

16 March 2020  
Johnston Carmichael, 7 – 11 Melville Street, Edinburgh

## MINUTE OF BOARD MEETING

### Attendance

	<b>In person</b>	<b>Online</b>
<b>Trustees</b>	Duncan Macniven - Acting Chair Alan Dobie John Fox-Davies Jim Gibson	Gair Brisbane John Finney David Gibson Philip Graves Derek Johnston Patricia Jordan Chris Townsend Andrew Whitfield
<b>Staff</b>	David Balharry - Chief Executive Kerry Ross – Finance & Resources Kevin Lelland - Development & Comms Emma Reed - Award & Engagement Iona Sutherland – minutes	Mike Daniels – Policy and Land Management
<b>Advisors present – item 6 only</b>	Louise Gillies - Auditor Jean Main - Auditor	
<b>Apologies</b>	Xander McDade Peter Pearson	

### 1 Welcome, apologies, conflicts of interest

No conflicts of interest were declared.

Duncan Macniven welcomed David Balharry to the Trust and to the Board meeting; and thanked the members of the Management Team for their leadership in the interim. Trustees and Management Team asked that their best wishes be passed on to Peter Pearson.

### 2 Minutes of last meeting

The minutes of the meeting on 3 December 2019 were **approved** with the following amendments and some other minor changes:

- Budget 2020: Reflect, in the final bullet point regarding the Charity Investment Policy, that the document would be shared with Trustees for agreement.
- Chair Succession: Paragraph 3.1, not paragraph 10.2, of the Standing Orders was suspended. Item 6 - Chair Succession: Standing Order 3.1 should stay suspended until the 'election of the next Chair' and not 'until the Chair's return'

### 3 Matters Arising

- Budget 2020 Kerry Ross suggested that, given the current situation with Coronavirus, the Trust should proceed with caution in respect of its expenditure and planned projects, its first priority being to protect staff. Trustees **noted** the need to be cautious while also recognising the importance of keeping business going as much as possible.
- Article 14 Alan Dobie advised that a decision was required on raising the percentage for voting but that this would be dealt with under item 10.
- H&S/HR Trustees **noted** that the training, originally planned for the Topical Forum in January, was proposed to go ahead at the July Topical Forum with the advantage of including new Trustees.
- SE-LINK Kevin Lelland reported that he had been elected in December to the Board and had attended a first meeting. Trustees **noted** that this would be a useful development.

### 4 All Action Points with the Board

Nº	From	Action Point	Owner	Status
1	March 2019	The investment parameters to be reviewed annually at the September meeting.	Finance Committee	c/f Sept meeting
2	June 2019	The proxy voting system to be explained to members when the next AGM papers are issued.	MT	c/f 2021
3	June 2019	Update deer policy	MD	c/f Sept 2020
4	Sept 2019	Redraft staff handbook.	KR	Ready for Committee
5	Sept 2019	Continue contact with LDNP on Glenridding Common lease.	MT	ongoing
6	Sept 2019	Consider Trustee skills matrix	KR	c/f July 2020
7	Dec 2019	Consider Board Development	MT	c/f Sept 2020
8	Dec 2019	Circulate upcoming events	KL	On hold
9	Dec 2019	Abridged fund review spreadsheet to be made available to Trustees	KR	Q3 2020

10	Dec 2019	Reserves policy review	KR	discharged
11	Dec 2019	Investment policy to be shared with Trustees upon completion by GB/KR	GB/KR	FC reviewed. Revised version being prep Aug 2020
12	Dec 2019	Chair's working group remit to be updated and circulated for comment	JFD	discharged
13	Dec 2019	Role of Deputy CEO to be considered	DB	discharged
14	Dec 2019	Governance Review	Gov.Comm	On the Agenda
15	<b>Mar 2020</b>	<b>The relevant Trustees to sign the documents relating to the Annual Accounts</b>	<b>KR</b>	<b>Discharged</b>
16	<b>Mar 2020</b>	<b>The Annual Report to be published for the AGM</b>	<b>KL</b>	<b>Discharged</b>
17	<b>Mar 2020</b>	<b>A draft of the consultation paper on the proposed governance changes to be discussed at the June meeting</b>	<b>AD</b>	<b>On the Agenda</b>
18	<b>Mar 2020</b>	<b>Write to staff to update them on the Trustees' decision to withdraw proposals regarding staff nomination &amp; voting rights</b>	<b>KL</b>	<b>Discharged</b>

## 5 Chair Election

The reinstatement of Standing Order 3.1 was proposed by John Fox-Davies and seconded Jim Gibson. Trustees **agreed**.

