



Kaikōura Marine Guardians Ministerial Advisory Committee

Terms of Reference (2024-28)



Dated December 2023

1 Preamble

The Kaikōura (Te Tai o Marokura) coastal and marine environment holds great significance historically, culturally, spiritually, environmentally, and economically due to its dynamic geography, geology, and abundance of aquatic life and resources.

These attributes support highly valuable and treasured commercial, customary, and recreational fisheries, along with marine ecotourism and other non-extractive uses such as bird-watching, beach walking, kayaking, swimming, etc. The significance of these fisheries and non-extractive uses led to the development of a Kaikōura Marine Strategy (sustaining our sea) based around the philosophy of “*Gifts and gains*” to promote *sustainable customary practices, protecting our treasures, fishing for abundance, and living sustainably* (2011). This Strategy was prepared by Te Korowai o Te Tai o Marokura (**Te Korowai**).

The need to safeguard this environment was further recognised under the *Kaikōura (Te Tai o Marokura) Marine Management Act 2014 (the Act)* and the establishment of Te Whata Kai o Rakihouia i Te Tai o Marokura - Kaikōura Marine Area (refer to Map).

The purpose of the Act¹ is to:

- recognise the local, national, and international importance of the coast and sea around Kaikōura because of its unique coastal and marine environment and distinctive biological diversity and cultural heritage
- provide measures to assist the preservation, protection, and sustainable and integrated management of the coastal and marine environment and biological diversity of Te Tai o Marokura
- acknowledge the importance of kaitiakitanga and local leadership
- establish within Te Whata Kai o Rakihouia i Te Tai o Marokura - Kaikōura Marine Area:
 - Hikurangi Marine Reserve
 - Te Rohe o Te Whānau Puha Whale Sanctuary
 - Ōhau Fur Seal Sanctuary
 - Mangamaunu, Oaro, and Te Waha o te Marangai Mātaitai
 - Te Taumanu o Te Waka a Māui and Oaro-Haumuri Taiāpure

The Act establishes the **Kaikōura Marine Guardians**², a Ministerial Advisory Committee, to represent iwi and local community interests and provide advice on Te Whata Kai o Rakihouia i Te Tai o Marokura - Kaikōura Marine Area. Te Korowai (formed in 2005) led a community-based process to establish both the Act and the Guardians. There continues to be a strong connection between Te Korowai and the Kaikōura Marine Guardians.

The Kaikōura Marine Guardians (**the Committee**) is appointed by the Minister of Conservation and the Minister responsible for the administration of the Fisheries Act 1996 (“**the Ministers**”). These Ministers are supported by the Department of Conservation and Ministry for Primary Industries (**the agencies**).

¹ Section 3 of the Kaikōura (Te Tai o Marokura) Marine Management Act 2014

² Section 6 of the Kaikōura (Te Tai o Marokura) Marine Management Act 2014

2 Purpose of the Terms of Reference

This Terms of Reference (2024-28) forms an agreement between the Ministers, agencies, and the Committee about how each party will work together to implement the Act and support the functions of the Committee.

3 Function of the Committee

The key function³ of the Committee is to provide advice on any biosecurity, conservation, or fisheries-related matter in respect to the marine and coastal environment within Te Whata Kai o Rakihouia i Te Tai o Marokura – Kaikōura Marine Area to

- a. the Ministers responsible for the administration of the:
 - Biosecurity Act 1993
 - Conservation Act 1987
 - Fisheries Act 1996; and
- b. any person exercising a power or performing a function under the biosecurity, conservation, and fisheries legislation.

The Committee may provide this advice on request or at their own initiative.

If a matter relates exclusively to Te Whata Kai o Rakihouia i Te Tai o Marokura – Kaikōura Marine Area, the person receiving the advice *must* take the advice into account.

If the matter relates to any area outside of Te Whata Kai o Rakihouia i Te Tai o Marokura - Kaikōura Marine Area, the person receiving the advice *may, but is not required to*, take the advice into account⁴.

4 Membership

The Committee will consist of up to eleven (11) members as follows:

- One (1) representative of Te Rūnanga o Ngāi Tahu
- Two (2) representatives of Te Rūnanga o Kaikōura
- Six (6) representatives nominated by the public
- One (1) representative of the Minister of Conservation
- One (1) representative of the Minister for Oceans and Fisheries

5 Chairperson

The Ministers reserve the right to appoint a Chairperson. If the Ministers choose not to exercise that right, then the Chairperson shall be elected by simple majority of those members present at the next meeting when an election is required.

The Chairperson shall preside over all meetings of the Committee at which he/she is present. If the Chairperson is absent from any meeting, the members present shall appoint one of their number to assume the role of Chairperson for that meeting.

³ Section 7(1) of the Kaikōura (Te Tai o Marokura) Marine Management Act 2014

⁴ Section 7 of the Kaikōura (Te Tai o Marokura) Marine Management Act 2014

6 Nomination and appointment of Committee members

Before the appointment of any Committee member, the Ministers must be satisfied that the following interests and areas of expertise are collectively represented on the Committee⁵:

- Te Rūnanga o Ngāi Tahu and Te Rūnanga o Kaikōura
- Kaikōura community
- biosecurity
- conservation
- education
- environment
- fishing
- marine science
- tourism

6.1 Representatives appointed by Te Rūnanga o Ngāi Tahu and Te Rūnanga o Kaikōura

The Ministers will request the names of one (1) appointment from Te Rūnanga o Ngāi Tahu and two (2) appointments from Te Rūnanga o Kaikōura to represent their interests.

6.2 Representatives nominated by the public

The Ministers will call for nominations using a public process to select up to six (6) public members. Nominations will be open for a minimum of twenty (20) working days.

