū Moana and two members appointed by New Plymouth District Council.
- b) An appointed alternate member may participate, with voting rights, in place of a regular member who cannot participate in a meeting due to:
 - A vacancy existing on the Board; or
 - A regular member being unable to attend an individual meeting and having tendered an apology.

When attending in this capacity, an alternate member is considered to be a member for the purposes of the quorum.

- c) A meeting may only convene, or continue, when a quorum of members is present, whether or not they are all voting.
- d) A meeting must lapse, and the Chairperson vacate the chair, if a quorum is not present within 10 minutes of the advertised start of the meeting. Where members are known to be travelling to the meeting, but are delayed due to extraordinary circumstance, the Chairperson has discretion to wait for a longer period.
- e) No business may be conducted while waiting for the quorum to be reached.
- f) An alternate member who is not required to participate in place of a regular member or a vacancy:
 - i) May attend meetings of the Board but may not vote on any matter at that meeting.
 - ii) May, with the leave of the Chairperson take part in the meeting's discussions.
 - iii) Is not a member of the public for the purpose of s.48 LGOIMA. Consequently, if the meeting resolves to exclude the public, they may remain unless they are lawfully excluded.

3. Term of office

- a) The Council and Te Kōwhatu Tū Moana may appoint their representative members for a term not exceeding three years.
- b) Any member of the Board is eligible for reappointment.

4. Decision-making

- a) A consensus approach to decision-making must be used whenever possible.
- b) If necessary the Chairperson may determine that a decision may be made by vote.
- c) A member has the right to abstain from voting.

5. Casting Vote

In the event of an equality of vote:

- a) the chairperson does not have a casting vote; and

- b) the motion is deemed to have failed.

6. Conflict of Interest

- a) Each member of the Board must disclose any actual or potential conflict of interest to the Board.
- b) The Board must maintain an interests register.
- c) A member of the Board is not precluded from discussing or voting on a matter merely because the member has an actual or potential conflict of interest, so long as the conflict has been disclosed before consideration of the matter.
- d) A member may abstain from discussing or voting on an issue because of an actual or potential conflict of interest.

7. Local Government Official Information and Meetings Act 1987 and Public Records Act 2005.

The Board is subject to the Local Government Official Information and Meetings Act 1987 (LGOIMA) and the Public Records Act 2005, but the Board is not a committee of the Council or a council organisation.

8. Calling of meetings

The calling of ~~and quorum~~ for meetings of the Board

8.1 Public Notice

Meetings will be called, and publicly notified, in accordance with s46 of the LGOIMA.

For the purposes of this requirement, the meeting notice may be included with other meeting notices issued by the Council.

9. Whakamahi: Operation

The Council will provide adequate administrative support and operating services to the Board.

10. Consultation with the Waitara community

How the Board will engage in consultation with the Waitara community issues of importance to the Waitara community as required by s48(2)

As a minimum, consulting with the community will involve:

- a) Gathering and reviewing existing documents (such as iwi, hapū and marae planning documents and the Waitara Community Board Plan)
- b) Seeking ideas and suggestions on the issues of importance from the community via public notice, community networks and/or social media.
- c) Following preparation of a draft assessment, seeking comment on the draft assessment via public notice, community networks and/or social media.
- d) Holding at least one public meeting, workshop or open day in the Waitara community to discuss the draft assessment.
- e) Holding at least one hui at Ōwae Marae to discuss the draft assessment.

The Board may determine additional consultation methods for each assessment.

11. Expenses

How the costs of administering and operating the Board will be approved and met, including the commissioning and costs of any advice to be sought by the Board

11.1 Meeting fees

- a) The Chairperson and members of the Board will be remunerated for attendance at formal meetings and workshops.
- b) Reimbursement will be made in accordance with the rates sets out in the current Local Government Members (Local Authorities) Determination as determined by the Remuneration Authority as if they were members of a resource consent hearing.
- c) Meeting and workshop fees will be automatically calculated and paid to the member through the Council's payroll system.
- d) Meeting fees will not be paid to alternate members attending formal meetings, unless they are attending in the absence of a member or where a vacancy exists.
- e) Meeting fees may be paid to alternate members attending workshops where the Chairperson has pre-approved their attendance.

11.2 Reimbursement of expenses

- a) The Chairperson and members of the Board will be reimbursed in accordance with the rates sets out in the current New Plymouth

District Council's Rules for the Recovery of Expenses for the following expenses:

- Vehicle mileage
 - Taxis
 - Travel, accommodation and attendance at conferences / seminars / training programmes
- b) The New Plymouth District Council Chief Executive or their nominee must pre-approve any other expenses before they are incurred.

11.3 General

- a) No allowances are paid without deduction of withholding tax.
- b) All claims must be lodged no later than one month after the close of the financial year in which the expense was incurred.

11.4 Approval of Costs

- a) Remuneration and expense claims are approved by the Governance Lead. Receipts for expenses are required.
- b) The Chief Executive (or their nominee) must pre-approve expenditure prior to the Board commissioning advice from an external party, including, but not limited to, the New Plymouth District Council, Te Kotahitanga o Te Ātiawa Trust, Te Kōwhatu Tū Moana, Otaraua Hapū and Manukorihi Hapū.

