

**MINUTES
OF A MEETING OF THE NZNO BOARD OF
DIRECTORS HELD VIA ZOOM
Thursday 11 June 2020 at 4.30pm**

Present

Kerri Nuku Kaiwhakahaere (Chair)
Titihuia Pakeho Tumu whakarae
Andrew Cunningham
Margaret Hand
Anamaria Watene

Apologies

Simon Auty

In Attendance

Memo Musa Chief Executive
Michelle Evans Minute taker

1.0 Karakia

Titihuia Pakeho opened the meeting with a karakia.

1.1 Welcome

The Tumu whakarae welcomed attendees to the meeting.

The Chief Executive noted this was a special meeting of the Board which had been called under Clause 13.2 of the Constitution (as detailed below) so that the Chief Executive could advise the Board of the decision he had made in response to a petition which had been lodged by Naomi Waipouri and Awa Love.

13.2 The Chief Executive Officer shall call a special meeting of the Board upon being required to do so by the President, the Kaiwhakahaere or by any other three members of the Board. If she/he fails to do so within 14 days of the request, the President, the Kaiwhakahaere or another member of the Board shall do so and the meeting shall be deemed to have been called by the Chief Executive Officer.

1.2 Apologies

Apologies were received from Simon Auty.

1.3 Order of agenda items and confirmation of agenda

The order of items on the agenda was confirmed.

1.4 Register of interests

The Register of Interests was updated prior to the meeting and circulated with the agenda.

1.5 Declaration of Conflicts in relation to this meeting

There were no conflicts of interest declared.

2.0 Board Values

The Board noted the Board values.

Confirmed

3.0 Chief Executive decision – Petition submitted by Naomi Waipouri and Awa Love

The Chief Executive advised that he had spent considerable time working through the verification process of signatories to the petition and on understanding the motion or resolution in the petition to inform his decision making process on the petition. The Chief Executive said that a letter was submitted with the petition, and that the petition document provided a rationale and background including a motion which he read as follows:

“That the membership of NZNO seek to reject any SGM under clause 26.1.2 of the Constitution where members have not been fully informed from both parties official representatives prior to signing a petition or constituting the 1% of membership. On that basis all SGM should be rejected by the CEO”.

“That the membership of NZNO reject any SGM from being called that is outside of the NZNO Constitution, and on that basis the CEO can reject an SGM or defer for discussion at the next AGM”.

The Chief Executive explained to the Board that it was difficult to ascertain what he was being asked of in the way the motion was presented and how this could be interpreted with regard to the Special General Meeting (SGM). The Chief Executive explained in the letter there was a specific paragraph which suggest that he rejects any SGM, however the next sentence refers to a petition which had already been circulating i.e. the NZNO Democracy Now petition for which he had made a decision on earlier this week. The Chief Executive said that when the resolution is looked at more broadly, it could be seen as an attempt to amend the Constitution. However, it does not propose any amendment to the Constitution about clauses relating to SGMs. The Chief Executive informed the Board that the motion or resolution was not sufficiently defined or scoped to be put to a vote at an SGM.

The Chief Executive advised that due to undefined nature of the resolution and a reference to a petition circulating for which there is no supporting evidence, and based on the information received, he is not able to call an SGM as there is too much ambiguity in the resolution.

In response to a query from the Board, the Chief Executive advised he did not seek a legal opinion as he had done in the first petition. This was because he had undertaken the initial work himself and then asked for a legal review of the process he had followed to arrive at his decision and what he had prepared. With regard to the decision he had arrived at, the Chief Executive said that no concerns or queries had been raised through a legal review process.

The Kaiwhakahaere said she did not agree with the decision made by the Chief Executive and spoke of the first SGM held in 2019 when she was of the view that the business to be transacted was not clear. The Kaiwhakahaere said that her understanding was that the SGM request called for by the second petition was under clause 26.4 of the Constitution. In response, the Chief Executive stated that the resolution for the first SGM in 2019 was clear in outline of the business to be transacted whereas if this, the second petition is looked at, as 26.2 of the Constitution applies, the business to be transacted is not sufficiently defined.

The Chief Executive elaborated that the Constitution states that the business to be transacted at SGM needs to be clear and his conclusion is that he has found the resolution to be ambiguous and not sufficiently defined. As an example, the Chief Executive said that if someone asked him what they were voting on with regard to the second petition, he would not be sure what to say as it was not clear. The Kaiwhakahaere said that having read the rationale, there was context provided which talks about unnecessary expense and calling SGMs as a method of dispute resolution. The Kaiwhakahaere said that as she read it, all members who sign a petition need to be fully informed as opposed to the petition being signed by members who are not aware what they are signing.

