

Darryl Ward

From: Allan Freeth
Sent: Tuesday, 14 December 2021 11:56 am
To: Executive Leadership Team
Subject: Two More Things - IMPORTANT

Afternoon now.

- The Chair and I are keen to develop a stronger co-governance model for the EPA between the Board and NKTT. This has arisen from discussions between Rob and Mavis, and my changed position in relation to the EPA and 3,30, 300 year strategy, and less so from judgements such as TTRL, although that gives us strong justification. Clearly there will be legal and other constraints, but nothing stopping us operationalising such an approach with tikanga, mātauranga, and standard governance disciplines. I believe this is exciting and could be quite 'cutting edge' for a Crown Entity given our strong foundations in He Wheuet Marama.
- Kevin Millar will join the Investment Committee as the independent member.

Thanks Allan

Allan Freeth
Chief Executive

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Darryl Ward

From: Allan Freeth
Sent: Tuesday, 18 January 2022 10:12 am
To: Erica Gregory; Susanne Frances
Cc: Mavis Mullins; Rob Campbell; Carol-Anne Skjellerup
Subject: A New Way of Working?

Good morning

I am in the process of a rewrite of our 3,30, 300 strategy for our year start, and as a basis for the Board's upcoming day workshop that will involve NKTT.

Myself, Rob, and Mavis have been talking around the concept of operationalising greater involvement and/or co-governance of the EPA between NKTT and the Board – I am excited by this concept and feel we could lead the way in government, like we have with mātauranga..

Could you both draft up a description of how this could look for me to incorporate into the strategy document I am creating. It probably needs some thinking. But does not have to be very long – I suspect much of the sentiment and philosophy of joint governance will come from the Māori perspective not Pakeha.

This will be a draft for the input of Board and NKTT.

I will need it ASAP – sorry – end of next week at the latest.

Thanks Allan

Allan Freeth
Chief Executive

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Darryl Ward

From: Erica Gregory <Erica.Gregory@epa.govt.nz>
Sent: Friday, 28 January 2022 5:00 pm
To: Fiona North; Evelyn Cole
Subject: FW: Models of NKTT and Board Co-governance
Attachments: Memo to Allan from Susanne Frances and Erica Gregory.docx; In the spirit of the Treaty - Co-Governance.docx

Follow Up Flag: Follow up
Flag Status: Flagged

Kia ora korua

FYI – Allan’s email to Rob Campbell and Mavis Mullins.

Please review the papers. Susanne and I would like us to meet next week to discuss them. Sharon Johnson will find a time for us all to meet.

Ngā mihi
 Erica

Erica Gregory

Manahautū, General Manager
 Kaupapa Kura Taiao

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From: Allan Freeth <Allan.Freeth@epa.govt.nz>
Sent: Friday, 28 January 2022 10:03 am
To: Rob Campbell <rob@tutanekai.com>; Mavis Mullins <mrmullins@xtra.co.nz>
Cc: Carol-Anne Skjellerup <Carol-Anne.Skjellerup@epa.govt.nz>; Wendy Chappell <Wendy.Chappell@epa.govt.nz>; Erica Gregory <Erica.Gregory@epa.govt.nz>; Susanne Frances <Susanne.Frances@epa.govt.nz>
Subject: Models of NKTT and Board Co-governance

Good Morning

As promised, here are some papers related to co-governance models between NKTT and the EPA Board. There are two papers from different authors and have quite different approaches:

- One from Susan and Erica which sets out a model and a series of mechanisms that carefully respect the legislative context and does not read anything into the ‘silence’ in the Acts.
- One by myself, which in comparison, is quite radical, and takes the view that while the legislation does not say the EPA can do something, they also do not say it can’t (sorry about the double negatives). I suspect this model may set the lawyers ‘hair on fire’.

Whatever the outcome of your considerations, I wish to include the final proposal in the strategy documents that I have rewritten and are in the process of being compiled.

