

Terms of Reference for the Waste Advisory Board

Introduction

1. These Terms of Reference are established in accordance with section 91 of the Waste Minimisation Act 2008 (the Act) and set out the function of the Waste Advisory Board (the Board).
2. The Minister may, by written notice to the Board, vary the Terms of Reference at any time in accordance with section 91(2) of the Act.

Function

3. The Board is established under section 89 of the Act.
4. The function of the Board under section 90(2) of the Act is to provide advice to the Minister for the Environment (the Minister) upon request relating to waste minimisation or the functions of the Secretary for the Environment or the Minister under the Act.
5. The Board must provide advice within these Terms of Reference according to section 90(3) of the Act.
6. Section 90(1) of the Act specifies that the Board is to provide advice to the Minister upon request, including advice about —
 - a. declaring a product to be a priority product;
 - b. making guidelines about the contents and expected effects of product stewardship schemes for priority products;
 - c. accrediting a product stewardship scheme that is not consistent with any guidelines published by the Minister;
 - d. recommending the making of regulations prohibiting the sale of a priority product except in accordance with an accredited scheme;
 - e. recommending the making of regulations in relation to products (whether or not priority products), materials, and waste;
 - f. setting or varying criteria for approving funding of a project to promote or achieve waste minimisation;
 - g. reviewing the effectiveness of the levy;
 - h. recommending the making of regulations in relation to the imposition of the waste disposal levy or the rate of the levy;
 - i. recommending the making of regulations in relation to records, information, and reports.

Appointment of Board members

7. Section 92(1) of the Act specifies that the Minister must appoint at least 4, but no more than 8 members to the Board.
8. Appointments must be made by written notice from the Minister to the person concerned under section 92(4) of the Act.
9. The Minister must comply with section 93 when appointing or reappointing Board members. This requires that the Minister must:

- a. request nominations for members of the Board;
 - b. allow 1 month to receive nominations;
 - c. publicly notify the request for nominations in: the Gazette; and in daily newspapers circulated in Auckland, Hamilton, Tauranga, Wellington, Christchurch and Dunedin; and on the Ministry for the Environment (the Ministry) website.
10. The Minister may, pursuant to section 93(3) of the Act, appoint a person as a Board member even if a nomination for the person has not been made for their appointment under the Act.
11. The Minister must consult the Minister of Māori Affairs (or equivalent) before appointing any member to the Board according to section 93(4) of the Act.
12. In appointing members, the Minister must consider the need for the Board to have available to it, from its members, knowledge, skill, and experience relating to—
 - a. this Act; and
 - b. matters that are likely to come before the Board; and
 - c. community projects for waste minimisation; and
 - d. industry, including the commercial waste industry; and
 - e. local government; and
 - f. tikanga Māori.
13. The Minister must notify the appointment of a Board member in the Gazette as soon as practicable after appointing the member to the Board.

Chair of the Board

14. The Minister must appoint one member as the Chair of the Board under section 92(2) of the Act.
15. Appointments must be made by written notice from the Minister to the person concerned under section 92(4) of the Act.
16. The Chair will:
 - a. chair meetings of the Board;
 - b. be responsible for representing the Board to the Minister, as required;
 - c. represent the collective interests of Board members;
 - d. be the principal point of contact with the Minister and the Ministry to ensure requested advice and reports are delivered in the prescribed timeframe and format;
 - e. be responsible for keeping Board members informed of discussions with the Minister and the Ministry.
17. The Minister must comply with section 93 when appointing or reappointing the Chair. This requires that the Minister must:
 - a. request nominations;
 - b. allow 1 month to receive nominations;
 - c. publicly notify the request for nominations in: the Gazette; and in daily newspapers circulated in Auckland, Hamilton, Tauranga, Wellington, Christchurch and Dunedin; and on the Ministry website.

18. The Minister may, pursuant to section 93(3) of the Act, appoint a person as a Chair even if a nomination for the person has not been made for their appointment under the Act.
19. The Minister must consult the Minister of Māori Affairs (or equivalent) before appointing any Chair to the Board according to section 93(4) of the Act.
20. The Minister must notify the appointment of a Chair in the Gazette as soon as practicable after appointing the Chair to the Board.

Term of Chair and Board members

21. Members are appointed for a term of up to three years under section 94 of the Act.
22. The Minister may reappoint a member for a further term or terms following expiry of their term of appointment.
23. Under section 94(2) of the Act Board members will remain in office despite the expiry of the member's term of appointment until—
 - a. a successor is appointed; or
 - b. the Minister gives written notice to the member that the member is not to be reappointed and no successor is to be appointed at that time.
24. A member may resign from office by giving written notice to the Minister, including after their term has expired during an active recruitment round. The Minister may also remove a member of the Board from office at any time, for just cause (just cause is defined under section 95(4) of the Act and includes misconduct, inability to perform the functions of office, neglect of duty, and breach of duty).
25. The removal must be made by written notice to the member stating the reasons for the removal.
26. The Minister must notify the removal in the Gazette as soon as practicable after giving the notice to the member.
27. As long as there are a minimum of 4 members as required by the Act, then if a member resigns or is removed at any time in between recruitment rounds, the vacancy will be filled at the next end of term of members.
28. Members' terms are staggered so the appointment of all Board members will not expire in the same year.
29. Near the end of the term of members, the Minister, will initiate the process to appoint new members, which will be run by the Secretariat. The process to appoint a Chair will follow the same process.
30. Every process to appoint new members will include a public request for nominations.
 - a. The Minister is not required to select new members from those nominated.
 - b. The appointment process may include an interview for new members to the Board.

- c. If an existing member of the Board is appointed as the Chair, a replacement for that member will be found at the same time.
- d. If an existing member is appointed as the Chair, then their term, and the number of terms served, resets.

