



**This document is intended as a guide to assist the Selection Body in selecting members for the Statutory Board promoting issues of significance for mana whenua groups and Mātāwaka of Tāmaki Makaurau. The information in this guide is drawn primarily from the Local Government (Auckland Law Reform) Act 2009.**

Outlined in this guide are the Selection Body's purpose, the steps involved in selecting Board Members, and the role of the Minister of Māori Affairs in the process. The guide further explains the Board's purpose, functions and powers; factors which must guide the Selection Body in selecting members for the new Board.

This guide uses the following terms, as they are used in the Local Government (Auckland Law Reform) Act 2009:

- "The Act" means the Local Government (Auckland Law Reform) Act 2009.
- "The Council" means the new Auckland Council.
- "The Board" means the new Māori Statutory Board that is being set up to advise the Council on issues relating to Māori in Auckland.
- "The Selection Body" is the group of mana whenua group representatives who will choose members for the Board.
- "Mandated representative" means the member of a mana whenua group who was chosen to be the representative of that group on the Selection Body.
- "Mana whenua" means an iwi or hapu that:
  - has historic and continuing mana whenua in an area at least partly within the Auckland Council boundaries, and
  - within the Auckland Council boundaries, the iwi or hapu is either:
    - a mandated iwi organisation under the Māori Fisheries Act 2004, or
    - the subject of a Treaty of Waitangi settlement, or
    - confirmed by the Crown as holding a mandate to negotiate a current Treaty of Waitangi claim
- "Mātāwaka" means Māori who live within the Auckland Council boundaries, and are not in a mana whenua group.
- "Tāmaki Makaurau" means the region within the Auckland Council boundaries for the purposes of the Act.

Note: the term "Māori in Auckland" is also used in this guide, and includes both mana whenua and Mātāwaka in Tāmaki Makaurau.

#### **INFORMATION ABOUT THE SELECTION BODY**

**When will the Selection Body be established?**



The Selection Body is established when the chosen mana whenua group representatives meet for the first time.

### **How are members of the Selection Body chosen?**

This is a two-step process.

First, the Minister of Māori affairs will give notice to the mana whenua groups in the Auckland region that each group needs to select a person to be its mandated representative on the Selection Body. The notice can be written or electronic.

The Minister of Māori Affairs will give notice to mana whenua groups who:

- have historic and continuing mana whenua in an area wholly or partly within the Auckland Council boundaries, and
- within the Auckland Council boundaries, are one or more of the following:
  - a mandated iwi organisation under the Māori Fisheries Act 2004, or
  - the subject of a Treaty of Waitangi settlement, or
  - confirmed by the Crown as holding a mandate to negotiate a current Treaty of Waitangi claim.

The notice will state the time by which each group must give the Minister the name of the group's chosen representative for the Selection Body.

Second, a mana whenua group that receives the notice may choose one person to be its mandated representative on the Selection Body.

### **What must the Selection Body do?**

The sole function of the Selection Body is to appoint members to the Statutory Board promoting issues of significance for mana whenua groups and Mātāwaka of Tāmaki Makaurau ("the Board").

The Selection Body must appoint the initial Board Members on, or before, 1 November 2010. This is so that the Board is ready from 1 November to carry out its functions.

In selecting Board Members, the Selection Body must be guided only by the Board's purpose, functions and powers.

The Selection Body will develop its own processes and procedures for appointing the members of the Board, except that they will be required to follow some key minimum requirements that are set down in the Act.

### **Selecting Board Members**

The Selection Body will choose two Mātāwaka representatives, and seven mana whenua representatives to be Members of the Board.

In appointing members to the Board, the Selection Body:

- must be guided only by the Board's purpose, functions, and powers; and
- does not have to take directions from the Auckland Council or any of its committees or councillors; and
- may seek advice from any source it considers appropriate.

The Selection Body must ensure that their proposed Board Members meet three criteria, listed below.

### **Criteria for Board Members from the Act**

To be a Board Member, a person must meet three criteria:

- The person must be a natural person (i.e., not a company),
- He or she must consent to being appointed to the board, and
- He or she must not be disqualified by one of the reasons below.

A person will be disqualified from being a Board Member if he or she is any of the following:

- Under 18 years old,
- An undischarged bankrupt,
- Prohibited from being a director, promoter or manager of a company (under the Companies Act 1993, Securities Act 1978, Securities Markets Act 1988, or the Takeovers Act 1993),

- Under the Personal and Property Rights Act 1988:
  - Is subject to a property order, or
  - Has had a personal order made against him or her, that negatively reflects on his or her:
    - Competence to manage his or her own property, or
    - Capacity to make or communicate decisions about his or her welfare.
- Subject to a property order under the Personal and Property Rights Act 1988
- Someone who has had a personal order against them under the Personal and Property Rights Act 1988,
- Convicted of an offence punishable by a prison term of 2 years or more, or sentenced to imprisonment for any offence,
- A current MP, Auckland councillor, or local board member, or
- Disqualified under any other Act.