Very curious to see your response and suggestions.

Best Allan

Allan Freeth

Chief Executive

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Memorandum

Suggested ways of working - EPA Board & Ngā Kaihautū

To: Allan Freeth

Copy to: Kelsi Henderson, Kendyl Oates, Evelyn Cole and Fiona North

From: Susanne Frances and Erica Gregory

Date: 21/01/2022

The purpose of this memorandum is to set out the proposed mechanisms for operationalising greater involvement and partnership between Ngā Kaihautū Tikanga Taiao (**Ngā Kaihautū**) and the EPA Board.

Our understanding is that the EPA Board and Ngā Kaihautū wish to work in partnership with each other to the greatest extent possible within the landscape of the current legislative settings.

The mechanisms proposed below will enable EPA Board to work in partnership with Ngā Kaihautū, despite the legislative shortcomings. Our existing legislative framework is over a decade old and, despite being advanced for its time, has some limitations. While we can successfully create a partnership model using the proposed mechanisms within the existing legislative framework, in order to put in place a co-governance model, the legislation will need amendment.

Existing Framework

1. It is helpful to set out the existing framework which the partnership mechanisms will operate within.
2. These are set out in the Environmental Protection Authority Act 2011 (**EPA Act**). This sets out some aspects of governance, which the EPA is required to comply with.
3. The requirements relating to the EPA Board are:
 - a. The Minister must appoint between 6-8 people as members of the EPA Board.¹
 - b. The Minister must appoint at least 1 member who has knowledge and experience relating to the Treaty of Waitangi and Tikanga Māori (Māori customary values and practices) to the EPA Board.²
 - c. The EPA Board is the governing body of the EPA, with the authority to exercise the powers and perform the functions of the EPA. All decisions relating to the operation

of the EPA must be made by the Board in accordance with the EPA Act and the Crown Entities Act.³

- d. The functions of the EPA are to:
- i. advise the Minister on any matters relating to the EPA Act and the environmental Acts.
 - ii. exercise and carry out the functions and duties under the EPA Act and the environmental Acts.⁴
4. In performing its functions, the EPA Board must act consistently with its objectives,⁵ which are; to contribute to the effective management of New Zealand's environment, and enable New Zealand to meet its international obligations.⁶
5. The EPA Board requirements relating to Ngā Kaihautū are:
- a. EPA must appoint between 4-8 people as members of Ngā Kaihautū, one as the chairperson.⁷
 - b. EPA must not appoint one of its own members to be a member of Ngā Kaihautū.⁸
 - c. EPA must set terms of reference for Ngā Kaihautū and review them at intervals of no more than 3 years.⁹
6. The functions of Ngā Kaihautū are to:¹⁰
- i. provide advice and assistance to EPA on matters relating to policy, process and decisions of the EPA under an environmental Act or the EPA Act,
 - ii. provide advice on marine consent authority when the committee's advice is sought. This function falls outside the scope of this paper.
- b. Any advice and assistance must be given from the Maori perspective and come within the Ngā Kaihautū terms of reference.¹¹
7. The legislative framework, as described above, sets out important distinctions between the EPA Board and Ngā Kaihautū, which must be taken into consideration when developing the new ways of working between EPA Board Ngā Kaihautū.
8. All decisions relating to the operation of the EPA must be made by the Board. Ngā Kaihautū is an advisory committee to the EPA Board. Their statutory role is to provide advice and assistance to the EPA on matters relating to policy, process and decisions of the EPA. This can include providing advice to any part of the EPA or directly to the EPA Board. Matters relating to policy, process and decisions of the EPA under an environmental Act or the EPA Act should be interpreted broadly to enable partnership. However, Ngā Kaihautū does not have authority to direct the EPA. Only the EPA Board has this authority. Where Ngā Kaihautū provides advice to the EPA Board, the EPA Board has discretion to take Ngā Kaihautū advice into account. This discretion should

