

**Chairperson and Committee Members**  
STRATEGY & POLICY COMMITTEE

25 MAY 2017

Meeting Status: **Public**

Purpose of Report: For Decision

## **PUBLIC ART PANEL - REVIEW OF TERMS OF REFERENCE**

### **PURPOSE OF REPORT**

- 1 This report seeks the Committee's approval of a revised terms of reference for the Public Art Panel.

### **DELEGATION**

- 2 The Committee has the authority to consider this matter under the Governance Structure and Delegations. *"The Committee will deal with all strategy and policy decision-making that is not the responsibility of Council."*

### **BACKGROUND**

- 3 The Kāpiti Coast District Council (Council) develops and manages public art for the district guided by its Strategy for Supporting the Arts (2012) [available from: <http://www.kapiticoast.govt.nz/Your-Council/Forms-Documents/Policy-and-Strategy/Council-Strategies> /] and Public Art Policy (2013) [available from: <http://www.kapiticoast.govt.nz/Your-Council/Forms-Documents/Policy-and-Strategy/Council-Policies> /]. The Public Art Policy establishes the Public Art Panel.
- 4 The existing Public Art Panel Terms of Reference [Appendix 1] were adopted by the Council in November 2013 and appointments were made to the panel. During the last Triennium the panel was unable to achieve the installation of a public artwork although some progress was made towards the end of the triennium in relation to the proposed artwork for Paraparaumu Beach.
- 5 The existing terms of reference for the panel have been reviewed to identify any structural elements that might be acting as barriers to the success of the panel. The practices of other Councils have been considered as part of this, but these practices differ markedly.

### **ISSUES AND OPTIONS**

#### **Issues**

- 6 The existing terms of reference for the Public Art Panel give the panel responsibilities that seem too broad for its capacity. The responsibilities of the panel include:
  - maintaining an overview of public art activity in the District;
  - making recommendations to the Council on:
    - priority sites for public art;
    - proposals for public art activity;
    - acquisition, bequest, donation or loan of art for public spaces;

- relocation of public art; and
  - removal and de-accessioning of public art.
  - developing links with stakeholders interested in encouraging and being involved in cultural philanthropy; and
  - suggesting ways to develop sector skills and nurture the creation of public art projects.
- 7 The existing terms of reference give the panel the lead role in Council's public art activity but as a volunteer group the panel has limited time and insufficient influence over other Council work streams and processes to effectively develop and manage a comprehensive programme of public art activity. These work streams and processes can include: urban design; roading and utilities; parks and open spaces; and the involvement of Iwi and community boards. The outcome of the existing terms of reference is that little progress has been made during the last triennium.
- 8 The existing terms of reference provide that membership of the current panel consists of:
- one elected member;
  - an arts professional nominated by Te Whakaminenga o Kāpiti;
  - a representative of Mahara Gallery;
  - an independent art professional appointed by Council;
  - an independent urban design professional appointed by Council.

The Council has retained decision making power in relation to site and artwork selection.

Secretarial support is provided by the Arts and Libraries Project Coordinator.

## Options

- 9 Of the local authorities in New Zealand that have art policies and public art policies specifically, about half of them have advisory panels specifically for public art. A number of Councils delegate this responsibility directly to staff, external public trusts or community boards. Public art panels are most common where there is little activity by private groups investing private funds in developing art for public spaces.
- 10 Where these panels exist, the focus is commonly on providing advice to inform Council public art programmes. Following this common practice, and because of the Council's relatively modest scale of investment, it is recommended that the panel's role be recast from having responsibility to develop and manage a programme, to a role more focused on utilising its artistic expertise in decisions about public art.
- 11 This model recognises the importance of obtaining independent expert artistic assurance and advice, as the selection of public art is often controversial within a terrain that can be mired by subjective opinion.
- 12 In this model, Council's public art role of project leader, custodian and developer of public space, facilitator, funder and asset manager would be led and managed by Council staff in much the same way as other functions are managed. A suggested public art programme including such things as priority sites, budgets and timing would be prepared by staff from time to time with input from

stakeholders and the panel. Council would continue to make decisions about the adoption of the public art programme.

