



Departmental Briefing

In Confidence

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To: Minister of Conservation
Minister of Tourism
Associate Minister of Transport

Date: 29 November 2022

Subject: **Milford Opportunities Project: Finalised Board Terms of Reference and advice on MOP Board Ministers briefing**

Agree to proposed amendments from Dr Keith Turner to Milford Opportunities Establishment Board Terms of Reference (TOR), subject to final revisions proposed by officials.

Action sought: Note feedback from agencies on the MOP Unit's work programme. Agree that officials will prepare a briefing from you to the Minister of Finance seeking approval to extend MOP funding to the 2023/24 financial year.

Note that officials will draft a letter from you to Dr Turner concerning the TOR and work programme pending your decisions.

Time Frame: 5 December 2022

Risk Assessment:	Terms of Reference are necessary to determine the scope of the MOP Board's work programme. Extending the funding past June 2023 will require approval from the Minister of Finance.	Department's Priority:	High
		Level of Risk:	Medium

Contacts

Name and position	Cellphone	First contact	Principal author
Richard Davies, Policy Director, Tourism Labour, Science and Enterprise, Ministry of Business, Innovation and Employment	s9(2)(a)	✓	
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Executive summary – Whakarāpopoto ā kaiwhakahaere

Terms of Reference

1. Dr Keith Turner has sent you proposed amendments to the draft Terms of Reference (TOR) for the Milford Opportunities Establishment Board. Officials recommend that you accept these amendments with three exceptions. Firstly, we have edited the text to clarify that development of ‘enabling components’ (e.g., securing funding and/or implementing legislative changes) in relation to the Masterplan recommendations will not happen prior to Ministerial decisions concerning feasibility. Secondly, it remains appropriate that agency attendance at Board meetings is in an ex officio (rather than observer) capacity, regardless of who the attendee is. Finally, officials have changed completion of the project in the TOR from June 2024 to December 2023 in line with decisions taken by the Ministerial Group in December 2021.

MOP Board progress update

2. A progress update was sent to you by the Board Chair on 18 November 2022. You have requested that officials provide advice to you concerning this. The Chair reiterates a request to extend the project to June 2024, proposes that one of you open a new Te Anau ‘shopfront’ office and seeks guidance on whether Cabinet should be updated on the status of the project orally or in writing.
3. The high-level work programme for the Milford Opportunities Project is well focused, but the timelines for achieving deliverables are very tight. We consider the Board should prioritise feasibility testing of access, pricing and concessions related recommendations for Cabinet’s consideration. Your attendance at the opening of the Te Anau office could be an opportunity to reinforce the importance of the project. Given the importance of the project, a written update to Cabinet may be appropriate.

Timelines and funding

4. In December 2021 the Ministerial Group approved an extension of the project to December 2023. However, no provision was made to extend funding beyond June 2023. Approval will be required from the Minister of Finance to do this. The request would ask for the appropriation for the project to be shifted to the 2023/24 financial year. We propose decisions to extend the project to June 2024 be made in June 2023 and assessed against the extent to which the Unit has achieved key deliverables at that time.

We recommend that you ... (Ngā tohutohu)

	Decision
<p>a) <u>Agree</u> to proposed amendments to the Milford Opportunities Establishment Board Terms of Reference from the Board Chair, subject to the following final revisions:</p> <ul style="list-style-type: none"> • Additional text clarifying that 'development of enabling components (in relation to the Masterplan recommendations) is subject to prior agreement from the Ministerial Group that assessments identify recommendations as feasible to progress' • Clarification that agency representation at Board meetings will remain in an ex officio capacity, regardless of who the agency attendee is • Revising the completion date for feasibility testing of Masterplan recommendations from June 2024 to December 2023, subject to approval from the Minister of Finance 	<p>Yes / No</p> <p>Yes / No</p> <p>Yes / No</p>
<p>b) <u>Note</u> that there is no provision to extend funding for the feasibility testing phase of the Milford Opportunities Project beyond June 2023</p>	
<p>c) <u>Agree</u> that officials draft a briefing from you to the Minister of Finance requesting approval to extend funding for the Milford Opportunities Project to the 2023/24 financial year</p>	<p>Yes / No</p>
<p>d) <u>Agree</u> that the December 2023 completion date for feasibility testing could tentatively be maintained at this stage, but reviewed in June 2023</p>	<p>Yes / No</p>
<p>e) <u>Note</u> agency feedback on the MOP high-level work programme</p>	
<p>f) <u>Note</u> that, pending your decisions, officials will draft a letter from Ministers to Dr Turner concerning the finalised Establishment Board Terms of Reference and High-Level work programme.</p>	