³ Section 9(2) Environmental Protection Authority Act 2011; Section 25 Crown Entities Act 2004

⁴ Section 13 Environmental Protection Authority Act 2011

⁵ Section 14 Crown Entities Act 2004

⁶ Section 12 Environmental Protection Authority Act 2011

⁷ Section 18(2) and (4) Environmental Protection Authority Act 2011

⁸ Section 18(3) Environmental Protection Authority Act 2011

⁹ Section 20 Environmental Protection Authority Act 2011

¹⁰ Section 19 Environmental Protection Authority Act 2011

¹¹ Section 19(2) Environmental Protection Authority Act 2011

always be exercised through the framework provided by He Whetū Mārama, so while EPA Board has the discretion, it should take Ngā Kaihautū advice into consideration in the spirit of partnership.

Suggested new ways of working

9. To better enable Ngā Kaihautū to provide advice on matters relating to policy, process and decisions under an environmental Act, we suggest changing/implementing processes that enable Ngā Kaihautū to provide advice to the EPA Board regarding matters relating to policy, process and decisions of the EPA under an environmental Act or the EPA Act.
10. Current examples of matters relating to policy, process and decisions under an environmental Act or EPA Act are:
 - a. Compliance Framework
 - b. HSNO processes
 - c. 3, 30, 300 strategy paper
11. We have identified three changes to facilitate collaborative working/partnership between NKTT and the EPA Board:
 - a. Reframing the terms of reference to better reflect a relationship of partnership,
 - b. No further letters of expectation to be sent by the EPA Board to Ngā Kaihautū; instead Ngā Kaihautū and EPA Board enter into a dialogue on strategic priorities in the spirit of partnership, informed by the objectives of the EPA, and
 - c. Aligning Board practices and Ngā Kaihautū practices.
12. These changes are detailed below. Further thinking is needed to determine how best to implement internal processes to support these changes.
13. To ensure these proposed changes work for both EPA Board and Ngā Kaihautū as well as EPA staff, we propose reviewing these new ways of working 6 months after implementation. This review should include feedback from both the chair of Ngā Kaihautū and the chair of the EPA Board, as well as EPA staff, particularly the CE, GM KTT and General Counsel.

A – Reframe terms of reference

14. The EPA Act requires terms of reference to be set for Ngā Kaihautū but does not specify the content of these. We suggest reframing the terms of reference to prioritise partnership, protection, potential and participation under He Whetū Mārama.
15. While the terms of reference must be set by the EPA Board, they can (and we suggest should) be developed jointly by Ngā Kaihautū and the EPA Board, in the spirit of partnership. As a starting point, we consider the terms of reference should:
 - a. explicitly establish that the relationship between Ngā Kaihautū and the EPA Board is one of partnership;
 - b. incorporate He Whetū Mārama as the guiding framework;

- c. confirm the role and function of Ngā Kaihautū under the EPA Act in relation to the EPA Board, including instruction of EPA management; and
 - d. address meaningful ways of working together and provide for Ngā Kaihautū to give advice and assistance to the EPA and EPA Board, including where advice or assistance is not requested (consistent with Ngā Kaihautū's functions).
16. We propose that the terms of reference should be developed and finalised by the joint working committee of Ngā Kaihautū and EPA Board members with input from the CE, GM KTT and General Counsel. The EPA Board will then set the terms of reference, as required under the EPA Act.

B – No further letters of expectation

17. Unlike the terms of reference, there is no statutory requirement for the EPA Board to send a letter of expectations to Ngā Kaihautū. Only one such letter has been sent.¹² We consider this practice should not continue as the instructional tone undermines an effective partnership between Ngā Kaihautū and the EPA Board and the principles of He Whetū Mārama more broadly.
18. Instead, we suggest the following:
- a. the EPA Board and Ngā Kaihautū should both work towards delivering their respective functions in light of the objectives of the EPA.
 - b. the EPA Board and Ngā Kaihautū should discuss EPA priorities, identifying areas where EPA Board would benefit from the advice and assistance of Ngā Kaihautū.
 - c. Enable Ngā Kaihautū to determine their own priorities in line with the objectives of the EPA and to provide advice and assistance without request from the EPA Board.