Duncan Macniven invited David Gibson to speak to his statement proposing himself as Chair. David Gibson said that, for reasons of democracy, he would have preferred that there were other candidates, but that he would do his utmost to fulfil the role effectively. David remarked that the current situation with the Coronavirus underlined the importance of effective leadership and financial management and acknowledged that short to medium-term aims might need to be adapted. He emphasised that members and supporters would be central to his thinking when making decisions and that his focus would be on providing strong governance and supporting the Chief Executive.

John Fox-Davies asked how he, if elected, would resist the temptation to act like a Chief Executive, having recently been in that role. David Gibson replied that he had seen first-hand the difficulties which arose when a Chair became too involved in operational matters and he would avoid this.

David Gibson left the meeting. Duncan Macniven asked for comments regarding the proposed election of David as Chair and, although it was noted that it would have been healthy to have had an election, Trustees **agreed** unanimously that he would make an excellent Chair. David Gibson was duly elected as Chair. Trustees **agreed** that he would take over as Chair at the conclusion of the next AGM; that Duncan Macniven would continue as Acting

Chair until that point; and that David Gibson would be given an opportunity to introduce himself to members during the AGM proceedings. Trustees **noted** that the Coronavirus situation may mean the AGM did not go ahead, in turn affecting this handover; the Coronavirus working group would discuss this and other wider issues following the Board meeting.

David Gibson re-joined the meeting and was congratulated on his appointment as Chair.

## **6a Financial Statements for year ended 31 December 2019**

Kerry Ross introduced the various papers, including explaining that the presentation of the accounts in the Annual Report was aimed at members and funders – but the underlying information was the same as in the formal Accounts.

Duncan Macniven noted that the system management difficulties noted by the auditors had occurred also in 2019. But he interpreted the audit comments as meaning that progress was being made and Louise Gillies confirmed that that was the case.

Trustees **noted** that the timescale for signing off accounts (within 6 months of the financial year end) was becoming increasingly challenging, year on year, as the Trust grew and became more complex. Trustees were supportive of various kinds of action to relieve this pressure including, for example, moving the AGM or the June Board meeting back, or strengthening the Finance function. Trustees were content to leave decisions on this matter to David Balharry and Kerry Ross.

With regard to the issue of some payments having been made prior to being approved, Kerry Ross advised that she was dealing with the timing aspects of the authorisation of expenditure procedures. David Gibson asked for further information on the number of payments that were made prior to authorisation. Louise Gillies confirmed that of 15% of the sample used for the Trust accounts and 20% of those used for the Trading Company accounts had been paid prior to being approved, although in every case they had in due course been approved. Kerry Ross emphasised the seriousness of managing this and advised that a cultural shift needed to happen. David Balharry assured Trustees that, internally, this situation was being handled appropriately.

Trustees sought clarification on the operational issues around the monitoring of grant income. Kerry Ross advised that, for the purposes of the Audit Completion Report, Johnston Carmichael were commenting on financial controls rather than project management controls. Kevin Lelland advised that the Forward Fundraising Group had also put processes in place to help manage this.

Trustees asked if the Trading Company income was likely to be affected by the Coronavirus. Kerry Ross advised that, although the Wild Space figures could be reduced, the Trading Company's profits came largely from other sources, notably the online Christmas shop and timber sales.

Duncan Macniven pointed out that the very positive year-end figures were a note of recognition from the Trust's members and supporters, and that they presented David Balharry with an opportunity to maximise the Trust's potential, while also sharpening its budgeting.

Jean Main advised Trustees to sign off the accounts. She also announced that she would be retiring imminently and would be handing over to Keith MacPherson, and she wished the Trust well for the future. Kerry Ross thanked Jean Main, Louise Gillies and Eileidh Halder for their partnership in producing the Audit Completion Report.