### Skills to look for in candidates

The following are examples of skills that the Selection Body may look for in candidates:

- Good knowledge of the issues facing Māori in the Auckland region,
- The ability to communicate clearly, both orally and in writing,
- The ability to take a wide perspective on issues,
- Common sense, integrity, and a strong sense of ethics,
- Financial literacy,
- Strong ability for critical analysis,
- The confidence to ask questions, and
- The ability to work in a team.

The Act does not require that candidates possess these skills; however they are useful skills for Board Members to possess.

### Mātāwaka representatives

To choose the two Mātāwaka representatives for the Board, the Selection Body must follow a process that, at the least:

- includes public notification of the process that the Body intends to use,
- gives an opportunity for nominations to be received, and
- requires the Selection Body to take into account the views of Mātāwaka when choosing representatives.

All other aspects of the selection of Mātāwaka representatives would be the responsibility of the Selection Body.

### Mana whenua representatives

The Selection Body will establish its own processes for choosing mana whenua representatives. This is because the Selection Body represents the collective mana whenua interests.

The Selection Body may choose members of the Selection Body to be Board Members, but is not required to do so. For example, the Selection Body may decide that it would be inappropriate to appoint members from amongst their own number to the Board, and could resolve to only appoint to the Board people from outside the Selection Body.

### Steps to appoint proposed Board Members

Before being appointed, people chosen by the Selection Body as proposed Board Members must give the Selection Body written certificates stating that they are not disqualified from being a Member under the Act, and that they consent to being appointed to the Board.

Once decisions on Board membership have been made, the Selection Body must give the chosen Board Members a certificate of appointment, which:

- States the date on which the appointment starts, and
- Is signed by at least two members of the Selection Body.



The Selection Body must give copies of the certificates of appointment to the Auckland Council, and the Minister of Māori Affairs.

Under the new provisions that establish the Statutory Board, the Selection Body must have appointed Board Members on or before 1 November 2010.

In future, the Selection Body must have completed the selection of Board members at least two months before the end of the incumbent Board Members' terms of office.

### **What is the role of the Minister of Māori Affairs?**

The Minister of Māori Affairs plays a supporting role in the Selection Body and Board processes.

The Minister's role is to:

- Receive a certificate for each appointed Board Member,
- Receive notification if the Board appoints members, or creates or changes its name,
- Accept resignations from Board Members or Selection Body members,
- Receive notification if the Board removes a Board Member, and
- Ensure that mandated mana whenua group representatives are appointed to the Selection Body. The Minister does this by:
  - Giving notice to mana whenua groups in the Auckland Region that they need to choose a mandated representative to be on the Selection Body,
  - Receiving notice of the name of the mandated representative for each mana whenua group, and
- Step in, where there is a dispute within either the Selection Body, or the Board, or between the Selection Body and the Board, and to take the necessary steps to resolve the dispute.

### **Resigning from the Selection Body**

If any person appointed to the Selection Body resigns to the Minister of Māori Affairs, the Minister must notify the mana whenua group, and ask the mana whenua group to nominate a replacement.

### **INFORMATION ABOUT THE BOARD**

The Board is an independent statutory body; it has its own specific purpose, functions and powers. The Board is not required to take directions from any other person or agency.

### **Establishment of the Board**

Section 67 of the Local Government (Auckland Law Reform) Act 2009 establishes the Board.

### **What is the Board's purpose?**

The purpose of the Board is to assist the Auckland Council to make decisions, perform its functions, and exercise its powers.

To do this, the Board is to:

- Put forward the cultural, economic, environmental, and social issues that are significant for mana whenua groups and Mātāwaka in Tāmaki Makaurau, and
- Make sure the Council complies with statutory provisions that refer to the Treaty of Waitangi.

### **What does the Board do?**

#### *Achieving the Board's purpose*

The Board's actions must be guided by its purpose and functions, and must not go against them.

To help the Board achieve its purpose, the Board must develop a list of issues that are significant to Māori in Auckland. The issues should be ranked by priority, and must be kept up to date. This list of issues will guide the Board in developing its work programme, and will provide





a way to ensure that the Board maintains an awareness of the issues of significance to Māori in Auckland.

The Board must also work with the Auckland Council to achieve the Board's purpose. To do this, the Board must:

- Give advice to the Auckland Council about issues that affect Māori in Auckland, and
- Work with the Auckland Council to create suitable documents and processes to help the Council meet its statutory obligations to Māori in Auckland.

The Board and the Auckland Council must also meet at least four times each year to discuss the Council's performance of its duties.

### **Participation in Auckland Council committees**

The Board must choose up to two people to appoint as members on each of the Auckland Council's committees that deal with the management and stewardship of natural and physical resources. The Council may also request that the Board appoint a Board Member to sit on other Auckland Council committees.

When appointing Board Members to Auckland Council committees, the Board must first ask the Auckland Council what skills and experience that the Council would like the appointed persons to have. The Board must take these views into account.