C – Aligning EPA Board & Ngā Kaihautū practices

19. Below are the processes we suggest implementing in order to align the practices of the EPA Board and Ngā Kaihautū and enable them to work in partnership.
20. To ensure these processes work for both EPA Board and Ngā Kaihautū as well as EPA staff, we propose reviewing these processes 6 months after their implementation. This review would include feedback from both the chair of Ngā Kaihautū and the chair of the EPA Board, as well as EPA staff involved in the workings of the EPA Board and Ngā Kaihautū.
21. The proposals include:
- a. Ngā Kaihautū and the EPA Board should meet on consecutive days, with Ngā Kaihautū meeting the day before the EPA Board.
 - b. Two representatives of the EPA Board and Ngā Kaihautū respectively should attend a section of both meetings for shared discussions on papers where Ngā Kaihautū may provide advice to the EPA Board. See **Table 1** below for the proposed structure and attendance at Ngā Kaihautū and EPA Board meetings.
22. One attendee should be the relevant Chair, while the second attendee would be a rotation of EPA Board and Ngā Kaihautū members respectively. This will ensure

¹² This was sent for the 2020/2021 financial year

consistency, deepen relationships and build a culture of collective partnership. It will also provide a direct and practical opportunity for the EPA Board to have the benefit of hearing the formulation and rationale behind Ngā Kaihautū advice, which will enrich their decision.

23. Having the Board meetings on consecutive days also provides the EPA Board and Ngā Kaihautū the opportunity to spend time together outside of these meetings in the evening, between the Ngā Kaihautū meeting and the EPA Board meeting, to build and maintain cohesive relationships between members. Prioritising relationships is an important aspect of an effective partnership between Ngā Kaihautū and the EPA Board.

Pre-Meetings

24. There are several opportunities to determine whether an EPA Board paper should be shared with Ngā Kaihautū:
- a. In their regular discussions between EPA Board Chair and the Chair of Ngā Kaihautū, either Chair can identify a matter as being appropriate to seek Ngā Kaihautū advice.
 - b. In their regular discussions between Ngā Kaihautū and KTT, any member of Ngā Kaihautū or KTT can identify a matter as being appropriate to seek Ngā Kaihautū advice.
 - c. When EPA Board requests a paper from management, it can advise whether that paper should be shared with Ngā Kaihautū and Ngā Kaihautū attendees can ask for a paper to be shared with Ngā Kaihautū.
 - d. When ELT review the schedule for papers proposed for the EPA Board, the CE will consider which papers are suitable to be shared with Ngā Kaihautū, on advice of the GM KTT and GC&GM and suggest it to Ngā Kaihautū & EPA Board.
 - e. Once confirmed, the EPA Board papers schedule should be shared with Ngā Kaihautū. In response, Ngā Kaihautū can ask EPA Board for the opportunity to provide advice on any of the board papers listed on the schedule.
 - f. When EPA Board papers are written, authors will consider, in the spirit of partnership, whether papers are suitable to be shared with Ngā Kaihautū.
 - g. When EPA Board papers are submitted for review, the CE in consultation with GC&GM and GM KTT (where necessary) will identify which papers are suitable to be shared with Ngā Kaihautū.
 - h. The draft EPA Board agenda will be shared with Ngā Kaihautū to enable them opportunity to identify which matters they will provide advice on.
25. In determining whether an EPA Board paper should also go to Ngā Kaihautū, consideration will be given, in the spirit of partnership, to whether the content of the paper is relevant to Ngā Kaihautū's statutory function of providing advice on matters relating to policy, process and decisions under an environmental Act or the EPA Act. A broad interpretation will be taken of what policy, process and decisions under an environmental Act or the EPA Act.
26. These EPA Board papers will be marked ~~as~~ to be shared with Ngā Kaihautū and will be circulated to Ngā Kaihautū and the EPA Board at the same time.