A Board member said she was of the view that the purpose of the second petition was to stop all other petitions. In response, the Chief Executive cited the following from the petition;

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“Notice to the NZNO Chief Executive to issue notices of a Special General Meeting (SGM)’ and that what he had to consider before doing so, was the nature of the business to be transacted at that SGM. A Board member spoke of there being an article in Kai Tiaki relating to the decision on the second petition, however the Chief Executive assured the Board that other than his support and legal review team no other person was aware of his decision. The Chief Executive advised that one of the petitioners had emailed him this morning drawing his attention to the article in Kai Tiaki and he responded to that e-mail and did not mention anything related to his thinking and decision. The Board member asked how Kai Tiaki had received the information about the decision on the second petition and the Chief Executive said that Kai Tiaki did not have any information about his consideration, his thinking and decision he had reached.

A Board member asked how it would be determined that people are fully informed. The Board member said that the Board is aware that the Chief Executive can strike down an SGM. However the Kaiwhakahaere disagreed, saying that petitions which are not constitutional are to be rejected, and she did not see the second petition as being unconstitutional. In response, the Chief Executive said that the petition had not proposed a Constitutional change or provided what need to be changed in the constitution and that this was good grounds for him not to issue a notice of SGM. Further, he advised the Board that the process for proposing amendments to the constitution is set out in clause 25.

In response to a query from a Board member, the Chief Executive reiterated that the second petition did not specify any amendments to the Constitution and he offered to obtain a legal opinion, if that is what the Board wanted, and advised the Board that he was confident with his decision. The Chief Executive said that if the Board would care to be reassured that he is on solid ground with regard to his decision, he will obtain a legal Opinion. A Board member asked whether advice legal opinion and advice had been taken on the first petition and the Chief Executive said it had and provided the reasons for doing so. The Chief Executive said that legal advice and opinion can be sought, this process would involve significant costs.

The Chief Executive reminded the Board that it was his decision whether to issue a notice of SGM and reiterated he was willing to seek a legal opinion on his decision should the Board require it. The Chief Executive said that if the legal advice and opinion comes back that he is not correct, he will revisit his decision. A Board member said that it would be equitable for both petitions to be treated with the same respect so if one petition was legally reviewed, then the other petition should also be. The Chief Executive advised that the legal advice and opinion was likely to come back as confirming his decision, and reiterated that if the Board wished to have legal advice and opinion on the decision as it stands, he would seek it. The Chief Executive said he had undertaken the same weighting when reviewing both petitions. The Kaiwhakahaere invited the other Board members who had not yet spoken to provide their opinions.

A Board member thanked the Chief Executive for spending time and effort on the petition, as it was not an easy task. In response to a request for clarification from the Board member, the Chief Executive said he had provided legal counsel with all the documents, had asked them to review his decision and legal counsel had subsequently advised that the Chief Executive’s decision was sound.

A Board member expressed concern that Kai Tiaki was privy to information they should not have been and said this was inappropriate and of concern.

A Board member said that when she read the petition and the Constitution, she had thought the petition’s motion was within the Constitution. The Board member said that she thought legal advice should be sought like it was for the first petition to ensure they are both treated with the same mana.

A Board member said her view was that what the second petition was looking to change the Constitution to ensure that all members are fully informed when they sign a petition. The

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Board member said that under clause 26.2 of the Constitution, it would have to be clear that any such request must state the business to be transacted at the SGM.

The Kaiwhakahaere spoke of the Chief Executive undertaking due diligence in having the first petition reviewed from a legal perspective and although that petition's motion was seen to be unconstitutional, legal fees were incurred. The Kaiwhakahaere said that however, at the end of the day, it is the Chief Executive's decision whether to seek legal advice or not.

The Chief Executive read clause 26.4 of the Constitution to the Board (as below). The Chief Executive said that if the petition had been clear as to the business to be transacted at SGM, he would have issued a notice of SGM.

26.4 Any notice given under this clause shall state the specific resolution to be transacted at the Special General Meeting, and no business other than that specified in the resolution shall be transacted at the meeting.

The Kaiwhakahaere asked the Chief Executive how he was going to inform the petitioners of his decision and the Chief Executive said he would provide the memorandum which the Board had received this afternoon. The Kaiwhakahaere suggested that the Chief Executive also clearly articulate where the petitioners had fallen outside the Constitution. The Kaiwhakahaere said that clause 26.2 (as below) has tripped the petitioners up. The Chief Executive indicated that he would make this clear in his decision document.

26.2 Any such request must state the business to be transacted at the Special General Meeting.

The Kaiwhakahaere observed that the second petition was an attempt to thwart any other petition which may follow the rejection of the first petition and a Board member said this was also her understanding.

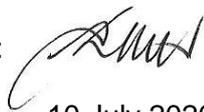
The Kaiwhakahaere advised the Chief Executive that after discussion and hearing the Chief Executive's rationale as to his decision, the Board was in agreement that they did not want legal fees incurred. The Kaiwhakahaere advised that it was the Chief Executive's decision whether or not to issue notice of an SGM. The Kaiwhakahaere observed that how Kai Tiaki had received information about the second petition was another matter.

4.0 Karakia

Titihuia Pakeho closed the meeting with a karakia.

The meeting closed at 5.28pm.

Chairperson:



Date:

10 July 2020