
Milford Opportunities Project

Terms of Reference –
Milford Opportunities Establishment Board

Introduction

- 1 These terms of reference apply to the Milford Opportunities Establishment Board (the Board). The terms of reference were approved by the Milford Opportunities Ministerial Group (the Ministerial Group) on 3 May 2023 and may be amended in writing by the Ministerial Group.

Background

- 2 Milford Sound Piopiotahi is New Zealand's premier visitor attraction and a world class iconic destination. It is in part of New Zealand's largest National Park (Fiordland) and holds UNESCO World Heritage status. It is revered by Ngāi Tahu as the final masterpiece of Tū Te Rakiwhānoa.
- 3 The current model used to manage recreation and conservation along the Milford Road corridor and Milford Sound Piopiotahi is under stress and new thinking is required to safeguard the World Heritage status, conservation values, cultural values, and the visitor experience.
- 4 The Milford Opportunities Project (MOP, the Project) was established in 2017 as a multi-agency project (between Ngāi Tahu, Department of Conservation, Waka Kotahi New Zealand Transport Agency, Ministry of Business, Innovation and Employment, Southland District Council, Queenstown Lakes District Council, and local businesses) to look at how visitors are managed into the future at Milford Sound Piopiotahi and along the Milford Road corridor.
- 5 The Project has three stages:
 - Stage One: Identification of gaps in knowledge that require further research to inform the development of a Milford Opportunities Masterplan (Masterplan)
 - Stage Two: Development of a Masterplan that recommends changes to enhance conservation and tourism over a 50-year timeframe
 - Stage Three:
 - a) Phase One: Detailed planning and feasibility assessment
 - b) Phase Two: Delivery and operations
- 6 Stage One and Stage Two of the Project are complete: A Masterplan has been developed that recommends significant strategic, statutory, management, commercial, and operational changes to the Milford experience.
- 7 On 28 June 2021, Cabinet¹:
 - Noted the recommendations (attached as Appendix 1) of the MOP Stage Two Masterplan
 - Agreed to the formation of a dedicated Unit and Establishment Board with Dr Keith Turner appointed as Chair and with two Ngāi Tahu representatives, so that the detailed planning and feasibility assessment phase of Stage Three can commence
 - Agreed that a Ministerial Group, comprising the Ministers of Conservation, Tourism, and Transport, would be the decision-maker on Stage Three, Phase One of the Project, including Board representation, the Unit structure and Project deliverables.

¹ DEV-21-MIN-0135, confirmed by CAB-21-MIN-0237, refers.

- 8 As part of the package to support the tourism sector, announced on 6 May 2021, Cabinet approved \$15 million to fund Stage Three, Phase One work for the next two years.²
- 9 The Cabinet paper³ informing the decisions above outlined the focus of the Unit as follows:
- Identifying scale and scope of a work programme
 - Initial improvements that can be made to management and governance and a pathway to governance and management structural reform
 - Identifying legal and statutory dependencies, sequencing, and pathways for recommendations
 - Initiating first projects – feasibility and investigations, cost benefit analysis, pre-delivery design, community and stakeholder consultation, consenting and preparation for necessary infrastructure construction on individual projects.

Organising model for Stage Three, Phase One

- 10 To provide context for the reader, the organising model for Stage Three, Phase One of the Project is summarised below.

The Milford Opportunities Ministerial Group

- 11 The purpose of the Ministerial Group is to exercise the decision-making delegations as directed by Cabinet and to provide early engagement prior to any Cabinet decisions that may be required for the programme.
- 12 The Ministerial Group will receive regular updates from the Board on the progress of the detailed planning and feasibility assessments required to enable the Masterplan recommendations. It will provide advice and direction as required.

The Milford Opportunities Establishment Board

- 13 The role of the Board is set out in paragraph 19, but briefly it is to oversee Stage Three, Phase One of the Project (detailed planning and feasibility testing), in particular to advise the Ministerial Group and oversee the Milford Opportunities Unit (the Unit).