12. Administration

How the Board will be administered

The Council will provide administrative and operating services to the Board. This includes, but is not limited to:

- Secretarial support
- Policy drafting support
- Funding application analysis

13. Calling for funding applications

How applications for distributions from the annual release will be sought and considered

[this section to be completed following assessment of issues of importance to the Waitara community or a part of the Waitara community]

14. Amendment to Terms of Reference

The terms of reference may be amended by agreement between the Council and Te Kōwhatu Tū Moana.

INTERPRETATION

Alternate Member Means a person appointed by either the New Plymouth District Council or Te Kōwhatu Tū Moana to replace a member of the Board where a vacancy exists, or an apology has been received from a member.

Chairperson Means the person elected by the Board to be the presiding member.

Internet site In relation to the Board, means an Internet site that is maintained by, or on behalf of, the New Plymouth District Council and to which the public has free access

Member Means any person appointed to the Board.

For the purposes of an individual meeting it includes an alternate member when that person is participating due to a vacancy on the Board or an apology being received from a member.

Publicly notified has the same meaning as defined in the Local Government Official Information and Meetings Act 1987

means made known by means of a notice that—

- (a) is made publicly available, until any opportunity for review or appeal in relation to the matter notified has lapsed, on the local authority's Internet site; and
- (b) is published in at least—
 - (i) One daily newspaper circulating in the region or district of the local authority; or
 - (ii) One or more other newspapers that have a combined circulation in that region or district at least equivalent to that of a daily newspaper circulating in that region or district

ITEM 4 WORKPLAN

RECOMMENDATION:

That having considered all matters raised in the report, the Board:

- a) **Note that Council staff will prepare draft policies relating to the investment of the Waitara Perpetual Community Fund and the determination of an annual release from the Waitara Perpetual Community Fund for consideration at a subsequent meeting.**
- b) **Initiate an assessment of issues of importance to the Waitara community, beginning with a collation of existing documents and the formulation of a consultation timeframe.**

Background

S38 of the Act states that the functions of the Board are:

- (a) to make recommendations to the Council concerning—
 - (i) the Council's investment policy for the Waitara Perpetual Community Fund (including recommendations about addressing the matters specified in [section 105](#) of the Local Government Act 2002 for the purposes of [section 50\(1\)\(b\)](#)); and
 - (ii) the policy for determining the amount of annual releases from the Waitara Perpetual Community Fund:
- (b) to determine distributions from the annual release from the Waitara Perpetual Community Fund for each financial year.

In addition, s48(2) requires the Board to commence, no later than 17 June 2019, an assessment of the issues of importance to the Waitara community.

Policy drafting

Council officers will provide assistance with the drafting of the two policies.

The Investment Policy

The investment policy will guide the Council when investing the income from accumulated and future income. At a high level, the Policy will:

- a) Specify the overall investment objectives for the Waitara Perpetual Community Fund.
- b) Detail the Council's investment strategy for the Fund.
- c) Set out the process for reviewing and updating the investment strategy
- d) Detail the process to follow in the event of a breach of the strategy.

Because the Policy will also impact on the Council's wider Investment Policy, the Investment Policy for the fund must include recommendations on the matters contained in s105 of the Local Government Act. These relate to:

- a) The mix of investments; and
- b) The acquisition of new investments; and
- c)
- d) An outline of the procedures by which investments are managed and reported on to the Council; and
- e) An outline of how risks associated with investments are assessed and managed.

The Annual Release Policy

The Council has a statutory obligation to determine the amount of the annual release from the Fund.

The policy for determining the the annual release must be set out in the Council's long-term plan. It must also:

- a) Have the objective of maintaining or increasing the real value of the capital of the Waitara Perpetual Community Fund; and
- b) Take into account a recommendation from the Board on the policy for determining the amount of annual releases.

The Council currently has a similar policy in place for annual releases from the Perpetual Investment Fund.

It is expected that the two policies could be finalised within six months.

Assessment of issues of importance to the Waitara community

To assist with the distribution of the annual release from the Fund, the Board must assess issues of importance to the Waitara community or a part of the Waitara community. This includes social, economic, cultural and environmental issues.

The assessment must be done in consultation with the Waitara community at intervals of no more than 3 years. The first assessment must be commenced no later than 17 June 2019.

The draft Terms of Reference outlines how consultation will be undertaken.

Council officers will coordinate the consultation process. This report proposes the assessment be commenced beginning with the collation of known documents.

It is expected that the assessment may not be finalised for 18 months – 2 years.

Next steps

Policies

Council officers will draft two policies in line with the statutory obligations in the Local Government Act 2002 and the New Plymouth District Council (Waitara Lands) Act 2018.

The two draft policies will be included on a future agenda for the Board.

It is anticipated that the draft policies will take a matter of months to complete.

Assessment of issues

Council officers will begin collating known documents such as the Waitara Community Board Plan, Te Ara Whakamua o Whaitara.

A draft consultation timetable will also be prepared for consideration

ITEM 5 NAME OF THE BOARD

RECOMMENDATION:

That having considered all matters raised in the report, the Board either:

a) Rename themselves as "XXXXX";

OR

b) Consider the matter at a subsequent meeting.

OR

c) Not consider the matter at this time

Background

S37 of the Act states that the Board may choose to name itself and may change its name at any time.

The purpose of this report is to give the Board an opportunity to consider that matter.

ITEM 6 NEXT MEETING

RECOMMENDATION:

That having considered all matters raised in the report, the next meeting of the Board be held on XXXXX.

Background

This report seeks the Board's direction on setting the next meeting.

The Board may wish to determine a meeting schedule for the foreseeable future.