**Trustees approved:**

- the combined letter of representation to JC covering both Trust and Trading Company
- the letter of support and loan agreement from John Muir Trust to JMT Trading Company Ltd
- the consolidated financial statements for year ended 31 December 2019

**Directors of JMT Trading Company Ltd approved:**

- the combined letter of representation to JC covering both Trust and Trading Company
- the letter of support and loan agreement from John Muir Trust to JMT Trading Company Ltd
- the financial statements for year ended 31 December 2019

Kerry Ross noted that these approvals allowed the relevant Trustees to sign the various documents in due course **[Action Point 1]**.

**6b Annual Report for year ended 31 December 2019**

The draft Annual Report for 2019 was approved subject to drafting changes including:

- a reference to Peter Pearson's absence and Duncan Macniven's role as Acting Chair should be reflected in the wording of the Chair's Report, subject to Peter's approval;

- an achievement in the year 2019 should be included on the timeline; for presentational purposes, the phrase ‘long-term’ rather than ‘30 years’ should be used;
- the phrases ‘climate emergency’ or ‘climate crisis’ should be used rather than climate change.

Trustees were asked to submit any minor drafting changes to Kevin Lelland by 20<sup>th</sup> March. Trustees **agreed** that the Report be published in time for the AGM, while acknowledging that current circumstances relating to the Coronavirus might affect timescales [**Action Point 2**].

Trustees congratulated those concerned with its production, notably Nicky McClure.

## 7 Risk Register

Kevin Lelland spoke to the Risk Register paper, taking Trustees through those risks that were outwith the tolerance.

Trustees **noted** the risks and their scoring and approved the Risk Register.

In discussion the following points were made:

- E1– Trustees noted that this would need to be amended owing to the fall in the stock market since the Coronavirus crisis.
- P1– Short-term contingencies were in place, subject to Coronavirus restrictions, to manage working parties after the departure of Sandy Maxwell. Medium- and long-term options were also under consideration, in consultation with volunteers, with a view to using resources in a different way.
- O9– The Management Team would review staff numbers and skillsets in early April, looking at providing back up for existing skillsets but also expanding to include new skillsets, with clarity around roles and responsibilities.
- F8– Kerry Ross and Jim Gibson advised that, to the best of their knowledge, current trading did not cross any VAT thresholds or break any rules and Trustees agreed this could be discussed further at the Finance Committee.
- F9– David Balharry assured Trustees that the issues around the current financial controls processes were being handled appropriately.
- F11– Kevin Lelland and Adam Pinder had carried out scoping work to assess how grants and legacies could be affected by the Coronavirus problem.
- R1– A strategic narrative was required for the attraction and retention of members, and to raise awareness of the Trust’s work.
- R7– David Balharry would welcome challenge from Trustees with regard to wild land management standards being achieved on Trust properties.

## 8 Land Acquisition/ Partnership/Alternative Ownership Models

Discussion is recorded in a separate confidential minute.

## 9 Safeguarding Policy

Trustees **agreed** to postpone discussion of this item because of shortage of time.

## 10 Governance

Alan Dobie advised that the Governance papers should be viewed as working documents, on which Trustees' comments were welcome. Duncan Macniven thanked the Governance Committee for the large amount of work underlying the papers.

### Governance Review Member Consultation

Trustees **approved** the schedule of consultation recommended in the paper. It was important for Trustees to discuss the wording of the consultation paper but that could be done at the June meeting, since it was unnecessary (and possibly distracting for the paper to be available at the AGM [**Action Point 3**]).

### Staff Consultation on Nomination & Voting Rights

Trustees **noted** staff opinion in the recent consultation in which a clear majority were in favour of retaining nomination and voting rights. Trustees **agreed** to thank staff for their input and to withdraw these proposals. Kevin Lelland would write to staff to update them on the decision [**Action Point 4**].

