

Annexure 4.

Kaipara Moana Remediation Joint Committee

Terms of Reference

Background

The Kaipara Harbour (Kaipara Moana) is New Zealand's largest harbour and is suffering from decreased and degraded water quality issues. In July 2020 the New Zealand government confirmed funds would be allocated to address freshwater management matters, particularly sediment runoff, with the aim of achieving environmental and associated outcomes for Kaipara Moana and its catchment.

The Kaipara Moana Remediation Joint Committee is set up as a joint committee by the Governing Body of Auckland Council and the Northland Regional Council, in partnership with Kaipara Uri, to coordinate decisions relating to funding allocated to provide environmental and associated outcomes for Kaipara Moana.

The key principles by which the Joint Committee must conduct itself are set out in the Memorandum of Understanding dated 09 October 2020 regarding the Kaipara Moana Remediation Programme.

'Kaipara Uri' is the term taken by Ngā Maunga Whakahī o Kaipara, Te Roroa, Te Uri o Hau Settlement Trust and Te Rūnanga o Ngāti Whātua, when engaging collectively on matters relating to Kaipara Moana and its catchment. Together with Auckland Council and the Northland Regional Council, these are the member parties to the Joint Committee.

Purpose and Responsibilities

The purpose of the Joint Committee is to carry out the decision-making responsibility in relation to the allocation of funds for the Kaipara Moana Remediation programme, including funding from the Crown and councils, and contributions (e.g. from landowners or others) needed to access funding from Crown and councils for remediation works. This includes (but is not necessarily limited) to:

- (a) providing stewardship and governance over the expenditure of the Crown Grant and council funding, as well as contributions from land-owners;
- (b) commissioning and approving remediation budgets and work-plans for the Kaipara Moana Remediation programme;
- (c) assisting councils and Kaipara Uri in any consideration of funding arrangements with the Crown and other parties as may be required;
- (d) formulating and recommending to councils and Kaipara Uri the preferred Kaipara Moana Remediation operations vehicle to undertake operational works as directed by an approved long-term annual remediation budget and work-plan;
- (e) guiding the work of councils and Kaipara Uri on any monitoring and reporting obligations;
- (f) assisting councils and Kaipara Uri in its review and consideration of the Funding Agreement; and
- (g) assisting and supporting signatory entities to the Funding Agreement with any audit and reporting obligations required in respect of the Crown Grant and council contributions.

For the avoidance of doubt the Joint Committee:

- (i) is not authorised to exercise any regulatory or enforcement function of either council under the Local Government Act 2002, the Resource Management Act 1991, or any other Act;
- (ii) must not act contrary to the current long term plan or annual plan of either council, or any NPS or other document binding on or adopted by either Council under the Local Government Act 2002, the Resource Management Act 1991, or other Act; and
- (iii) is not authorised to commit funds or resources of either council beyond the funding and resources already agreed to by them.

Powers (Delegations)

The Joint Committee has all powers of the Governing Body of the Auckland Council and the Northland Regional Council necessary to perform the Joint Committee's responsibilities.

Except the powers that neither Auckland Council nor the Northland Regional Council can lawfully delegate, including those under schedule 7, clause 32(1) of the Local Government Act 2002, being the power to:

- (a) make a rate; or
- (b) make a bylaw; or
- (c) borrow money, or purchase or dispose of assets, other than in accordance with the long-term plan; or
- (d) adopt a long-term plan, annual plan, or annual report; or
- (e) appoint a chief executive; or
- (f) adopt policies required to be adopted and consulted on under this Act in association with the long-term plan or developed for the purpose of the local governance statement; or
- (g) adopt a remuneration and employment policy.

Frequency of meetings: Quarterly or as determined by the Joint Committee.

Membership: The membership of the Joint Committee will be as follows:

- (a) six (6) from the Kaipara Uri entities;
- (b) three (3) elected members from Auckland Council; and
- (c) three (3) elected members from Northland Regional Council.

The members of the Joint Committee shall appoint, by majority decision of the members:

- (a) A Chair (from one (1) of the representatives from the Kaipara Uri entities); and
- (b) A Deputy Chair (from one (1) of the representatives from either Auckland Council or Northland Regional Council).

Members can be reappointed.

Resignation is by written notice to the relevant member party. As a matter of courtesy, each member party will then inform the Joint Committee of discharges, resignations and reappointments.

Ex officio: Whereas the Mayor of Auckland is a member of all committees by virtue of section 9(6) of the Local Government (Auckland Council) Act 2009, the Mayor has agreed not to exercise this right of membership.

Joint Committee discharged on establishment of new entity

This Joint Committee is deemed to be discharged on the establishment of a future Kaipara Moana Body, anticipated to be created by statute with representation from Kaipara Uri, Auckland Council, Northland Regional Council, Kaipara District Council and Whangarei District Council.

Joint Committee not discharged at triennial elections

Pursuant to the Local Government Act 2002, schedule 7, clause 30(7) the councils have resolved that this Joint Committee is not discharged at the triennial elections (if not already discharged due to the establishment of a future Kaipara Moana Body). However, on coming into office following an election, a council may choose to review its appointments to the Joint Committee.

Quorum: The quorum for a meeting of a Joint Committee is:

- (a) half of the members if the number of members of the Joint Committee (including vacancies) are even
- (b) a majority if the number of members of the Joint Committee (including vacancies) are odd

and provided that at least one (1) Joint Committee member is present from each of Auckland Council and Northland Regional Council, and two (2) members from Kaipara Uri.

Voting rights: Decisions will be made by majority. However, the Joint Committee will seek to operate on the principle of consensus decision-making. When decisions are required and put to a vote, the chair or other person presiding at a meeting:

- (a) has a deliberative vote; and
- (b) does not have a casting vote (and therefore in the case of an equality of votes, the act or question is defeated and the status quo is preserved).

Support and attendance: The Joint Committee shall be entitled to invite guests or experts to attend any meeting and, at the request of the Joint Committee, participate in discussions on, and assist the Joint Committee in its considerations.

Any Chair or other member of any of the governing bodies of Kaipara Uri, and any member of the Auckland Council and the Northland Regional Council or of a committee of the Auckland Council and the Northland Regional Council, has, unless lawfully excluded, the right to attend any meeting of the Joint Committee.

Every meeting of the Joint Committee is open to the public, except as otherwise provided by Part 7 of the Local Government Official Information and Meetings Act 1987.

Senior staff of member entities may attend Joint Committee meetings to provide administrative and other associated support to the members.

Review of these Terms of Reference: These terms of reference are to be reviewed at least annually by the Joint Committee. The Terms of Reference may be amended by agreement between the Joint Committee members subject to any other necessary approvals from the member parties.

Standing orders: The Joint Committee will refer to and apply the standing orders of the Council members providing administrative assistance to the Joint Committee. In the event of any inconsistencies between the standing orders and these terms of reference, the terms of reference will prevail.