- 13 Options for decision making in relation to the actual selection of public artworks are discussed later in the report.
- 14 The revised terms of reference in Appendix 2 proposes a role for the Public Art Panel that optimises the utilisation of their expert artistic advice in the Council's public art programme.

## Matters for consideration

### a) Membership of the panel

- 15 Best practice for appointment to a panel follows two parallel paths. Firstly, spaces are reserved for representation by key stakeholders that the community would expect to have a voice, for instance Iwi and the district's gallery. The remaining members are recruited to ensure the panel has all the expert skills and knowledge necessary to fulfil its function. This is essentially the current process.
- 16 The panel has previously included an elected member appointed by the Council and it is proposed that this continue.
- 17 The revised terms of reference in Appendix 2 seeks members who can provide Council with expert artistic assurance and advice.
- 18 If the Committee adopts the revised terms of reference, Mahara Gallery and Te Whakaminenga o Kāpiti will be invited to confirm their nominees to the panel. Expressions of interest for the remaining positions on the Public Art Panel will be called for through advertising.

### b) Decision making process

- 19 Consideration needs to be given to the most appropriate decision-making process for the final selection of public artworks. Currently, staff, with the Public Art Panel, take recommendations first to the relevant community board and then to the relevant committee of Council. It is staff opinion that public art selection does not lend itself readily to such a multi-layer approval process because of the divergent and subjective nature of opinions on the artistic merit of an artwork proposal. A single layer approval process is likely to be more effective.

Options for a single layer approval process include:

- a) all decision-making by a committee consisting of the full Council;
  - b) delegation to a sub-committee of elected members that includes a community board member from the community within which the subject artwork is to be located;
  - c) delegation to the Public Art Panel.
- 20 Delegation to a small group has advantages as a smaller number of decision makers are more likely to be able to deal effectively with the potentially controversial nature of public art than is a larger group.

- 21 The utilisation of the Public Art Panel's specialist expertise could be maximised if the selection of artwork was delegated to that body and that is the preferred option. It is important that artwork selection relies heavily on artistic expertise as a means of avoiding potential artistic mediocrity.
- 22 If the Council favours delegating decision-making about the selection of artworks to the Public Art Panel, an element of control over the appropriateness of the decisions of the panel could be retained by providing that the delegation can only be exercised if the decision of the panel is unanimous. This would mean that any decision would need the support of the elected member on the panel to be able to proceed.

## **CONSIDERATIONS**

### Policy considerations

- 23 The Public Art Policy (2013) establishes the Public Art Panel. The Public Art Policy will require consequential amendment to align with any changes to the Public Art Panel Terms of Reference.

### Legal considerations

- 24 There are no legal considerations.

### Financial considerations

- 25 The Public Art Panel has no operating budget. Expenditure on public art is limited to the capital budget set by the Council.

### Tāngata whenua considerations

- 26 The existing and revised Public Art Panel Terms of Reference align with the tāngata whenua considerations in the Council's Strategy for Supporting the Arts (2012).

## **SIGNIFICANCE AND ENGAGEMENT**

### Degree of significance

- 27 The revised Public Art Panel Terms of Reference have a low level of significance under Council policy.

### Consultation already undertaken

- 28 No external consultation has taken place on this matter.

### Engagement planning

- 29 A community engagement plan is not needed to implement this decision.

### Publicity

- 30 There are no publicity considerations at this stage.