Work Programme and Requests for Advice

31. The Minister may approve an annual work programme for the Board. The work programme will be signed and agreed to by both the Minister and the Chair and will prescribe details of how the Board are to deliver the work programme for the year ahead.
32. Requests for advice will be set out in writing by the Minister or the Ministry (on behalf of the Minister). These requests will stipulate the details of the issue to be advised on and timeframes and expectations regarding the format of the advice.
33. The Board may raise any additional issues with the Minister relating to waste minimisation or the functions of the Secretary for the Environment or the Minister under the Act. The Minister expects the Board to provide future-focused advice on key waste sector issues that could be addressed by national strategies and/or interventions, and to brief the Minister accordingly from time to time on the Board's view of sector priorities and potential solutions.
34. Before beginning any work on matters outlined in clause 31, the Board must raise such issues by writing to the Minister outlining the issues and the work that the Board wishes to undertake, and not begin any further work unless agreed to by the Minister. This outline may be incorporated into the annual work plan or a longer term strategic plan, or be a separate request.

Requests for Official Information

35. All advice provided to the Minister and the Ministry is subject to the Official Information Act 1982. Information must be made available if requested, unless the Minister or the Ministry determines that there is good reason to withhold that information under the Official Information Act.
36. The Board must keep a formal record of all of its meetings and business. This record must be made available to the Minister or the Ministry on request.
37. If an Official Information Act request is received asking for advice provided to the Minister by the Board, the Chair will be notified by the Ministry. It is the responsibility of the Chair to notify other Board members where appropriate.
38. If the Board receives any request for information from a third party, it must immediately refer that request to the Ministry (via the Secretariat) and advise the person who requested the information that the request was referred to the Ministry.

Meetings and reporting

39. Board members will make their best effort to attend Board meetings and to prepare appropriately.
40. The Board will determine how these meetings will be run, including matters of quorum.

41. The Minister or the Ministry on behalf of the Minister, may agree for the Board to meet at specified times, through an annual work programme.
42. The Board will report to the Minister through:
 - a. face-to-face meetings as agreed by the Minister;
 - b. reports as agreed by the Minister; and
 - c. records of meetings.
43. The reports provided to the Minister will represent a collective view of the Board. If consensus is not able to be achieved, then majority and minority views should be provided.
44. The Board will determine how reports are compiled, providing they meet the requirements determined by the Minister.
45. The Secretariat will confirm Board meeting dates and logistics approximately one month prior to the Board meeting.

Administrative support

46. The Board is supported by a Secretariat based at the Ministry.
47. The role of the Secretariat includes:
 - a. providing regular and timely updates on the Ministry's waste work programme and any additional matters of relevance to all Board members;
 - b. organising Board meetings and Board members' travel for these meetings;
 - c. assisting with drafting the meeting agenda;
 - d. arranging the independent minute taker for meetings and assisting with confirmation of the meeting minutes;
 - e. arranging payment of Board members' fees;
 - f. assisting Board members' liaison with Ministry officials, as necessary;
 - g. the induction of new Board members;
 - h. maintaining a conflict-of-interest register;
 - i. maintaining a page on the Ministry's website about the Board's membership, meetings, and activities; and
 - j. running the recruitment process for new members.

Fees and reimbursements

48. As per section 97 of the Act, arrangements for, and rates of, payment for work completed by Board members, and reimbursement for actual and reasonable expenses incurred in the course of carrying out work are set out in individual engagement documents between Board members and the Ministry (e.g. letters of appointment or contracts for service).

Conflict of Interest

49. Board members will, as soon as reasonably practicable, give notice of any potential or actual conflicts of interest in writing to the Board and the Ministry (via the Secretariat) and ensure these are recorded in a Board 'conflicts of interest register'.
50. Board members who are subject to a conflict of interest will abstain from all involvement in matters influenced by the relevant conflict of interest, including the receipt of any

information or data. If any dispute arises in this respect, the matter will be put to a vote of all Board members.

51. Board members will not use any information/data provided to them in their role as members of the Board beyond the purpose for which it is supplied to the Board for its function under the Act.
52. For the purposes of these Terms of Reference a 'conflict of interest' has the meaning set out in the Ministry's Conflict of Interest policy.¹

Communications

53. The role of the Board is to provide advice to the Minister and the Ministry on behalf of the Minister. Therefore, Board members will not make public comments about the matters that they have been asked to provide advice on without obtaining the prior written approval of the Minister.
54. The Minister may agree, from time to time, to publish advice or reports produced by the Board, including after decisions are made using Board advice. The Board will not publish any reports or advice that it gives to the Minister (or the Ministry), except with the prior written approval of the Minister.
55. The Board will provide information to the Ministry (via the Secretariat) to enable it to maintain a webpage, including meeting agendas and minutes.

Confidentiality

56. Board members must keep confidential and secure all information disclosed to them by the Minister (including through the Ministry) in connection with their role as members of the Board, unless the information is already in the public domain. Board members must not disclose any such information, except with the prior written approval of the Minister.
57. All members of the Board must handle any personal information in accordance with the privacy principles under s 22 of the Privacy Act 2020.

Conduct

58. Board members are required to act honestly and in good faith at all times. As mentioned above, members must acknowledge and disclose, and avoid, any conflicts of interest.

¹ This is also the definition used by the Public Service Commission and at time the of signing is "a conflict between a public duty and private and/or personal interests. Personal interests can be financial or relate to family, friends or associates. Conflicts of interest may be actual, potential or perceived"

Approval of these Terms of Reference



Hon Penny Simmonds

Date 5 May 2024

Minister for the Environment



Darren Patterson

Date 16 May 2024

Waste Advisory Board Chair, on behalf of the Board