

**Wānaka Community Board
8 December 2022**

Report for Agenda Item | Rīpoata moto e Rāraki take: 5

Title | Taitara: Chair's Report

PURPOSE OF THE REPORT | TE TAKE MŌ TE PŪRONGO

1. The purpose of this report is to recommend approval of the draft Governance Agreement between the Wānaka Upper Clutha Community Board and Full Council, and delegation to the Chair to sign on behalf of the Board, before it is presented to Full Council for their consideration.

RECOMMENDATION | NGĀ TŪTOHUNGA

That the Wānaka-Upper Clutha Community Board:

1. **Note** the contents of this report;
2. **Agree** the draft 2022 Queenstown Lakes District Council / Wānaka Upper Clutha Community Board Agreement for Council approval; and
3. **Delegate** the Chair to sign the approved Governance Agreement.

Prepared by:



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Governance and Stakeholder Services
Manager
25/11/2022

Reviewed and Authorised by:



Meaghan Miller
General Manager, Corporate Services
25/11/2022

CONTEXT | HOROPAKI

- 1 The Governance Agreement (formerly known as the Governance Protocol Statement) is a non-statutory document that aims to document best practice protocols between the Queenstown Lakes District Council and the Wanaka-Upper Clutha Community Board.
- 2 It outlines principles for communication, coordination and cooperation between the two parties, as well as confirming the ability for the Mayor and Chief Executive to attend Board meetings, members of the Council's Executive Leadership Team to attend and support Board meetings, and for the Chair of the Board to attend Council meetings and report on Board issues or progress.
- 3 The Governance Agreement has been reviewed in alignment with the triennial local government election cycle, and this recommendation represents the outcome of that review.

ANALYSIS AND ADVICE | TATĀRITANGA ME NGĀ TOHUTOHU

4. At the end of the 2019-2022 triennium the outgoing Board members undertook a review of the Governance Agreement in place at that time. The purpose of this review was to provide recommendations for the new Board following the October 2022 local government election.
5. On 31 October, the new Wanaka-Upper Clutha Community Board initiated a discussion about the Governance Agreement, taking into consider the recommendations of the previous Board and that feedback was collated by the Chair and given to officers to progress.
6. On 16 November, the proposal was considered by the Executive Leadership team and feedback provided on the requested changes, taking into account legal requirements (for example under the Local Government Act 2002) and alignment with other documents such as the Code of Conduct, Standing Orders, and the Delegations Register / Terms of Reference.
7. Attachment A is the draft Governance Agreement with tracked changes, reflecting the proposed document for approval, signing and recommending to Council. These proposed changes include:
 - a. Updating the references in bullet #2 (b) to reflect the current purpose of local government as defined by the Local Government Act 2002, section 10 reflecting the change in focus from providing infrastructure, public services and regulatory functions, to promoting the social, economic, environmental and cultural wellbeing of present and future Upper communities.
 - b. Emphasising the requirement for Council to consult or seek recommendations from the Board on a range of matters such as policy and planning documents effecting the ward.
 - c. Removing the provision to appoint Board members to Hearings Panels for resource consent matters.