27. Where Ngā Kaihautū has identified an opportunity to provide advice, they will notify KTT who, in consultation with CE and GC&GM, will notify the EPA Board through the Board Secretary.

NKTT Meeting Processes

28. We suggest having two EPA Board members attend the latter section of the Ngā Kaihautū meetings where Ngā Kaihautū will be formulating their advice to the EPA Board.
29. This will enable the Board members in attendance to develop a deeper understanding of the reasoning and the process followed in the development of Ngā Kaihautū advice. This will facilitate a more participatory partnership.
30. The Ngā Kaihautū chair will enable EPA Board attendees to engage in the discussion through their usual facilitation. This includes asking questions and providing additional context on the matter being considered, where it would be helpful.
31. However, to ensure Ngā Kaihautū advice remains independent of the EPA Board, EPA Board attendees will not input into nor influence the Ngā Kaihautū advice.
32. Where Ngā Kaihautū do not wish EPA Board attendees to be present for their discussion, the Chair may ask EPA Board attendees to leave for that item. This will safeguard Ngā Kaihautū's independence and protect Ngā Kaihautū free and frank discussion when determining advice.
33. General Manager, KKT and General Counsel will also attend this section of the Ngā Kaihautū meetings to provide additional support.

EPA Board Meeting Processes

34. We suggest having two Ngā Kaihautū members attend the earlier section of the EPA Board meetings where there will be discussion of papers shared with Ngā Kaihautū as well as the EPA Board. During this section, management will present and speak to their Board Papers. Ngā Kaihautū attendees will have the benefit of hearing that discussion.
35. The EPA Board chair will enable Ngā Kaihautū attendees to engage in the discussion through their usual facilitation. This includes asking questions of management.
36. Keeping in line with its statutory role, the EPA Board will give management directions or seek further information from management. It will be acknowledged that while Ngā Kaihautū can participate in the discussion, the statutory framework requires that only EPA Board may direct management on EPA matters.
37. However, Ngā Kaihautū can advise the EPA Board to seek further information from management. Technically the EPA Board can either take that advice into consideration or disregard it. If the EPA Board accepts that advice, then the EPA Board will request the relevant information from management, who will share the advice with both EPA Board and Ngā Kaihautū where directed to do so by the EPA Board. If EPA Board does not accept that advice, then it will proceed with making its decision in accordance with its statutory function. However, we suggest that any advice offered by Ngā Kaihautū should be taken into consideration in the spirit of partnership.

38. During the EPA Board meeting, the Ngā Kaihautū attendees should be given the opportunity to provide their advice to the EPA Board on each of the papers shared with Ngā Kaihautū. It is envisaged that this advice will mostly be verbal for expediency but could be in writing or in any form Ngā Kaihautū wish to present it.

Table 1. Engagement

Day 1 - Ngā Kaihautū Tikanga Taiao Meeting (Attendees: 2 EPA Board members, Erica and Susanne)	Day 2 - EPA Board Meeting (Attendees: 2 Ngā Kaihautū Members, Erica and Susanne)
<p>Ngā Kaihautū existing matters</p>	<p>EPA Board matters that align with Ngā Kaihautū functions</p> <ul style="list-style-type: none"> - Management presents the paper to EPA Board in the usual manner - Ngā Kaihautū attendees present advice to EPA Board - Discussion on the paper takes place - EPA Board and Ngā Kaihautū engages in discussion with management including asking questions of management - EPA Board only seeks further direction and directs management but can act on advice from Ngā Kaihautū on what the directions are. - EPA Board makes decision with the benefit of Ngā Kaihautū advice.
<p>Ngā Kaihautū formulation of advice on EPA Board Papers</p> <ul style="list-style-type: none"> - Ngā Kaihautū discussion on EPA Board papers - Ngā Kaihautū determine their position on the content of the EPA Board paper - Ngā Kaihautū formulate advice NKT attendees will give to EPA Board - EPA Board attendees may ask questions and provide further context on EPA Board matters. - EPA Board members will not have input into or influence Ngā Kaihautū advice. 	<p>EPA Board Matters that do not align with Ngā Kaihautū functions</p>