6.3 Representatives appointed by the Ministers

The Ministers will appoint their own respective representative. For the avoidance of doubt, representatives appointed by the Ministers are full voting members of the Committee.

7 Expectations of Committee members and Chairperson

All Committee members are expected to:

- attend each meeting in full, unless extenuating circumstances provide otherwise, and actively contribute at meetings
- arrive prepared for meetings, including reviewing agenda material and the background of issues to be raised ensure that relevant matters of significance are brought to the attention of the Committee
- bring to the Committee perspectives based on their experiences and interests
- take a whole marine and coastal environment view and not regard themselves as representatives or advocate for a particular sector or interest
- base their advice on their understanding of broader marine and coastal protection and use issues
- draft reports and comment on reports drafted by other members and the relevant agencies
- fully declare any conflict of interest, or potential conflicts of interest, that may arise; and
- not make unauthorised statements on behalf of the Committee.

The Chairperson is expected to:

- provide effective leadership and direction to the Committee
- chair meetings
- organise the meeting date and agenda with the assistance of the agencies

⁵ Required under section 6(4) of the Kaikōura (Te Tai o Marokura) Marine Management Act 2014

- iv. determine what action is appropriate if a member has a conflict of interest or potential conflict of interest
- v. fully declare any conflict of interest or potential conflict of interest that may arise, and manage this accordingly (eg, if the Chairperson has a conflict of interest in a particular matter, they shall transfer their role to another member while that matter is discussed)
- vi. act as spokesperson for the Committee and make all public and media announcements (on behalf of the Committee), unless the Committee has agreed that another member will be the spokesperson on a particular topic.
- vii. meet with relevant Ministers or representatives of the agencies to report on the activities of the Committee, as required
- viii. maintain an effective working relationship with Ministers and agencies; and
- ix. oversee the development of an annual 12-month work programme for the Committee (in conjunction with agencies).

8 Role of agencies

The role of agencies is to primarily provide administrative support to the Committee in respect to organisation of meetings (agenda preparation, venue, catering, etc.) and minute taking.

Agencies do not have a voting role.

Agencies will inform and provide relevant information to the Committee where appropriate on any biosecurity, conservation, and fisheries-related matter to ensure opportunities to provide timely advice in accordance with the Terms of Reference. This information may be provided throughout the year when appropriate.

Agencies will assist the Committee to prepare the 12-month work programme and the Annual Report.

The agenda for each meeting will be provided to members not less than five (5) working days before the meeting,

Agencies will provide draft minutes to the Chairperson within twenty (20) working days of the meeting to which they relate.

9 Working together

All parties to this Terms of Reference have a shared commitment to achieve the purpose of the Act and its implementation, and undertake to:

- work in the spirit of cooperation with each other
- operate a “no surprises” approach – all parties are expected to inform each other of significant events or issues that may be contentious or could attract a high degree of public interest, whether positive or negative;
- share and be receptive to information; and
- recognise and acknowledge that parties benefit from working together by sharing their vision, knowledge, and expertise.

10 Term of appointment

All appointments to the Committee will be for a term of a maximum of four (4) years.

The specific term of each appointment shall be specified in the notice of appointment for each member. A member takes office from the date stated in their notice of appointment.

Any member may at any time be removed from the Committee by the Ministers for bankruptcy, neglect of duty, or misconduct.

Any member may at any time resign his or her membership in writing, addressed to the Ministers.

Should any member die, resign, or be removed from the Committee, the vacancy shall be filled in the way the appointment was originally made, for the residue of the term of the vacating member.

11 Meetings of the Committee

11.1 Time and place of meetings

Meetings shall be held at such times and venues as the Chairperson decides, in consultation with the agencies. Members shall be given not less than twenty (20) working days notice of the date and venue for each meeting.

11.2 Number of meetings

No more than four (4) meetings may be held in any calendar year, unless exceptional circumstances arise that necessitates a special meeting. This will be decided in agreement between the Chairperson and agencies.

Meetings may be held in-person or online (or a mix of both), as agreed by the Chairperson and agencies.

11.3 Quorum

A quorum of the Committee shall comprise at least six (6) members (attendance includes online participation). No business shall be transacted unless a quorum is present.

11.4 Decisions

Every decision before the Committee shall be voted on and determined by a majority of members. Only those members present at a meeting may vote at that meeting.

At any meeting of the Committee, the Chairperson shall, in the case of an equality of vote, have a casting vote being a second vote.

Subject to these rules, the Committee, through the Chairperson, may regulate its own practices.

11.5 Conflicts of interest

At the start of each meeting, members shall declare if they have any conflict of interest in relation to any item on the meeting agenda and take appropriate steps to manage the conflict at the direction of the Chairperson.

11.6 Attendance by agency officials and members of the public

Agency officials shall attend Committee meetings, but do not have voting rights.

Any other person or member of the public wishing to attend meetings must be first invited by the Committee and has no speaking rights unless invited by the Chairperson. Observers do not have a voting right.

12 Annual report

An Annual Report of the Committee shall be prepared and sent to the Ministers as soon as possible after the end of each calendar year.

13 Fees and allowances

Fees and allowances payable to members will be in accordance with the Public Service Commission (PSC) guidelines for members of statutory bodies appointed by the Crown.

Fees and allowances will be paid for attendance at Committee meetings. Fees and allowances will only be paid for additional work with prior approval from the Chairperson and minuted by the Committee. This additional work shall be discussed between the Chairperson and agencies prior to any approval be given.

Fees and allowances payable to the members will be met equally by the agencies.

14 Review of Terms of Reference

The Ministers will review these Terms of Reference every four (4) years or as required in consultation with the Committee and agencies.

Map of Te Whata Kai o Rakihouia i Te Tai o Marokura - Kaikōura Marine Area