- d. Removing the reference to publicly criticising decisions as this duplicates the requirements of the Code of Conduct and Standing Orders.
 - e. Amending the review of the document to take place at the start of a triennium not the end, as has been historic practice.
8. A number of matters requested by the Board have not been included as outlined below:
- a. The Board requested that "Where the agreed service levels differ from the district-wide service level adopted by Council then a rate differential may be applied, **with the agreement of the Board**, to the Wanaka-Upper Clutha Ward to equalise the different level of service" [emphasis added to define the requested addition]. Under the Local Government Act 2002, Schedule 7, clause 32 (1)(a) a local authority may not delegate the power to make a rate. Making a rate conditional on the agreement of a decision-making body other than the Council itself would be contradictory to this requirement. Alternatively it is proposed that feedback from the Board will be considered through the decision-making process.
 - b. The Board requested that "The Council will delegate powers to the Board over matters concerning the Wanaka-Upper Clutha Ward that are necessary to enable the Board to fulfil its role as prescribed in the Local Government Act 2002. The Council and the Board will **agree on** any changes to delegations to the Board" [emphasis added to define a change from consulting the Board]. Under the Local Government Act 2002, section 53 a community board has the powers "delegated to it by the relevant territorial authority in accordance with clause 32 of Schedule 7, and under that clause it is the power of the local authority to decide what powers to delegate. Making delegations (new, amended or removal) conditional on the agreement of a decision-making body other than the Council itself would be contradictory to this requirement. Alternatively it is proposed that recommendations from the Board will be considered.
9. Amendments such as changing the document name from "Governance Protocol Statement" to "Governance Agreement", and updating references to the "**Wanaka-Upper Clutha** Community Board" [emphasis added for clarification] have been included and are not presented for consideration.
10. **Option 1** Approve the changes to the Governance Agreement (as Attachment A), delegate the Chair to sign the Agreement, and recommend to Council that they approve the proposed Governance and delegate the Mayor to sign it.

Advantages:

- a. The Board and Council will have an agreement between themselves that confirms greater collaboration and consultation and is aligned with the requirements of the Local Government Act 2002.
- b. The review of future Agreements becomes a clear responsibility for future incoming Boards.
- c. The Governance Agreement reflects the purpose of local government as defined by the Local Government Act 2002.

Disadvantages:

- a. The Board does not see all the changes it requested in the Governance Agreement.

11. **Option 2** Do not approve the proposed Governance Agreement and seek further amendments.

Advantages:

- a. The Board has an opportunity to consider alternative changes to the Governance Agreement, noting that the requirement for alignment with current legislation will remain.

Disadvantages:

- a. The Board and the Council do not have an agreement in place until further changes have been considered.

12. This report recommends **Option 1** for addressing the matter because it puts in place an improved agreement with a focus on collaboration and communication, whilst aligning with the requirements of current legislation.

CONSULTATION PROCESS | HĀTEPE MATAPAKI:

13. Consultation is not required on this matter.

> MĀORI CONSULTATION | IWI RŪNANGA

14. Consultation with Iwi/Maori is not required on this matter.

RISK AND MITIGATIONS | NGĀ RARU TŪPONO ME NGĀ WHAKAMAURUTANGA

15. This matter relates to the Strategic/Political/Compliance risk category. It is associated with RISK00031 and description Ineffective management and governance over legislative compliance within the QLDC Risk Register. This risk has been assessed as having a moderate inherent risk rating.

16. The approval of the recommended option will support the Council by allowing us to provide an appropriate agreement between the Board and Council whilst not acting contrary to the requirements of the Local Government Act 2002.

FINANCIAL IMPLICATIONS | NGĀ RITENGA Ā-PŪTEA

17. None.

COUNCIL EFFECTS AND VIEWS | NGĀ WHAKAAWEAWE ME NGĀ TIROHANGA A TE KAUNIHERA

18. Not applicable.

LEGAL CONSIDERATIONS AND STATUTORY RESPONSIBILITIES | KA TURE WHAIWHAKAARO ME KA TAKOHAKA WAITURE

19. None.

LOCAL GOVERNMENT ACT 2002 PURPOSE PROVISIONS | TE WHAKATURETURE 2002 O TE KĀWANATAKA Ā-KĀIKA

20. Section 10 of the Local Government Act 2002 states the purpose of local government is:
- a. to enable democratic local decision-making and action by, and on behalf of, communities; and
 - b. to promote the social, economic, environmental, and cultural well-being of communities in the present and for the future.
21. As such, the recommendation in this report is appropriate and within the ambit of Section 10 of the Act.
22. The recommended option is consistent with the requirements of the Local Government Act 2002.