Consultation

39. The following have been consulted in the preparation of the paper or approvals required.

Business unit	Date	Yes/No
KTT	Fiona North	
Legal	Kendyl Oates, Kelsi Henderson	
Strategy	Evelyn Cole	

Signed



Name: Susanne Frances

GC&GM RS&L:

Date: 21/01/2022



Name: Erica Gregory

GM KKT:

Date: 21/01/2022

DRAFT AND CONFIDENTIAL

He Whetu Mārama Mahi – In the spirit of the Treaty

Who's Who

1. The statutory governing body of the EPA is the EPA Board. This body has the authority to exercise and perform the powers and functions and make decisions; all within the mandate provided by the EPA Act 2011 and the Crown Entities Act 2004.
2. The Minister appoints between six to eight people as members of the Board with at least one who has knowledge and experience related to the Treaty of Waitangi and Tikanga Māori (Māori customary values and practices now deemed law by judgements of the Court of Appeal and the Supreme Court¹).
3. Ngā Kaihautū Tikanga Taiao (NKTT) is an advisory committee of the Board, established under the EPA Act, comprising four to eight people appointed by the EPA Board. The role of NKTT is to provide advice and assistance to the EPA on matters relating to policy, process, and decisions of the EPA, provide specific marine advice when requested, and provide general advice and assistance from the Māori perspective.
4. This can include providing advice to any part of the EPA or directly to the Board on these matters and should be interpreted broadly to enable partnership.
5. The relationship between the EPA Board and NKTT has 'waxed and waned' over the years, and tensions have developed over several issues and concerns about Māori interests and the voice of Māori in the EPA's work. The development and implementation of the mātauranga Māori framework in recent years has eased these, but in the last two years, the relationship has been weakened.

He Whetū Mārama

6. The EPA is committed to He Whetū Mārama, the framework that guides us in undertaking our work. It is established on the foundation of the Wawata that the unique relationship of Māori to the environment informs EPA decision making (brought to life in our mātauranga Māori framework).
7. This approach is guided by the four key principles of the Treaty:
 - a. Partnership: requires that we act reasonably, honourably and in good faith to ensure the making of informed decisions affecting the interest of Māori
 - b. Protection: requires us to take positive steps to ensure Māori interests, knowledge, and experience are valued in its work
 - c. Participation: informs the development of EPA strategy, policy and process that enables effective engagement and input of Māori
 - d. Potential: recognises that our work have impacts on the direction for future growth and development in a Māori cultural and economic setting.
8. Our efforts have been sincere, but in recent times, Māori representatives and the Courts have observed that we are falling short especially in consultation, and the some of the key sentiments of the Treaty.

A Vision for He Whetū Mārama

9. At last year's strategy session between the Board and NKTT, there was considerable discussion about how to make the relationship between the bodies, and the nature of each's work, more meaningful. Frustration was expressed by some NKTT members on their 'distanced' role as an advisory committee and, to be frank, the 'holding' of decision making powers by the Board.
10. This discussion was in the context of the contemporary debate across Aotearoa about Māori self-determination and the serious issues related to Māori health, welfare, and environment degradation. The call for various forms of co-governance and the movement to focused institutions seems to be well established, and the most recent example being the Te Mana Hauora Māori, the Māori Health Authority.
11. The 3,30, 300 strategy is fully consistent with te Tiriti o Waitangi and aspires to introduce an operational form of co-governance within the mandate and limitations of the EPA's empowering legislation.