**RECOMMENDATIONS**

- 31 That the Committee adopts the revised terms of reference for the Public Art Panel, with any amendments, attached in Appendix 2 to report CS-17-117.
- 32 That the Committee authorises the Chief Executive to make consequential changes to the Public Art Policy to align with the revised terms of reference.
- 33 That staff call for expressions of interest in Public Art Panel membership as per the revised Public Art Panel Terms of Reference.
- 34 That the Committee recommends to the Council that it appoint Councillor..... to the Public Art Panel.
- 35 That the Committee recommends that Council delegates authority to the Public Art Panel to select public artworks provided that:
  - 35.1 The location and priority for the artwork has been approved by the Council;
  - 35.2 The cost of the artwork is within the approved budget;
  - 35.3 The decision of the Public Art Panel is unanimous.

<b>Report prepared by</b>	<b>Approved for submission</b>	<b>Approved for submission</b>
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**ATTACHMENTS**

- Appendix 1 Public Art Panel Terms of Reference (2013)
- Appendix 2 Revised Public Art Panel Terms of Reference (2017)

## PUBLIC ART PANEL TERMS OF REFERENCE

### November 2013

#### Goals

1. The Public Art Panel is appointed by the Kāpiti Coast District Council to oversee the public art programme. The Public Art Panel's primary goal is to assist the Council to implement the Council's Public Art Policy (August 2013).
2. By encouraging, providing and managing public art the Council aims to:
  - promote Kāpiti Coast District's sense of community, civic pride and distinctive identity;
  - acknowledge and celebrate the whakapapa and history of tangata whenua as well as matawaka cultural identity through Toi Maori;
  - provide opportunities for artists to work in and with communities in public places;
  - encourage a culture of creativity and innovation in the public realm, which heightens people's understanding and enjoyment of art, including introducing work from noted artists living and/or working outside the District;
  - contribute significantly to the development of cultural tourism and economic development in the District;
  - acknowledge and celebrate the diverse communities within the District;
  - provide opportunities for young people to lead or be involved in the creation of public art;
  - integrate public art into public space design including town centres, facilities and open space.

#### Membership

3. The Panel is made up of experts from a range of fields and includes:
  - One Councillor
  - One professional nominated by Te Whakaminenga o Kāpiti
  - One representative of Mahara Gallery
  - One independent arts professional
  - One independent urban design professional
4. All members of the Public Art Panel:
  - should demonstrate significant knowledge and expertise in the field of public art;
  - should keep informed of current trends in the arts and creative sectors;
  - should be familiar with the Kāpiti Coast District and be aware of developments, issues and concerns in the Kāpiti Coast community; and
  - may be Kāpiti Coast residents although this is not an absolute requirement.
5. The Council's Arts and Museums Development Officer will provide secretariat support to the Public Art Panel.

#### Appointment Process

6. The Public Art Panel will be appointed by the Kāpiti Coast District Council.

7. The Council will appoint one Councillor who will be a full member of the panel and will also serve as Council liaison to the panel.
8. The Council will review the nominations for the remaining four positions and appoint these. These nominations will consist of:
  - an arts professional nominated by Te Whakaminenga o Kāpiti;
  - a representative of the Mahara Gallery;
  - a shortlist prepared by Council staff of up to 3 independent arts professionals who are willing to serve on the panel; and
  - a shortlist prepared by Council staff of up to 3 independent urban design professionals who are willing to serve on the panel.
9. Nominations for the independent arts professional and urban design professional will be advertised in the local newspapers, on the Council's website, and in other media as deemed appropriate. Suitable persons with eligible experience may be directly contacted by the Council's Arts & Museums Development Officer and invited to submit a nomination.

### **Tenure**

10. Members of the Public Art Panel are appointed for a three-year term.
11. The independent arts professional and the independent urban design professional may not serve for more than two consecutive three-year terms. A former member can be reappointed after a gap of at least one term out of office.

