



Unconfirmed

MINUTES OF A MEETING OF THE HEARINGS COMMITTEE

Date: Wednesday 12 February 2020

Time: 1.30pm

Venue: Council Chamber
Hawke's Bay Regional Council
159 Dalton Street
NAPIER

Present: R Barker
C Foss
H Ormsby
M Williams - Chairman

In Attendance: E Lambert – Group Manager Regulation
M Miller – Manager – Consents
A Brosnan – Consents Advisor
A Roets – Governance Administration Assistant

1. Welcome/Apologies/Notices

The Chairman, Cr Martin Williams welcomed everyone to the meeting and opened the meeting with a karakia.

2. Conflict of Interest Declarations

There were no conflict of interest declarations.

3. Confirmation of the Hearings Committee Terms of Reference

The item was taken as read.

HC1/20

Resolutions

1. That Hearings Committee:
 - 1.1. Receives and considers the “*Confirmation of the Hearings Committee Terms of Reference*” staff report
 - 1.2. Confirms the Terms of Reference for the Committee as proposed.
2. The Hearings Committee recommends that Hawke’s Bay Regional Council:
 - 2.1. Agrees that the decisions to be made are not significant and that Council can exercise its discretion and make these decisions without consulting directly with the community or others having an interest in the decision.
 - 2.2. Confirms the Terms of Reference for the Hearings Committee, subject to the inclusion of the names of the Tangata Whenua appointees, for the 2019-22 triennium as follows.

Hearings Committee Terms of Reference

1. Pursuant to Section 34(1) of the Resource Management Act (RMA) the Hawke's Bay Regional Council delegates the following functions, powers and/or duties under the RMA¹:
 - 1.1. To hear and make decisions on applications arising out of the Council's regulatory responsibilities on:
 - 1.1.1. notified applications where submissions have been made and submitters wish to be heard;
 - 1.1.2. reviews of conditions (s.128) where consent holder and/or submitters wish to be heard;
 - 1.1.3. notified applications where submissions have been made and where the Committee considers it necessary to hold a hearing;
 - 1.1.4. objections to decisions made under delegated authority by staff, where they wish to be heard (s.357);
 - 1.1.5. where the staff recommendation is to decline any application for reasons other than inadequate information;
 - 1.2. To determine other related discretionary process matters that may be associated with a hearing such as waivers of time, as appropriate under the Resource Management Act 1991.
 - 1.3. To hear and make decisions on objections against costs under Section 36(6) of the Act and objections to the levying of Financial Contributions under Section 108 of the Act.
 - 1.4. To hear and make decisions on lapsing of consents under Section 125 of the Act where Council Policy directs, or staff elect not to make a decision under delegated authority, or where a decision of an officer acting under delegated authority is subject to an objection.
 - 1.5. The appointment of Hearings Committee members or independent commissioners to a Hearing Panel to undertake the functions set out above in 1.1 to 1.4 pursuant to s 34A RMA and the appointment of the Chairperson of the Hearing Panel.

2. Pursuant to section 82 of the Biosecurity Act (BA) the Hawke's Bay Regional Council delegates the following functions, powers and/or duties under the BA:
 - 2.1. To hear and make decisions on submissions received on any statutory documents prepared by Council which have been subject to a formal submission process under the Biosecurity Act.
 - 2.2. To authorise the resolution and settlement of appeals and references through formal hearings or mediation before the Environment Court or any other judicial body which relate to the preparation of any statutory documents prepared under the Biosecurity Act by the Council and to either generally or from time to time delegate to officers the authority to resolve and settle appeals and references through formal mediation.
3. Pursuant to section 83 and Schedule 7 (clause 32) of the Local Government Act 2002 the Hawkes Bay Regional Council may, on a case by case basis, delegate the following powers, duties and functions under the LGA:
 - 3.1 to hear submissions and to decide or make recommendations to the Council on a proposal that is subject to a special consultative procedure.²
 - 3.2 to further delegate the functions under 3.1 to another subordinate decision making body, or to an officer of the Regional Council.
4. The Hawke's Bay Regional Council delegates to the Hearings Committee Chairperson and Council Chairperson, the ability to appoint Hearings Committee members or Independent Commissioners to a Hearing Panel to undertake the functions set out above in 1 and 2 above and the appointment of the Chairperson of the Hearing Panel.