The Milford Opportunities Unit

- 14 The role of the Unit is to undertake detailed planning and feasibility assessments of the recommendations in the Masterplan to support the Board's advice to the Ministerial Group and ensure key enabling components are in place to support implementation. Development of enabling components is subject to prior agreement from the Ministerial Group that assessments identify recommendations as feasible to progress. In progressing its work, the Unit will identify and outline the path it recommends for implementation of the Masterplan's recommendations.

² CAB-21-MIN-0111 refers.

³ Cabinet paper "The Milford Opportunities Project" (23 June 2021) refers.

- 15 The Unit will be led by a Unit Director who will be responsible for running the day-to-day operations of the Unit and leading the delivery of a work programme. The Unit Director will report to the Board on any matters relating to the Project.
- 16 The Unit may include staff seconded from the Department of Conservation and other central or local government partner agencies, who will assist in the development of advice that is independent of their agencies' perspective.

Hosting arrangement

- 17 The Board is neither a statutory entity nor a legal entity. As the Board does not have a legal personality and is unable to contract, all employment, contractual, and financial arrangements with regard to the Unit will be made and held by the Director-General of the Department of Conservation as part of a 'hosting' arrangement. The details of the hosting arrangement will be set out in a Memorandum of Understanding (MOU). In particular the MOU will consider appropriate mechanisms to enable the Unit to effectively manage any procurement, employment and financial matters while adhering to Public Finance Act requirements.
- 18 As the Director-General will have legal responsibility for these arrangements, the Unit Director will report to the Director-General on matters relating to the hosting arrangement MOU.

Milford Opportunities Establishment Board

Purpose, role, key responsibilities, accountability, and timeframe

- 19 The purpose and role of the Board are to:
 - Support effective decision making by the Ministerial Group
 - Enable the Unit to complete the feasibility and planning work necessary for implementation decisions to be made.
- 20 The Board's key responsibilities include:
 - Ensure that Stage Three, Phase One Project outcomes align with the purpose and objectives of the Masterplan⁴
 - Ensure that the Unit works with government agencies, partners, and stakeholders to complete the feasibility and planning work necessary for implementation decisions to be made
 - Ensure that the Unit:
 - Consults appropriately with affected parties and stakeholders on the feasibility of the recommendations and considers this feedback when developing advice
 - Identifies phasing and options for implementation, including alternatives if appropriate
 - Identifies pathways to implement
 - Scopes costs of implementation
 - Considers timelines for delivery
 - Provide advice on phasing and prioritisation across the recommendations

⁴ Masterplan vision, purpose and objectives are found in Appendix 2.

- Provide visibility of risks and assurance to the Ministerial Group that Stage Three, Phase One of the Project is on-track and well managed
 - Monitor the Unit’s management, financial reporting, and performance
 - Deliver advice of sufficient quality and depth to enable robust decision making by the Ministerial Group
 - Report regularly to the Ministerial Group.
- 21 From time to time, the Ministerial Group may provide additional direction to the Board about Board responsibilities and about the parameters within which the Ministerial Group expects the Board to work.
- 22 The Board is accountable to the Ministerial Group, comprising the Ministers of Conservation, Tourism, and Transport, or their delegates, and reports directly to it.
- 23 The Board will deliver Stage Three, Phase One of the Project to the Ministerial Group by 30 June 2024.

Membership

- 24 The Board consists of a Chair; two Ngāi Tahu Members; three skills-based Members with a mix of backgrounds and skills in the environment, conservation, tourism, architecture, economic development and commerce; the Chief Executive of Southland District Council, the Chief Executive of Environment Southland, and one representative each of the Department of Conservation, the Ministry of Business, Innovation and Employment (with respect to tourism), and the Ministry of Transport. Further members may be appointed at the discretion of the Ministerial Group.