ATTACHMENTS | NGĀ TĀPIRIHANGA

A	Draft Governance Agreement
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**WĀNAKA-UPPER CLUTHA COMMUNITY BOARD
and
QUEENSTOWN LAKES DISTRICT COUNCIL
GOVERNANCE AGREEMENT**

Purpose

This Governance Agreement aims to document best practice protocols to:

- Encourage communication, coordination and cooperation between the Queenstown Lakes District Council ("Council") and the Wānaka-Upper Clutha Community Board ("Board").
- Provide a mechanism for the Council and the Board to:
 - a) enable democratic local decision-making and action by, and on behalf of, the communities in the Wānaka-Upper Clutha Ward; and
 - b) promote the social, economic, environmental and cultural well-being of the Wānaka-Upper Clutha communities in the present and for the future.

Protocols for Governance, Communication and Coordination

- The Council has responsibility for the good governance of the district, while the Board is responsible for the good governance for the Wānaka-Upper Clutha Ward. The best interests of the communities of the Wānaka-Upper Clutha Ward are served when the Council and Board work cooperatively.
- The Board will be consulted on policy and planning documents that impact on the Wānaka-Upper Clutha Ward and Council will take into account all input from the Board before the policies or plans are adopted as draft documents and notified for public comment.
- The Board and the Council will agree on levels of service to be provided in the Wānaka-Upper Clutha Ward. Where the agreed service levels differ from the district-wide service level adopted by Council then a rate differential may be applied to the Wānaka-Upper Clutha Ward to equalise the different level of service. Feedback from the Board will be considered through the decision-making process.
- Board concerns regarding Council's operational performance will be communicated to the relevant General Manager in the first instance and subsequently to the Council's Chief Executive if not resolved.
- The Council's Chief Executive will ensure that the Board is provided with complete, timely and robust information, support and advice to enable the Board to carry out its role as prescribed in the Local Government Act 2002 and exercise its delegations. This includes the provision of adequate staff support for Board activities.
- The Council and the Board will ensure that appropriate training and development is provided for Councillors and Board Members to ensure they have the necessary skills to undertake their governance and policy making responsibilities within local government.
- The Council and the Board acknowledge that good governance requires them to consider community views and provide a balance of the different views and the trade-offs necessary.
- The Council will delegate powers to the Board over matters concerning the Wānaka-Upper Clutha Ward that are necessary to enable the Board to fulfil its role as

prescribed in the Local Government Act 2002. The Council will consider recommendations of the Board when making a decision on any changes to delegations to the Board.

- Delegations to the Board underlie the spirit of partnership between the Council and the Board and any changes to delegations and this Governance Agreement are to be considered in tandem with each other.
- Where the Board is exercising its powers (either mandated or delegated) to make binding decisions where there is a high degree of significance (as defined in Council’s Significance and Engagement Policy) to the Wānaka-Upper Clutha community it must follow the special consultative procedure under the Local Government Act 2002 in reaching its decision.
- The Council and the Board will act consistently with the Code of Conduct.

Process

The Mayor and Chief Executive may attend meetings of the Board to report on Council issues impacting on the Board. Members of the senior management team will regularly attend Board meetings for this purpose. The Chair of the Board may attend Council meetings and report on Board issues impacting on the Council.

Review of Governance Agreement

The Council and the Board may consider and review this Governance Agreement at any time. Any proposal for change must be presented for consideration at the next available meetings of the Council and the Board upon the request of either of them. The request must be made in writing to the Chief Executive at least two weeks before the next meeting date.

The Council and the Board must ratify any proposed changes to this Governance Agreement prior to them coming into effect.

This Governance Agreement will be placed on the agenda of the first meetings of the Council and the Board subsequent to the triennial election for the purpose of reviewing the document and recommending changes (if any) to the incoming Council and Board.

MAYOR

WUCCB CHAIR

DATE

DATE