### **Roles and Responsibilities**

12. The panel will appoint a Chair at its first meeting of each three-year term.
13. The responsibilities of the panel include:
  - 13.1. maintaining an overview of public art activity in the District;
  - 13.2. making recommendations to the Council on:
    - priority sites for public art,
    - proposals for public art activity,
    - acquisition, bequest, donation or loan of art for public spaces,
    - relocation of public art, and
    - removal and de-accessioning of public art;
  - 13.3. developing links with stakeholders interested in encouraging and being involved in cultural philanthropy; and
  - 13.4. suggesting ways to develop sector skills and nurture the creation of public art projects.
14. Recommendations, proposals and progress reports to Council will be developed by the panel. Council staff will prepare the covering report to Council.

### **Meetings**

15. Meetings must be held at least every six months (but may be held more frequently if the panel chooses to do so).
16. The quorum of the meeting shall be a simple majority of the appointed members. Recommendations of a quorum shall be considered those of the full panel.

17. Each member has one equal vote.
18. Any member who is absent from three consecutive meetings of the panel without leave of absence from the panel, or without reason satisfactory to the panel, shall cease to be a member of the panel.
19. The Chair of the panel will set meeting dates and agenda. Minutes of the meeting will be provided by Council staff. Meeting arrangements (notifications, room bookings and so on) will be made by Council staff. Meetings will not generally be open to the public (unless the panel chooses to make a meeting public) as the panel reports regularly in a public forum to the Council.

**Deliverables**

20. The Public Art Panel will develop a public art programme to cover its areas of responsibility at the start of each three-year term. The panel will present this to the Council. The inaugural public art programme may be brief, and be further developed over the first three-year term.
21. In accordance with the Public Art Policy (August 2013), the Public Art Panel should ensure that its programme includes a proposal for the purchase or commissioning of a significant public art work at least every two years.
22. Proposals from the Public Art Panel for purchase or commissioning a public art work must demonstrate that these have all funding secured.
23. The Public Art Panel will report to the Council at least once a year on its progress on the public art programme.

**Process and Jurisdiction**

24. The Public Art Panel's programme must be developed with reference to and in accordance with the Council's Strategy for Supporting the Arts (April 2012), the Council's Public Art Policy (August 2013) and the Council's public art acquisitions budget.
25. The Public Art Panel makes recommendations to Council regarding the public art programme.
26. The public art programme should include activities to actively engage with the arts community and the wider public. Of specific interest is the development of links with individuals and organisations to foster cultural philanthropy, and to develop art sector skills and community involvement in the arts.
27. The public art programme will include, but not be limited to, the acquisition of public art. The programme may include consideration of artworks for de-accessioning. From time to time, offers of gifts, bequests or donations of public art, or questions of deaccessioning may be referred to the Public Art Panel for assessment under the acquisition process. Acquisition and de-accessioning processes are described in the Public Art Policy.
28. The Public Art Panel and relevant Council staff will meet and discuss potential and priority sites for public art. The Public Art Panel's role is to provide advice on sites. Council will decide the list of priority sites for public art.



29. From time to time and acting on advice from the Public Art Panel, Council will call for proposals for the commissioning of a new work or the acquisition of an existing work for a specified agreed site. The Public Art Panel will provide input into the documents calling for proposals.
30. The Public Art Panel will review and assess all submissions. The assessment process will include an assessment against the Council's Public Art Policy goals and assessment criteria.
31. Upon the completions of its assessment, the Public Art Panel will make a recommendation to Council. Recommendations to Council for one or more proposals should contain all the detailed information obtained from the proposer, plus details of funding and source of funds.
32. The Public Art Panel should ensure that recommendations are made with due regard to New Zealand laws including those regarding copyright, censorship and obscenity.
33. The Council will make decisions and enter into formal agreements with artists and suppliers.
34. The Public Art Panel should work with Council to communicate progress on the public art programme to the public and to engage the public in debate and education about public art. The Public Art Panel cannot make public statements on behalf of the Council without prior approval from the Council's Communications Team.

**Remuneration**

35. Membership is a voluntary role, and there will be no remuneration for members' time, or for attendance at meetings.

**Resources and budget**

36. Council will make available meeting rooms and any Council-owned presentation equipment required for meetings.
37. There is no Council operating budget allocated to the Public Art Panel. Council staff time will be met from existing operating budgets.

**Fund sources and management**

38. Council makes provision for the capital purchase of public art in its Annual Plan process. The Council or the Public Art Panel may secure additional funds from outside sources (e.g., central government agencies, corporate or private funders) for the acquisition of public art. Details of expenditure are included in the Council's regular financial reports.
39. The Council will make payments to artists and suppliers associated with the agreed public art programme.

**Storage of information and documentation**

40. Minutes of Public Art Panel meetings, proposals and progress reports made to the Kāpiti Coast District Council will be held in the Council filing system.

41. Details of Council-owned public art will be recorded in the Council's Public Art Register.

**Code of Conduct**

42. Members are required to declare any conflict of interest with any matter to be discussed by the Panel.

43. Members are not permitted to directly or indirectly benefit from their participation in the Public Art Panel during their tenure, and for a period of 12 months following the completion of their term.

44. Members are required to:

- prepare for and actively participate in meetings;
- act in a courteous manner, respecting views and opinions of others;
- respect the decision of the consensus view as adjudicated by the Chair;
- publicly support recommendations made by the panel even if their personal view differs from the consensus view; and
- treat information with sensitivity and confidentiality as appropriate.

**Evaluation and review**

45. The Council may choose to alter these terms of reference at any time.

46. Council reserves the right to review the operations of, or need for, the Public Art Panel at any time.

## REVISED PUBLIC ART PANEL TERMS OF REFERENCE

### 2017

#### Goals

1. The Public Art Panel is appointed by the Kāpiti Coast District Council to act as an expert advisor on the Council's public art programme and to make decisions on the selection of public artworks that assist the Council to implement its public art programme and Public Art Policy.
2. By encouraging, providing and managing public art the Council aims to:
  - 2.1. promote Kāpiti Coast District's sense of community, civic pride and distinctive identity;
  - 2.2. acknowledge and celebrate the whakapapa and history of tangata whenua as well as matawaka cultural identity through toi Māori;
  - 2.3. provide opportunities for artists to work in and with communities in public places;
  - 2.4. encourage a culture of creativity and innovation in the public realm, which heightens people's understanding and enjoyment of art, including introducing work from noted artists living and/or working outside the District;
  - 2.5. contribute significantly to the development of cultural tourism and economic development in the District;
  - 2.6. acknowledge and celebrate the diverse communities within the District;
  - 2.7. provide opportunities for young people to lead or be involved in the creation of public art;
  - 2.8. integrate public art into public space design including town centres, facilities and open space.

#### Membership

3. The panel shall have five members, including a dedicated roles for:
  - an arts professional nominated by Te Whakaminenga o Kāpiti
  - a representative nominated by Mahara Gallery
  - an elected member of Council
4. Members will be selected for their artistic expertise, experience and networks, and to ensure that collectively the panel has the following skill areas:
  - credibility and relationships in the community, especially the creative community
  - experience in the commissioning of public art
  - ability to identify strong artistic concepts
  - knowledge of local, national and international public art history
  - knowledge of Kāpiti's geography, local environments social and built heritage
  - appreciation of Kāpiti's changing demographics and diversity and the opportunities and challenges these pose to the development of the district

- a globally informed perspective of the role creativity plays in place-making and transformation
  - commitment to understanding the principles of Te Tiriti o Waitangi
  - knowledge of tikanga Māori and toi Māori
5. Council staff will manage the Council's public art programme, facilitate engagement, and provide secretariat support to the Public Art Panel.

### **Appointment Process**

6. Council will appoint one of its elected members to the panel.
7. The Public Art Panel will be appointed by the Council from a shortlist prepared by Council staff in response to expressions of interest and nominations from Te Whakaminenga o Kāpiti and Mahara Gallery.
8. Expressions of interest for two positions on the Public Art Panel will be called for through advertising.