Ex officio advisory members⁵

- 25 The Chief Executive of Southland District Council, the Chief Executive of Environment Southland and the representatives of the Department of Conservation, the Ministry of Business, Innovation and Employment (with respect to tourism), and the Ministry of Transport are ex officio members. They are appointed in an advisory capacity and do not have voting rights.
- 26 In addition to the generic role and responsibilities of Members, central and local government Members will:
- a. provide expert advice and opinion on matters relating to Stage Three, Phase One of the Project by:
 - i. leading the development of a coherent organisational view on matters relevant to the organisation they represent and presenting that view to the Board
 - ii. ensuring that their organisation provides complete and comprehensive responses to requests for information or advice from the Board
 - b. during Board discussions, present a view representing their organisation’s position.
- 27 In addition, Members representing central government agencies may be used to:

⁵ An ex officio member is a member of a body (notably a board, committee, council) who is part of it by virtue of holding another office.

- a. provide a single point of contact for Stage Three, Phase One of the Project with the relevant agency
 - b. ensure their agency and staff are briefed and kept up to date on progress
 - c. be available to assist the Board with advice
 - d. manage engagement and media liaison within their own organisations
 - e. provide the Ministerial Group with support and briefings.
- 28 Members representing local and central government agencies may, as part of their substantive role, provide separate advice to their respective Ministers or councils which is based on the perspective of their agency.

Appointment and resignation

- 29 Members are appointed by the Ministerial Group.
- 30 The Ministerial Group may appoint a member as deputy chair.
- 31 Each member's initial term is set out in their appointment letter.
- 32 The terms of each member may be extended by the Ministerial Group to ensure continuity of membership over the next phase of the Project.
- 33 A member continues their appointment after the expiry date of their term until they are either reappointed, the member's successor is appointed, or the Ministerial Group informs the member that their appointment has ended.
- 34 A member may resign by advising the Ministerial Group in writing and sending a copy of the letter to the Board. Resignation will be effective on receipt of the notice, or at a later date specified in the notice.
- 35 The Ministerial Group may, after consultation with the Chair and the person concerned, remove a member from the Board for any reasons that in its opinion justifies the removal. The Ministerial Group will provide, in writing, a reason for the removal and a date for when the removal takes effect.
- 36 The Ministerial Group may, after consultation with the Chair, also disband, alter or reconstitute the Board, in response to any changes to the key tasks that are being addressed.

Remuneration

- 37 Board remuneration will comply with the Cabinet Fees Framework. Rates are based on Group 4, Level 1 daily rates which are set out in the appointment letter from the Ministerial Group. Representatives of local and central government agencies will not receive fees for their involvement.
- 38 The details of what work may be claimed for is set out in the Fees framework (specifically paragraphs 46-52, 79-91).
- 39 Local government and voting members will be reimbursed for actual and reasonable travel, meals, and accommodation costs in the context of what is reasonable for Government activities, and in line with the expectations set out in the Cabinet Fees Framework (see paragraphs 92-94). If travel is required, members are encouraged to seek low-carbon transport options. Procedures for invoicing fees and making expense claims must meet the host agency's reasonable expectations.