## Governance Committee Meeting – Summary of Board decisions required

Trustees discussed draft 4.1 of the new Articles of Association, with the following conclusions:

- Article 3.1 - Trustees agreed that no change be proposed to the charitable objectives.
- Article 5.1 - Trustees agreed that the consideration of junior membership should be decoupled from the main governance review.
- Article 5.4.4 - Trustees agreed that the appeal process in the event of non-approval of membership would be handled by two committees, with 2 Trustees on the first and 3 (in effect the Chair plus 2 others) on the second. Trustees also agreed that Article 5.4.3 should be omitted as Article 5.4.4 gave the ability to expel a member, if necessary.
- Article 5.7.2 - Trustees noted the need to ensure that the Trust complied with statutory requirements about the Register of Members. But they felt strongly that a public register was inappropriate to a membership charity like the Trust. Alan Dobie agreed to establish authoritatively if the Trust was statutorily obliged to keep an open register of members – in which case, Trustees agreed that it should be made explicit in the Articles.
- Article 8.2 - Trustees agreed that there should be a 2-year gap between consecutive terms on the Board.
- Article 8.2.5 - Trustees agreed that members should be asked whether the number of backers required for a Trustee candidate should be 2 or 5 and that the consultation paper should explain the arguments for each option.
- Article 8.2.6 d - Trustees agreed to use the term candidate statement, not personal statement.
- Article 8.2.8 - Trustees agreed to the returning officer verification process with the addition that it should allow sufficient flexibility for corrections to the wording of the proposer's statement.
- Article 8.3 - Trustees agreed that co-opted Board members must be members of the Trust.
- Article 8.5.6 - Trustees agreed that Topical Forums should be included in the count of 3 or more consecutive meetings which could be missed (without approval) before the Board could resolve to have the Trustee removed from office.
- Article 9 - Trustees agreed that the Chair should be elected for a period of 3 years without annual reaffirmation and that the role of Vice Chair should remain as an option rather than a requirement.

- Article 10.4.1 - Trustees agreed not to allow Board members to be paid for services to the Trust.
- Article 11.2.5 - Trustees agreed to reduce the 5% shareholding in respect of business interests to zero.
- Article 14 - Trustees agreed not to distinguish between Royal Patrons and other Patrons, and to allow for a 5 year review/break point in the term of office of a Patron.
- Article 17 - Owing to concerns around the legal and financial powers that would be created, Trustees agreed not to draft a constitution for local members' groups.

Trustees discussed Article 14 of the present Articles of Association, which allowed 5% of members present at a General Meeting to require a postal vote of all members. The Article had caused difficulty at the 2019 AGM and Trustees considered that the 5% threshold was too low. Trustees confirmed their view at their meeting in December 2019 that a change should be proposed not at the 2020 AGM but rather, as part of the package of governance changes, to the 2021 AGM.

Trustees considered that it would be worthwhile, granted the comprehensive nature of the package, then to arrange a postal ballot if 5% of members so requested – although, full consultation having taken place, that seemed unlikely. Trustees **agreed** that the Articles should raise the current 5% threshold to 33% for a vote to require a ballot of all members.

Trustees discussed the issue of the current variation in qualifying periods for voting at an AGM, nominating of Trustees and standing as a Trustee, and **noted** the need for cross checking across the Articles and Standing Orders. Trustees discussed if it would be better to make deadlines explicit in the Articles rather than the Standing Orders to avoid anyone contesting their rights and Trustees **noted** that the qualifying period should be driven by the ability of staff to efficiently manage the process rather than by concerns over entryism.

Trustees queried the need for a separate guide to the draft Articles. They suggested that, in the consultative paper, the necessary guidance could be given in a short preamble to each Article.

## 11 England & Wales Development

Trustees **agreed** to email Tom Hayek directly with their comments on the paper, copying to David Balharry.

## 12 Policy Casework

Trustees **agreed** to postpone this item.

### 13 Board effectiveness evaluation

Trustees **agreed** to postpone this item.

### 14 Trustee Election

Trustees **agreed** to postpone this item.

### 15 Corporate Strategy Matrix Update

Trustees **agreed** to postpone this item.

### 16 Staffing

Trustees **noted** that Sandy Maxwell, who had worked for the Trust for approximately twenty years, had recently left, and that Mel Nicoll, another long-serving employee, was due to leave at the end of April. Duncan Macniven volunteered to write to thank each, on behalf of the Board.

Trustees **agreed** to postpone discussion of other staffing matters.

### 17 AOCB

David Balharry thanked the Management Team for their support during his initial weeks in post.

Iona Sutherland - 19 March 2020  
Approved by Trustees – 12 June 2020