Proposed Constitution Options for Member feedback

Purpose

This document provides background information to support Members' deliberations on whether they prefer the provisions in the Proposed Constitution, or the alternative options provided in three specific areas.

The three areas relate to the framing of InternetNZ's role administering the .nz Domain Name Space; the size of the Board and balance of Elected and Appointed Board Members; and the leadership of the Board (including Co-Leadership).

Background

We are seeking further Member input before determining what to include in the final proposed constitution to be voted on by eligible Financial Members at a Special General Meeting. Where member agreement emerges we can enter that clause into the proposed constitution for the SGM and where disparate views remain we can retain the option for voting at the SGM.

On balance, taking into account the submissions, legal and governance advice, alongside the goals of the constitutional review, the provisions in the Proposed Constitution are the recommended options.

Alternative Option: Preface statement about the administration of the .nz Domain Name Space

Decision needed: Whether to include an additional statement in the preface about how InternetNZ administers the .nz Domain Name Space (DNS) in regards to content. Such a statement has been raised by members recently and is not currently recommended in the Proposed Constitution.

The proposed statement: The Society does not consider the use of domain names in its administration of the .nz Domain Name Space, except for moderated second level domains such as .govt.nz; where required by law; or to protect the integrity of the .nz Domain Name Space against domain name space abuse.

Background: There has been concern raised through submissions and in other input that provisions in the Drafting Constitution may open the door for InternetNZ to make censorship decisions in regards to content in its role as administrator of the DNS. Having separate objects focusing on technical aspects (open, global, resilient, secure) and social aspects (inclusive, fair, accessible) of the Internet was intended to help address this issue.

Including this statement would embed in the constitution the current approach that InternetNZ takes in regards to content when administering the .nz DNS. Decisions about the .nz DNS are of concern to the wider public, rather than just InternetNZ members, and such a statement could impact this responsibility.

Alternative Option: Board Composition

This decision is about the number of Board Members, and how many of those Board Members are Elected and Appointed.

Background: The Drafting Guidelines proposed reducing the current number of governance group members from 11 to 9 and increasing the number of Appointed members from 2 to 4. This would see the number of Elected Board Members reduced from from 9 to 5. These proposals reflected the external governance guidance we received, and aimed to enable skills, representation and knowledge gaps on the Board to be filled.

There was a view from a number of submitters that the proposed provisions in the Drafting Instructions, taken collectively, reduced members' ability to have a say on the governance of the Society and hold governors accountable. Two overlapping areas of concern were the number of Board Members overall, and the balance of Elected and Appointed Board Members.

Proposed Constitution: The proposed Constitution keeps the total number of Board Members at 9 where possible (with a minimum of 7) while adjusting the balance of Elected and Appointed Members. It allows for 5 or 6 Elected Members and 2 or 3 Appointed Members. This is one more Elected Member than suggested in the Drafting Guidelines, and generally sets the balance at ⅔ elected Board members.

Alternative option: The alternative option is that the Board has 11 members when possible, but no fewer than 9. This is similar to the current constitutional provisions, but would reduce the maximum number of Elected Board members by 1 and increase the maximum number of Appointed Board members by 1.

Overview of the options

Board Members	Current	Drafting Guidelines	Proposed constitution	Alternative option
Total number	Up to 11	9	9 when possible, no fewer than 7	11 when possible, no fewer than 9
Elected	9 (including Pres/Vice)	5	At least 5, up to 6	At least 7, up to 8
Appointed	Up to 2	4	At least 2, up to 3	At least 2, up to 3

Alternative Option: Leadership of the Board

This decision is about the Leadership of the Board. In addition to the Proposed Constitution provisions, there are two alternative options to consider.

Background: The Drafting Guidelines proposed the introduction of Co-Chairs to lead the Board, one of whom must be Māori. There would be transitional provisions to allow for a Chair and Deputy Chair if co-leadership is not feasible in the short term.

A number of submitters raised concern about introducing a Co-Chair model with the view this is an untested model which can introduce uncertainty. However, there were also comments supporting the proposed approach for governance.

In addition, there were concerns by some submitters about the Board choosing their own leaders (whether that was Co-Chairs or Chairperson and Deputy Chairperson) rather than them being directly elected by Members.

Proposed constitution: The Proposed Constitution retains provisions to allow co-leadership of the Society, with at least one Co-Chair being Māori and for the Board to appoint its leaders. This aligns with the goal of embedding our commitment to centering Te Tiriti o Waitangi into the Constitution (co-leaders) and governance best practice (appointed board leadership). The proposal for the Board to appoint its leaders also reflects the change in Incorporated Societies Act that all Board members are Officers under the Act and share equal responsibility for governance. Therefore the Chair/s hold no additional obligations and powers compared to the rest of the Board, as was true previously.

To reflect that co-leadership is still an emerging practice with some challenges, there is a clear provision in the Proposed Constitution for what happens if this is not possible for a range of reasons: a Chair and Deputy Chair can be appointed if the Board are not able to appoint co-chairs. This provides the Board with flexibility while also giving a clear direction that having a co-leadership model is a long-term goal.

Alternative Option 1 to proposed Board leadership structure: This alternative option provides that the Board shall be led by a Chairperson and Deputy Chairperson only, with both roles to be appointed by the Board.

Alternative Option 2 to proposed Board leadership structure: This alternative provides that the Board shall be led by a Chairperson and Deputy Chairperson. The Chairperson is elected by Eligible Members and the Deputy Chairperson is appointed by the Board.