Expectations of Board members

- 40 Board members are expected to be fully familiar, and to comply with, the Ministers' expectations that are outlined in the revised Letter of Expectations (to be issued) and in their individual letters of appointment.
- 41 In particular, Members are expected to:
- Exercise strong leadership
 - Act with honesty and integrity
 - Act in good faith
 - Act with reasonable care, diligence, and skill
 - Not disclose, or make use of, information that would otherwise not be available to them
 - Support the Chair to ensure the Board and Unit are working effectively with Ministers, Ngāi Tahu, central and local agencies, and other key strategic partners
 - Provide timely access to resources and capability in support of Stage Three, Phase One of the Project
 - Raise any concerns or risks with the Unit first, and seek to resolve these with the Board, before escalating these to Ministers
 - Not speak publicly on the Project unless agreed beforehand with the Chair.
- 42 In addition, the Chair is expected to be responsible for:
- Exercising strong leadership of Stage Three, Phase One of the Project and Board
 - Liaising with the Ministerial Group and the member advisory agencies
 - Ensuring that the Board and Unit work effectively with Ministers, government agencies and strategic partners
 - Setting and managing the agenda for Board meetings
 - Managing meeting procedures and guiding discussions within generally accepted New Zealand governance practice
 - Promoting and providing oversight of the Board's compliance with this Terms of Reference, and Board policies and processes
 - (With the Unit Director), managing external relationships and communications as agreed by the Board to ensure that Stage Three, Phase One of the Project maintains one unified voice and is the one source of truth for the Project
 - Providing input for reports, correspondence, and Ministerial briefings on behalf of the Board and in liaison with the Unit
 - Signing out the Board's advice to the Ministerial Group.
- 43 Collectively, the Board must ensure it works with other parties in the manner outlined in the Letter of Expectations dated 8-April-2022
- 44 It must also ensure that it carries out its work in the manner and to the standards outlined in the Letter of Expectations dated 8-April-2022
- 45 When developing its advice, the Board must bear in mind Cabinet decisions about the Stage Three, Phase One work set out in DEV-21-MIN-0135 (confirmed by CAB-MIN-0237) (attached as Appendix 3).

No surprises

- 46 The Board will ensure there are no surprises for Ministers. At a minimum, Ministers expect:
- The Board to be cognisant of when their decisions and actions may impact other government policy
 - To be informed well in advance of any material or significant events, transactions, and other issues relating to the Board that may be contentious or could attract public interest, whether positive or negative
 - To be informed of any issues that threaten confidence in the Project, and the Board's efforts to resolve or manage them.

Board procedures

Board meetings

- 47 Meetings of the Board are expected to be held bi-monthly or as necessary, and reasonable notice of meeting dates will be given to the members of the Board.
- 48 Members are expected to attend meetings in person. However, as a last resort, members may attend meetings virtually via a suitable video enabled platform. Board meeting dates are to be confirmed by the Board. If necessary, meetings may also be held outside of the confirmed dates.
- 49 Minutes of each meeting will be taken noting the key discussions points and actions agreed. Minutes of Board meetings will be made available to the Ministerial Group on request.
- 50 The Chair will ensure that meetings are conducted in a professional, inclusive, and expedient way to maximise the effectiveness of the Board.
- 51 Members are expected to make every effort to attend all Board meetings and devote sufficient time to become familiar with the affairs of the Board and the wider environment within which it operates.
- 52 Members unable to attend a meeting will advise the Chair at the earliest date possible and confirm in writing to the Board secretary. If a member is unable to attend a meeting, they are expected to make their views known to the Chair and other members as appropriate, prior to the meeting.
- 53 If an ex officio advisory member is unable to attend a meeting, the agency that the member represents may send a substitute.

Quorum

- 54 A quorum is the smallest number of people needed to be present at a meeting before it can officially begin and before official decisions can be taken.
- 55 At any meeting, the quorum is four voting Board members.

Voting

- 56 Each voting member has one vote. It is the job of the Chair to seek consensus and to enable sufficient discussion for this purpose.
- 57 Where a consensus cannot be reached, a majority vote will apply.

- 58 Where there is no majority, a split decision will be recorded.
- 59 The decisions of the Board are valid regardless of the mode of meeting (in person or virtual).

Addressing differences

- 60 Where a difference of opinion between members becomes apparent, the principle of 'good faith collaboration' applies.
- 61 The Board is to ensure that any difference of opinion is openly explored to enable alternative solutions that deliver the vision and benefits of the Masterplan to be explored.
- 62 Where differing views cannot be resolved, they should be highlighted to the Ministerial Group along with the rationale for the decision and/or recommendations.

Observers

- 63 Observers may attend Board meetings with the prior approval of the Chair. The Chair must ensure this does not compromise the confidentiality of Board matters.