Members:

Up to five elected "RMA Making Good Decisions" accredited Members of Council; being:

- Councillors Martin Williams, Rick Barker, Craig Foss, and Hinewai Ormsby

And up to four "RMA Making Good Decisions" accredited members of the Māori and/or Regional Planning Committee as nominated by the Chair of those Committees; being:

- to be appointed

Hearing Panel Composition:

The Hearing Panel sitting to make decisions relating to 1. and 2. above shall comprise any combination of:

- The Chairperson sitting alone
- Up to three members of the Hearings Committee
- Up to five accredited Commissioners
- If considered advisable in any particular case by the Chairman of the Hearings Committee, a member of the Council's Māori Committee.
- Also, when appropriate, the Chairperson of the Standing Committee when hearings directly relate to policy originating from that Committee.

The Hearing Panel Chairperson has a Casting vote.

Chairman:

An "RMA Making Good Decisions" Accredited member of the Committee as elected by the Council being:

- Councillor Martin Williams

Deputy Chairman:

A member of the Committee as elected by the Council being:

- Councillor Rick Barker

Meeting Frequency:

As is required

Quorum:

The Chairman of the Hearings Committee plus one other member of the Hearings Committee or the Chairperson of the Regional Council

Staff Executive: Group Manager Regulation and/or Group Manager Asset Management

Qualifications: In accordance with s39B all persons appointed to a Hearing Panel shall be accredited, except that where there is a group, and over half of all the persons in the group are accredited and there are exceptional circumstances that do not provide the time or opportunity to ensure that all persons in the group are accredited.

¹ NOTE: For the avoidance of doubt, the Hearings Committee is not delegated the functions, powers and duties to hear and make decisions on submissions made in relation to a proposed plan, policy statement, plan change or variation under the RMA. Such functions, powers and duties are delegated to a Panel of accredited RMA hearings commissioners appointed by the Council on an as needed basis, based on recommendations from the Regional Planning Committee.

² NOTE: For the avoidance of doubt, it is not intended that the Hearings Committee will be delegated to hear or make decisions on Long Term Plan, Annual Plan or Transport Plan submissions received.

**Foss/Ormsby
CARRIED**

4. **Hearing Panel Appointment for Wairoa District Council Wastewater Discharge Resource Consent Application**

The item was taken as read.

- Potential opportunities for new councillors to integrate within the Wairoa District Council Wastewater Discharge Resource Consent Application process
- Proposed at least one councillor and two experts on Panel
- Cr Hinewai Ormsby declared a conflict of interest due to her husband's involvement in the WDC application process and that she will therefore not participate in the Hearing process

HC2/20

Resolutions

That the Hearings Committee:

1. Receives and considers the "*Hearing Panel Appointment for Wairoa District Council Wastewater Discharge Resource Consent Application*" staff report.
2. 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 Council can exercise its discretion in accordance with its delegated authority as provided in the Terms of Reference for the Committee, and make decisions on this issue without conferring with the community.
3. Appoints the following Hearing Panel to hear and decide on the Wairoa District Council resource consent application (APP-123774) to discharge wastewater to the Wairoa River:
 - 3.1. Cr Martin Williams
 - 3.2. Mr Rauru Kirikiri
 - 3.3. Dr Jim Cooke as Hearing Panel Chair.

**Barker/Foss
CARRIED**

5. **Resource Consent Application and Hearings Processes**

Annette Brosnan presented the Consent Application and Hearings Processes

- A resource consent is a legal document that prescribes conditions for the use of that resource, e.g water take rate and volume, discharge rates

- Consents notification processes - notified, non-notified
- Under section 39B the RMA, appointees on the hearings panel must have accreditation to make decisions on resource consents, proposed policy statements and plans and any objections
- Consent delegations - relate to all of the roles and responsibilities of council as set out in the Act
- Where a delegation is not made, the Council holds the delegation.
- Council has delegated functions to the hearings committee as set out in the terms of reference.

HC3/20

Resolution

That the Hearings Committee receives and takes note of the *“Resource Consent Application and Hearings Processes”* staff report and presentation.

**Foss/Barker
CARRIED**

6. Biosecurity Act and other Statutory Functions of the Hearings Committee

The item was taken as read.

HC4/20

Resolution

That the Hearings Committee receives and notes the *“Biosecurity Act and other Statutory Functions of the Hearings Committee”* report.

**Foss/Barker
CARRIED**

Closure:

There being no further business the Chairman declared the meeting closed at 2.13pm on Wednesday 12 February 2020.

Signed as a true and correct record.

DATE:

CHAIRMAN: