



Meeting of the Hawke's Bay Regional Council Hearings Committee

Date: Wednesday 21 February 2018
Time: 3pm
Venue: Council Chamber
Hawke's Bay Regional Council
159 Dalton Street
NAPIER

Agenda

ITEM	SUBJECT	PAGE
1.	Welcome/Notices/Apologies	
2.	Conflict of Interest Declarations	
3.	Confirmation of Minutes of the Hearings Committee held on 6 June 2017	
Decision Items		
4.	Hearing Panel Appointment for proposed Regional Biosecurity Management Plan Hearings	3
5.	Hearing Panel Appointments for upcoming Resource Consent Application Hearings	9

HAWKE'S BAY REGIONAL COUNCIL

HEARINGS COMMITTEE

Wednesday 21 February 2018

Item 4

Subject: HEARING PANEL APPOINTMENT FOR PROPOSED REGIONAL BIOSECURITY MANAGEMENT PLAN HEARINGS

Reason for Report

1. To provide the Committee with the options available for the appointment of a Hearing Panel for the Regional Pest Management Plan (RPMP) hearings and decision process.

Background

2. The Hawke's Bay Regional Pest Management Plan is the main statutory document implementing the Biosecurity Act 1993 in the region; providing a framework for the management of plant, animal and horticultural pests in Hawke's Bay.
3. In September 2014 the Biosecurity Act 1993 (the Act) was amended with the National Policy Direction (NPD) becoming active on 17 August 2015. HBRC's Pest Management Plan 2013 (RPMP) is inconsistent with the NPD and HBRC is therefore required to undertake a full review of its RPMP.
4. Council adopted the proposed RPMP for public consultation on 31 January 2018, the submissions period opened 2 February and will close after 6 weeks; on 16 March 2018.

Options Assessment

5. The Biosecurity Working Party (BWP) was established and consists of three appointed Councillors and three appointed members of the Regional Planning Committee. The BWP are responsible for:
 - 5.1. Considering and recommending advice on the Regional Pest Management Plan review process and key issues;
 - 5.2. Considering reports on the Regional Pest Management Plan and giving guidance on recommended approach and reviewing and giving guidance on the discussion document;
 - 5.3. Reviewing and giving guidance on the proposal and to providing guidance on the alignment of the Regional Pest Management Plan and the objectives of the Hawke's Bay Biodiversity Strategy;
 - 5.4. Reviewing and giving guidance on received submissions.
6. The RPMP process is currently heading towards step 5.4, with the proposal undergoing public consultation 2 February through to the 16 March.
7. The RPMP is a statutory document implementing the Biosecurity Act, not the Resource Management Act. As per recommendations made to Council on 31 Jan 2018, it is proposed that members of the Biosecurity Working Party will hear submissions and make recommendations to Council on further amendments required prior to adoption of the final Regional Pest Management Plan. One independent, out of region member will be engaged, with both Biosecurity and hearings process experience, to sit on the panel as a Biosecurity expert.
8. Environment Canterbury have recently undertaken this process. The same training workshop (outlined in attachment 1) using the same provider is proposed.

Strategic Fit

9. Once operative, the RPMP will empower the Hawke's Bay Regional Council to exercise the relevant advisory, service delivery, regulatory and funding provisions available under the Act to deliver the specific objectives identified in the Plan. Regional pest management sits within a biosecurity framework for the Hawke's Bay region, which

includes this Plan, the Hawke's Bay Biodiversity Strategy and the HBRC Strategic Plan. Neighbouring Regional Pest Management Plans and national legislation, policy and initiatives have also influenced this Plan.

10. All programmes sitting within an RPMP are required to have clear measurable outcomes, which are specified within the Monitoring section. This Monitoring section is integrated into the Biosecurity Annual Operational Plan, which goes to Council for approval prior to each financial year. The Operational Plan sets out the operational delivery for each programme and the monitoring and reporting requirements. Staff report to council annually (November) on the progress of the Operational Plan. The operational plan is required to be updated to reflect changes made to the plan within three months of the Plan being approved.

Financial and Resource Implications

11. The cost of a Hearing Panel comprised of 3 members for three days will be approximately \$6,240.00.
12. An indicative cost for preparing for, and running the hearing process training workshop is \$3,500.

Decision Making Process

13. The Hearings Committee is required to make every decision in accordance with the requirements of the Local Government Act 2002 (the Act). Staff have assessed the requirements in relation to this item and have concluded:
 - 13.1. The decision does not significantly alter the service provision or affect a strategic asset.
 - 13.2. The use of the special consultative procedure has been undertaken for the Regional Pest Management Plan review, and the Hearing Panel will carry out the Hearing of Submissions, deliberations and Recommendations to Council phases of that process.
 - 13.3. The decision does not fall within the definition of Council's policy on significance.
 - 13.4. The decision is not inconsistent with an existing policy or plan.
 - 13.5. Given the nature and significance of this decision, and also the persons likely to be affected by, or have an interest in the decisions made, the Hearings Committee can exercise its discretion and make this decision without consulting directly with the community or others having an interest in the decision.

Recommendations

That the Hearings Committee:

1. Agrees that the decisions to be made are not significant under the criteria contained in Council's adopted Significance and Engagement Policy, and can exercise its discretion and make this decision without conferring directly with the community and persons likely to be affected by or to have an interest in the decision.
2. Delegates the Biosecurity Working Party to hear submissions and make recommendations to Council on further amendments required prior to adoption of the final Regional Pest Management Plan.

Authored by:

Mark Mitchell
PRINCIPAL BIOSECURITY OFFICER

Campbell Leckie
MANAGER LAND SERVICES

Approved by:

Graeme Hansen
GROUP MANAGER ASSET
MANAGEMENT

Attachment/s

[↓](#) 1 HBRC RPMP Hearings Training workshop

HAWKE'S BAY REGIONAL PEST PLAN - HEARINGS PANEL TRAINING WORKSHOP

Hawke's Bay Regional Council (**HBRC**) is in the process of preparing a proposal for a Regional Pest Management Plan. Based on our recent experience advising Environment Canterbury and its hearing panel on the Proposal for the Canterbury Regional Pest Management Plan, you have asked us to provide an outline of a training workshop as to the hearing process.

Set out below is an outline of the training workshop that we recently provided to Environment Canterbury's hearing panel. The workshop was run by Philip Maw (Partner) and Michelle Mehlhopt (Senior Associate), and addressed a number of matters including:

1. The role of the Council prior to hearings and following Hearing Panel recommendations
2. The role of Council Officers
 - a. Hearing Management
 - b. Officer assistance to the Hearing Panel, including staff reports
3. The role of the Hearing Panel including key stages for:
 - a. Panel directions
 - b. Hearing submissions on the Proposal
 - c. Satisfaction of consultation requirements
 - d. Decision on Management Agency
 - e. Satisfaction of plan contents and requirements of the Plan
 - f. Recommendations on the Plan and reasons for accepting or rejecting submissions
4. Preparing for a hearing
 - a. Procedural directions
 - b. Dealing with late and invalid submissions
 - c. Potential conflicts of interest
 - d. Review of submissions, evidence and other documents
 - e. The purpose of questions and formulating these in advance
5. Conducting a hearing
 - a. Hearing structure
 - b. Questions for council and submitters and how to best illicit what is sought by submitter
1. How to deal with nervous or difficult witnesses
 - c. Expert witnesses and expert conferencing
 - d. Scope issues
 - e. Council reply and further staff reports
6. Panel recommendations
 - a. Conducting deliberations
 - b. Preparation of written report and recommendations
7. Environment Court applications

We also prepared a handout summarising the Biosecurity Act framework and provided templates for Hearing Panel Minutes and Recommendation Reports for each of the key stages in the process.

Workshop for HBRC

We propose to run a workshop for HBRC based on the outline above. We would also provide a handout setting out the legal framework, together with templates for Minutes and Recommendation Reports. The workshop would take approximately 3 hours.

HAWKE'S BAY REGIONAL COUNCIL

HEARINGS COMMITTEE

Wednesday 21 February 2018

Item 5

Subject: HEARING PANEL APPOINTMENTS FOR UPCOMING RESOURCE CONSENT APPLICATION HEARINGS

Reason for Report

1. To provide sufficient information relating to potential upcoming Hearings to enable the appointment of Hearing Panels. This will assist staff in organising the Hearings in a timely manner.
2. There are three possible resource consent hearings pending. Hearing panels need to be appointed for each hearing. The Hearing Committee is being asked to appoint members to each of these.

Clifton Revetment

3. This application has been notified and requires a hearing. There is one party who has submitted in opposition and wishes to be heard.
4. It is recommended that Mr Bill Wasley be appointed as the sole commissioner for this hearing.

HBRC Global Gravel Management

5. This application is on hold pending more information. It is anticipated that it will be notified and require a hearing. As the Hawke's Bay Regional Council is the applicant independent commissioners are sought for this hearing.
6. In anticipation the following panel and alternate appointments are recommended:
 - 6.1. Bill Wasley (chair), Rauru Kirikiri (maori expert) or alternately Reginald Proffit, Dr Jim Cooke (freshwater scientist).

Port of Napier

7. This application is also on hold pending more information. The applicant has requested that this be notified and it is anticipated that it will require a hearing.
8. As the Hawke's Bay Regional Council is, via its investment company, the 100% owner of the Port of Napier independent commissioners will be sought for this hearing.
9. In anticipation the following panel and alternates are recommended for appointment.
 - 9.1. Bill Wasley (chair), Reginald Proffit (Māori expert) or alternately Rau Kirikiri, Dr Malcolm Green (Coastal scientist).

Proposed Hearing Panel Members

10. Following are summaries of experience and qualifications for those proposed to be commissioners.
 - 10.1. Mr Bill Wasley. Mr Wasley is a Resource Management consultant with a Regional Planning qualification, based in Tauranga but working throughout New Zealand. He is an accredited Commissioner and Chairperson under the Making Good Decisions Programme. He has previously sat as a member of the hearing panel that heard the application by J Bridgeman to erect a coastal protection structure at Haumoana. He is able to write decision reports.
 - 10.2. Rauru Kirikiri. Mr Kirikiri is a Resource Management consultant with an Anthropology qualification, based in Wellington but working throughout New Zealand. He is an accredited Commissioner under the Making Good Decisions Programme. He has previously sat as a member of the hearing panel that heard

the application by NCC for the discharge of municipal waste water into the ocean at Awatoto.

- 10.3. Reginald Proffit. Mr Proffit is employed by the Gisborne District Council as their Consents Manager. He is also qualified as an independent commissioner and has the agreement of GDC to do this independent of his Council job. He has recently been acting in this role in relation to consents associated with the Gisborne Port as a Maori expert.
- 10.4. Jim Cooke. Dr Cooke is an Environmental Scientist with Streamlined, an independent resource management consultancy. His specialties include freshwater management (water quality/ aquatic ecology) and catchment and regional water management. He is an accredited commissioner and has sat on several hearing panels across the country.
- 10.5. Malcolm Green. Dr Green is an estuarine, coastal and marine specialist with Streamlined. Specialty areas include sediment transport, dredging, and estuarine and coastal management. He is an accredited commissioner.

Conclusion

11. Two of these applications are yet to be notified. They may or may not attract submissions. If there are no submissions it may not be necessary to hold a hearing. The decision to notify the HBRC Global Gravel Management application has not been made yet.
12. Therefore it is not certain that the hearings will all proceed. However appointing commissioners now will assist staff in organising these hearings if they are to proceed.

Decision Making Process

13. Council is required to make every decision in accordance with the requirements of the Local Government Act 2002 (the Act). Staff have assessed the requirements in relation to this item and have concluded:
 - 13.1. The decision does not significantly alter the service provision or affect a strategic asset.
 - 13.2. The use of the special consultative procedure is not prescribed by legislation.
 - 13.3. The decision does not fall within the definition of Council's policy on significance.
 - 13.4. The decision is not inconsistent with an existing policy or plan.
 - 13.5. Given the nature and significance of the issue to be considered and decided, and also the persons likely to be affected by, or have an interest in the decisions made, Council can exercise its discretion and make a decision without consulting directly with the community or others having an interest in the decision.

Recommendations

That the Hearings Committee:

1. Agrees that the decisions to be made are not significant under the criteria contained in Council's adopted Significance and Engagement Policy, and that the Hearings Committee can exercise its delegation and make decisions on this issue without conferring directly with the community and persons likely to be affected by or to have an interest in the decision.
2. For the Clifton Revetment resource consent hearing, appoints Mr Bill Wasley to the Hearing Panel.
3. For the HBRC Global Gravel Management resource consent application hearing, appoints Bill Wasley (chair), Rauru Kirikiri (maori expert) or alternately Reginald Proffit, Dr Jim Cooke (freshwater scientist) to the Hearing Panel
4. For the Port of Napier Ltd resource consent application hearing, appoints Bill Wasley (chair), Reginald Proffit (Māori expert) or alternately Rauru Kirikiri, Dr Malcolm Green

(Coastal scientist) to the Hearing Panel:

Authored by:

**Paul Barrett
PRINCIPAL CONSENTS PLANNER**

**Malcolm Miller
MANAGER CONSENTS**

Approved by:

**Liz Lambert
GROUP MANAGER EXTERNAL
RELATIONS**

Attachment/s

There are no attachments for this report.