### **What powers does the Board have?**

To help the Board carry out its purpose, the Board has the power to establish committees it thinks necessary, seek any advice it requires to fulfil its purpose (e.g. legal, financial, environmental advice etc.), and consult anyone it thinks will be helpful.

For example, the Board may choose to establish committees to deal with particular issues, or to deal with issues in a particular location. The Board is able to obtain the expert advice it needs to ensure that it can carry out tasks such as providing advice to the Auckland Council.

The Board also has any other powers it needs to carry out its purpose.

### **What obligations do Board Members have?**

Members of the Board, when they are acting as members of the Board, must act in the interests of achieving the Board's purpose, and must not act in any other interest.

Board Members also share the Board's responsibility for complying with the Public Finance Act 1989.

### **What obligations does the Board have?**

#### *Obligations under the Public Finance Act 1989*

As a public entity, the Board is under the obligations in the Public Finance Act 1989. Amongst other things, these include:

- Requirements relating to how the Board's money may be spent, and
- Financial and non-financial reporting obligations.

These obligations are also the responsibility of the Board Members.

#### *Meetings*

The Board must hold its first meeting no later than 15 November 2010.

In the first meeting, the Board must appoint a member to act as a chairperson and a member to act as a deputy chairperson. The people chosen will hold those positions for three years, or until Auckland Council polling day, whichever comes first. Members may be reappointed to the position of chairperson or deputy chairperson more than once.

The Board must hold six meetings a year, and can hold as many more as it needs to be able to carry out its purpose. Notice of meetings must be given by the chairperson to each member at least five days before a meeting. Members have the right to attend all meetings, but can waive the requirement to give him or her notice, and may request leave of absence from a meeting.

Meeting minutes must be kept and approved. Quorum for a meeting is five members, including at least the chairperson or deputy chairperson. The Board may invite any advisers

to the meeting that it considers necessary to make the meeting more efficient and productive.

The Board may set rules and procedures to make sure that its decisions are reached by consensus and in good faith.

Members are bound by the decisions made by the board and must not take steps to undermine the decisions.

#### *Reporting requirements*

The Board must publish an annual report, including:

- the dates and times of the board's meetings in the financial year,
- a summary of the board's activities in the financial year, and
- anything else that the board wants to put in it.

The Board must give copies of the report to the Auckland Council and the Selection Body.

#### **Other information**

##### *The Board is independent*

The Board is a body corporate independent of the Auckland Council, the members of the Board, the selection body, and the mana whenua groups represented on the selection body. The Board is not required to accept direction from any person.

##### *Costs of selecting members of the Board and Selection Body*

Individual mana whenua groups are to bear the costs involved with choosing their own mandated representatives for the Selection Body.

The Auckland Council will bear the costs of the Selection Body's process for selecting Board Members.

##### *Board funding*

The Auckland Council must meet the reasonable costs involved in establishing the Board's committees, the Board's operations, and getting advice.

The Board must make its first funding agreement with the Auckland Council within three months of the Board's

establishment. This agreement must be negotiated in good faith, and must include:

- The amount of money and level of servicing the Council is to provide to the Board,
- The Board's work plan for the year, and
- Provisions about Board Members' fees and expenses.

##### *Board Members' fees and expenses*

The Auckland Council must hire an independent expert to determine what the appropriate fees are to pay the chairperson, deputy chairperson, and other Board Members. The independent expert must consider the Board's purpose, functions, and powers, and must make a recommendation to the Board. The Auckland Council must follow the independent expert's advice.

Until the Council has decided what fees to pay, Board Members must be paid a similar amount to that which a specialist advisor to the Auckland Council would receive.

Each Board Member is entitled to be reimbursed for actual and reasonable travelling and other expenses incurred in performing his or her functions and duties as a Board Member.

##### *Naming the Board*

The Board may choose its name, and may change its name at any time. The Board must notify the Minister of Māori Affairs and the Auckland Council as soon as practicable.

##### *Liability of Board Members*

A Board Member is not liable for anything done or omitted in good faith in the performance of the board's functions or the exercise of its powers.

##### *Ending Board membership*

Board Members hold their office for three years, unless they are removed or resign before then. Members may be reappointed.

To resign, a Board Member must give four weeks' notice to the Board and the Minister of Māori Affairs. If a Board Member resigns, the Board must replace that Member,







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unless there is less than a year remaining until the next Auckland Council election, in which case the Board may choose not to replace the Member. A replacement Board Member will hold the office only for the time remaining until the next Auckland Council election.

The majority of the Board may remove a Board Member appointed by the Selection body or a member appointed to an Auckland Council committee. The Board must have just cause. This includes: misconduct, inability to perform the functions of office, neglect of duty, and serious breach of any of the collective duties of the board or the individual duties of members. Removal of the member must be made through notice to the member, with copies to the Minister of Māori Affairs and the Auckland Council. Notice must state the reasons for the removal, and the date removal takes effect (not earlier than the notice is received).

A Board Member is not entitled to any compensation for ceasing to hold office as a member.



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