Board reporting

- 64 The Board will report transparently at least quarterly to the Ministerial Group.
- 65 The Ministerial Group may request additional reports, as necessary. The Board will report on rapidly emerging issues as they arise, in line with the expectation of no-surprises set out at paragraph 45.
- 66 The Board will provide the Ministerial Group with high quality information and analysis on:
- Performance / Progress
 - Implications
 - Risks
 - Opportunities
 - Budgetary implications of expenditure
 - Emerging issues and what major actions the Board is considering
 - Any other relevant matters.
- 67 Board reports should transparently reflect deviations of perspective across partners, agencies, and stakeholders. Where differing views cannot be resolved, they should be highlighted to the Ministerial Group along with the rationale for the decisions and /or recommendations.
- 68 The Board's advice to the Ministerial Group may be published online, in full or in part, to enhance transparency. The Board's advice will not be published until after it has been considered by the Ministerial Group and the Ministerial Group has approved publication.

Conflicts of interest

- 69 The Board is responsible for ensuring that conflicts of interest are properly managed. The Chair is responsible for maintaining a register of declared conflicts of interest. Members are responsible for declaring any actual, potential, or perceived conflicts of interest to the Chair as soon as the conflict arises.

- 70 Each actual, potential, or perceived conflict of interest will be recorded in the register, along with the course of action taken to manage it. The register will be updated at each Board meeting prior to the commencement of business.
- 71 The declaration of Interest may include business interests, family relationships, or personal associations. The Auditor General has published a good practice guide⁶ on managing conflicts of interest in the Public Sector.
- 72 Ex officio members who do not have a vote and whose role is advisory may participate in discussions about issues in which they have declared a conflict related to their agency.

Confidentiality

- 73 Information received as a Board member is confidential. Board members must ensure this confidentiality is maintained. Ex officio members may share information within their agency to the extent this is necessary to carry out their advisory role. Ex officio members must ensure that the confidentiality of any information shared within their agency is maintained.
- 74 Board information, including correspondence or papers, may only be released with the approval or at the direction of the Ministerial Group, or as otherwise required by law.

Official Information Act requests

- 75 All information held by the Board is deemed to be held by the Minister and is subject to the Official Information Act 1982.
- 76 That information includes, but is not limited to:
- Board papers, briefings, and minutes
 - Reports
 - Email, text, and telephone communications to and between members, Unit staff and officials related to Board matters.
- 77 The Board will ensure that protocols are in place to ensure that the Unit responds in a lawful manner to any Official Information Act requests the Board may receive, and that Ministers are advised in advance of information being released. It is contemplated that this will usually be via the agency of the respective Minister(s).

Records

- 78 Information held by the Board may also be subject to requirements under other legislation, including the Privacy Act 2020 and the Public Records Act 2005.
- 79 The Board will ensure the Unit complies with the host agency's business processes and protocols to ensure the Board and the Unit comply with all relevant privacy, security, and legislative requirements.

Intellectual property

- 80 The intellectual property of each member prior to their appointment on the Board shall remain the property of that member.
- 81 All intellectual property created or developed by the Board shall be owned by the Crown.

⁶ <https://oag.parliament.nz/2020/conflicts/docs/conflicts-of-interest.pdf>

Media policy

- 82 Only the Chair or their delegate is authorised to comment publicly on the affairs and policies of the Board. Before making public announcements, the Chair must consider whether the matter warrants advice to the Ministerial Group in advance as required by the expectation of no surprises set out at paragraph 45 of this Terms of Reference. The Ministerial Group may advise the Board not to make any public comment.
- 83 Where the Chair has delegated comment to another member, the member must publicly support the course of action decided by the Board. If unable to do so, the member must decline the delegation to comment.
- 84 The Chair or members will not support any action or public statement that is derogatory or in any way damaging to the Board or the Ministerial Group.
- 85 Ex officio members may comment to the media on any matter in their official capacity, as long as they do not attribute the comment to the Board or imply that they are speaking on behalf of the Board.

Provision of business or professional services by members

- 86 Members may not provide business or professional services to the Unit, unless the Ministerial Group agrees that there are overriding reasons for a member to carry out a consulting assignment and gives written approval to do so, noting that the policies and procedures of the hosting agency must be complied with.