Date: 28/11/2022

Richard Davies
Policy Director, Tourism
Labour, Science and Enterprise,
Ministry of Business, Innovation and
Employment



Date: 28/11/2022

Jessica Ranger
Kaiwhakahaere, Whakaaweawe i ngā
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Te Manatū Waka Ministry of
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Date: 28 / 11 / 2022

Tim Bamford
Director Heritage and Visitors (Acting)
For Director-General of Conservation
Department of Conservation

Date: / /

Hon Poto Williams
Minister of Conservation

Date: / /

Hon Stuart Nash
Minister of Tourism

Date: / /

Hon Kieran McAnulty
Associate Minister of Transport

Purpose – Te aronga

1. This paper proposes final revisions to the Milford Opportunities Establishment Board (the Board) Terms of Reference (TOR). It also provides feedback on a progress update sent to you from the Board Chair concerning the feasibility testing phase of the Milford Opportunities Project (MOP).

Background and context – Te horopaki

Terms of Reference

2. In September 2022 you sent TOR for the Board to Dr Keith Turner, Board Chair. You offered Dr Turner the opportunity for the Board to provide feedback on the TOR. Dr Turner has requested amendments to the TOR (Attachment One). Key proposed changes are as follows:
 - additional content on the focus of the Milford Opportunities Project (MOP) Unit based on earlier advice to Cabinet ('The Milford Opportunities Project' (23 June 2021) refers)
 - expanding the role of the Board to include '*oversee Stage Three, Phase One of the Project (detailed planning and feasibility testing)*'
 - deletion of wording that the Board is a 'Ministerial Advisory Committee'
 - additional text saying the role of the Unit includes to '*ensure key enabling components are in place to support implementation*'
 - additional text stating that '*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*'
 - revised wording stating that if an ex officio advisory member is unable to attend a meeting, the agency that the member represents may send an observer (instead of substitute as originally worded), with prior consent from Dr Turner.

Board progress update

3. On 18 November 2022 Dr Turner submitted a progress update to you on the feasibility testing phase of the project (Attachment Two). The update's recommendations included that you:
 - agree to extend the timeline to deliver Stage Three, Phase One of the MOP to June 2024
 - note the MOP Unit's high-level work programme
 - note 'early win' opportunities including opening of a Te Anau office 'shop front', pou whenua and a visitor App.
4. Project milestones were outlined as follows:
 - June 2023 - seek Cabinet agreement on key enabling policy settings including decisions relating to:
 - whether or not legislative change will be needed
 - an approach to concessions; managing access, charging principles, governance and management
 - Dec 2023 - Detailed feasibility testing, a potential legislative bid and budget bid for ministers to consider
 - June 2024 - Detailed feasibility testing, final feasibility assessment, including final policy advice and draft business case, and closure of Stage Three, Phase One.

- December 2024: Out of scope of Stage Three, Phase One, however further detailed planning, final business case, budget bids and potential legislative changes or other pathways to implement, subject to ministerial / Cabinet agreement.

Acceptance of proposed revisions to Terms of Reference

5. Officials are comfortable with the proposed amendments, with three exceptions. These concern enabling components to support implementation, ex officio representation at Board meetings and the proposed extension of feasibility testing to June 2024.
6. We consider clarification is needed in the TOR that Ministerial decisions on the feasibility of Masterplan recommendations is required prior to finalising enabling components (e.g., funding and/or legislative amendments). The more critical consideration is that these components are identified in the first round of substantive advice to ministers. Accordingly, we propose the TOR is revised as underlined below:
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.
7. On the question of ex officio representation at Board meetings, the Ministers of Conservation; Tourism; and Associate Minister of Transport stated in recent correspondence to their respective chief executives that:
'I expect the member to attend Board meetings consistently to ensure continuity on the Board. However, if the member is unable to attend due to unavoidable circumstances, a delegate may attend in the member's place.'
8. Given this guidance, the expertise contributed by officials, and that the Government has a crucial role to play in this phase of work, officials consider that it is appropriate for agencies to maintain the right to substitute ex officio representation at Board meetings if necessary. In communicating this to Dr Turner, officials suggest that you reassure him that continuity will be maintained as much as possible, but that you have told agencies that they can, if necessary, send alternative delegates to Board meetings.
9. Para 23 of the Chair's revisions in the draft TOR states the completion of feasibility testing is to June 2024. Officials have amended this to December 2023 in line with ministerial decisions, and subject to approval from the Minister of Finance. This is further explained in paras 13 to 16 below.
10. While the Board has removed the reference to Ministerial Advisory Committee, it is one according to Cabinet Office guidelines. The TOR explicitly states that the Board is neither a legal or statutory entity, and this is the key consideration.