### **Tenure**

9. Members of the Public Art Panel are appointed for a three-year term that coincides with the then current Council triennium.

### **Roles and Responsibilities**

10. The panel will appoint a Chair at its first meeting of each triennium.
11. The role of the Public Art Panel is to provide input into the Council's public art programme, including advising on:
- Site priorities and selection;
  - Timelines;
  - Strategic aims;
  - Budget utilisation;
  - Artworks to be deaccessioned or relocated;
  - External proposals, bequests, donations or loans of artwork for public spaces;
  - Protocols for artwork opening/unveiling, relocation and removal.
12. The Public Art Panel is authorised to determine the following:
- Commissioning processes, artist selection methods and brief development;
  - Selecting artists to respond to a brief, and reviewing expressions of interest;
  - Approving artist concepts and detailed designs for the production of public artworks.
13. Recommendations and progress reports to Council or delegated committee will be developed by Council staff with advice from the panel.

### **Meetings**

14. Meetings will be held as required.

15. The quorum of the meeting shall be a simple majority of the panel.  
Recommendations and decisions of the panel are made by a simple majority of those present, except that decisions about selection of a public artwork must be a unanimous decision of the full panel.
16. Each member has one equal vote.
17. Any member who is absent from three consecutive meetings of the panel without leave of absence from the panel, or without reason satisfactory to the panel, shall cease to be a member of the panel.
18. Meeting agendas, minutes and arrangements (notifications, room bookings and so on) will be made by Council staff. Meetings will not generally be open to the public (unless the panel chooses to make a meeting public).

### **Process and Jurisdiction**

19. The Public Art Panel will provide advice and input for the development of Council's public art programme.
20. Once the public art programme has been approved the Public Art Panel have delegated authority to select public artworks provided that:
  - The location and priority for the artwork has been approved by the Council;
  - The cost of the artwork is within the approved budget;
  - The decision of the Public Art Panel is unanimous.
21. The Public Art Panel's recommendations and decisions must be developed with reference to and in accordance with the Council's Strategy for Supporting the Arts (April 2012), the Council's Public Art Policy (August 2013) and the Council's public art acquisitions budget and approved programme.
22. The Public Art Panel should ensure that recommendations and decisions are made with due regard to New Zealand laws including those regarding copyright, censorship and obscenity.
23. Council will enter into formal agreements with artists and suppliers.
24. The Public Art Panel can advise Council staff on public communications and engagement plans. The Public Art Panel cannot make public statements on behalf of the Council.

### **Remuneration**

25. Membership is a voluntary role, and there will be no remuneration for members' time, or for attendance at meetings.

### **Resources and budget**

26. Council will make available meeting rooms and any Council-owned presentation equipment required for meetings.
27. There is no Council operating budget allocated to the Public Art Panel. Council staff time will be met from existing operating budgets.

**Fund sources and management**

28. Council makes provision for the capital expenditure on public art in its Annual Plan process. The Council or the Public Art Panel may seek to secure additional funds from outside sources (e.g., central government agencies, corporate or private funders) for public art. Details of expenditure are included in the Council's regular financial reports.
29. Council will make payments to artists and suppliers associated with the agreed public art programme.

**Code of Conduct**

30. Members are required to declare any conflict of interest with any matter to be discussed by the panel.
31. Members are not permitted to directly or indirectly benefit from their participation in the Public Art Panel during their tenure, and for a period of 12 months following the completion of their term.
32. Members are required to:
  - prepare for and actively participate in meetings;
  - act in a courteous manner, respecting views and opinions of others;
  - respect the decision of the consensus view as adjudicated by the Chair;
  - publicly support recommendations made by the panel even if their personal view differs from the consensus view; and
  - treat information with sensitivity and confidentiality as appropriate.

**Evaluation and review**

33. Council may choose to alter these terms of reference at any time.
34. Council reserves the right to review the operations of, or need for, the Public Art Panel at any time.