How Could It Work

12. Whatever operational form is undertaken, the governing and legislative powers of the EPA rests with the EPA Board. They are directors under the Crown Entity Act and have responsibilities and liabilities that go with that role.
13. The recent re-establishment of the NKTT Tumuaki, as a non-voting member at the EPA Board has been positive but does raise the question of that individual been deemed a director if he/she participates directly in the governance and decision making of the organisation. (This is obviously a grey area and would be subject to judgement and debate if ever tested).
14. However, the possibility of other NKTT members been captured by the same fate under some form of co-governance needs consideration as part of any model.
15. That aside, there is nothing in the legislation that prevents the EPA Board holding its meetings in a wider forum perhaps called the EPA Council in partnership with NKTT members – in effect, a joint meeting.
16. This meeting would run to an agenda reflecting both the Board's and NKTT's work plans and overview, but with final decisions as they relate directly to the governance of the organisation and its operations been restricted to EPA Board members.
17. In the interest of making this work meaningful, there would need to be total transparency and inclusion on all aspects of the Board and NKTT's work including strategy, budgets, people, and CE performance and appointment.
18. The issue of one Chair, co-Chairs, or rotating Chairs could be considered, but as the EPA Board Chair holds a specifically recognised accountability and liabilityⁱⁱ, as established by case law and legislation, it may have to be the EPA Board Chair that runs these meetings.
19. Success of this model depends on personalities, but in terms of Chairs especially, and the stars have aligned with the appointment of Mavis Mullins and Rob Campbell as NKTT

and EPA Chairs respectively – both with considerable governance experience and a style and approach that would support and assist such a proposal.

20. Given the size of the combined body and the appointment of members of the EPA Board by the Minister, consideration could be given to reducing the size of NKTT to the minimum of four members to make the combined number of 12 members of Council work. However, this is a matter of judgement and may not be considered an issue under this model.
21. We suspect this type of structure is not unique, although it has not been researched, but universities and membership organisations often have councils or bodies with tiered levels of membership and voting rights.
22. If the EPA implemented such an approach, it would continue its track record of ‘making history’, building on the inclusion of mātauranga Māori in EPA decisions making practices and provide strong leadership in the public service.

ⁱ Reference relevant judgements

ⁱⁱ There is a Court case making it clear that a Chair is a special case of a director.

Environmental Protection Authority Board

Meeting Minutes

Held at 9.30am, Thursday 10 February 2022

HELD VIA ZOOM

Out of scope

3e Board and NKTT Co-Governance

The Chair opened the discussion on Board and NKTT co-governance by advising this matter had been discussed with both Ministers Parker and Twyford, [s 9\(2\)\(g\)\(i\) OIA](#). He also requested feedback on the two papers provided; 'Suggested ways of working – EPA and NKTT' and 'He Whetu Marama Mahi – In the spirit of the Treaty'. [These may be found on pages 5 - 15 of this document](#)

The Board noted:

- The CE had been considering the relationship between the Board and NKTT, observing some of the frustrations and taking into account the wider sentiment of the government and community.
- The strategy had been rewritten to highlight the improved way the EPA was undertaking work in this area.
- The EPA was exemplar in the way it was already working with Māori, and this appeared to be the right time to naturally progress partnership as both Chairs and CE supported working together.
- Given the imbalance embedded in the current legislation, there was still an opportunity to behave in ways that were equal and respectful.

The Board discussed the two papers and were unanimously supportive of the partnership moving forward, subject to the expectations being very clear, the practical and legal issues worked through i.e meeting logistics addressed, issues being addressed regarding NKTT providing DMC advice and any legal ramifications being looked into.

In addition, the Board suggested the NKTT Letter of Expectations was no longer a requirement.

The Board:

a.	Received and noted the two papers on options for Board and NKTT co governance.
b.	Resolved to proceed to positively seek the input from NKTT and work together to find a practical proposal for both the Board and NKTT.

Out of scope