Feedback on the Board progress update

The December 2023 completion date for feasibility testing could be maintained at this stage, but reviewed in June 2023

11. The Establishment Board has formally requested your approval to extend feasibility testing to June 2024. It states that doing so would allow it and the MOP Unit to complete feasibility testing meaningfully and to provide Ministers and Cabinet with appropriate quality advice.
12. The appointment of the Establishment Board and key positions in the MOP Unit was completed this year, approximately 12 months behind schedule. This was largely due to complications in the recruitment process and a skills shortage in the labour market. Approving an extension of the project timeline to June 2024 would allow the MOP Unit

more time to complete feasibility testing. In December 2021 the Ministerial Group agreed to extend the completion of the feasibility testing phase of the project from June 2023 to December 2023 (21-B-0902 refers). Officials consider it would be appropriate to maintain the December 2023 deadline at this stage.

13. The project timelines could potentially be reviewed in June 2023 and assessed against the extent to which the Unit has achieved key deliverables at that time. When Cabinet approved funding for the project, it was on the basis that the Board and Unit would have two years to complete its work programme. If justified, a decision to extend funding to June 2024 would not be inconsistent with that intent.

At present there is no provision to extend funding beyond June 2023

14. Funding of \$15M has been approved for the feasibility testing phase of the MOP from the 2020/21 to 2022/23 financial years (DEV 21-MIN-0067 refers). No steps have been taken to extend the funding to December 2023 and the current funding will run out in June 2023.
15. In October 2022 the Ministerial Group was asked to confirm that it had agreed to a request from the Board for a further extension of the project to June 2024 (22-B-0616 refers). s9(2)(f)(iv)
16. We have been advised by The Treasury that approval will be required from the Minister of Finance to extend funding from June 2023. Accordingly, we propose that officials draft a briefing from you to the Minister of Finance, requesting an extension of funding into the 2023/24 financial year. Treasury considers that the Minister of Finance would want to see evidence of progress and a clear pathway of when Cabinet would make substantive decisions before agreeing to an extension of funding.
17. As noted above, Ministers, including the Minister of Finance, could consider a further extension of the programme and its funding to 2024 once the Board and Unit has met its milestones, including delivery of substantive advice. In the interim, officials propose that you emphasise need for the Board to prioritise the feasibility testing of the critical elements for the MOP (access and pricing) for Cabinet's consideration.

The timelines for achieving the high-level work programme are very tight

18. Positive elements of the Board's high level work programme include a desire to:
 - support enduring relationships with Ngai Tahu
 - work with Treasury on developing sound business cases during feasibility testing, and
 - progress critical policy issues concerning access, pricing, governance, and a strategic planning framework.
19. The timelines for achieving the high-level work programme are very constrained and there is little room for slippage should you wish to obtain decisions from Cabinet on some core components of the Masterplan by mid-2023. Agencies and the Unit are working collaboratively, and plan to undertake intensive policy work over January and February 2023.
20. s9(2)(g)(i)
21. A key focus for agencies and the Unit is to ensure the Board has the information it needs to make informed, but quick decisions on the recommendations it wishes to make to Ministers.

Other matters

22. The Board has requested a Minister to open the Te Anau office. Your attendance at the opening of the Te Anau office could be an opportunity to reinforce the importance of the project. Your decision will be determined in part by proposed timing for the event and your other ministerial commitments.
23. The Board has also sought guidance on whether it should provide a written or oral update to Cabinet on the project. Given the importance and high profile of this initiative, we suggest that a written update to Cabinet is appropriate, and that this is drafted by agencies in consultation with the Unit. Agencies are ascertaining appropriate timing for this and will update you in due course.

Risk assessment – Aronga tūraru

24. The TOR are necessary to ensure that the Board operates within its intended scope and that there is appropriate Ministerial oversight of the Group. Extension of the project to December 2023 will require approval from the Minister of Finance.

Next steps – Ngā tāwhaitanga

25. Pending your decisions, officials propose that:
 - The finalised Establishment Board TOR is sent to Dr Turner under a covering letter.
 - Your letter to Dr Turner would also respond to the Board's progress update briefing paper
 - You send a briefing to the Minister of Finance requesting that he approve an extension of funding for the feasibility testing phase of the project beyond June 2023.

Attachments – Ngā tāpiritanga

- Attachment One – Revised Establishment Board draft TOR from Dr Keith Turner
- Attachment Two – Milford Opportunities Progress Update

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Milford Opportunities Project

Terms of Reference –
Milford Opportunities Establishment Board

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