

Meeting of the Hawke's Bay Regional Council Hearings Committee

Date: Friday, 16 September 2022
Time: 3.30pm
Venue: Council Chamber
Hawke's Bay Regional Council
159 Dalton Street
NAPIER

Agenda

| Item | Title | Page |
|-----------------------|--|------|
| 1. | Welcome/Karakia/Notices/Apologies | |
| 2. | Conflict of Interest Declarations | |
| 3. | Confirmation of Minutes of the Hearings Committee held on 2 March 2022 | |
| Decision Items | | |
| 4. | Appointment of Commissioners for a Hearing Panel to hear applications for Wastewater Discharges for a group of properties at Tangoio | 3 |
| 5. | Appointment of a Commission to decide the application for lapse date extension by Water Holdings Hawke's Bay Limited | 7 |

HAWKE'S BAY REGIONAL COUNCIL

HEARINGS COMMITTEE

Friday, 16 September 2022

Item 4

Subject: APPOINTMENT OF COMMISSIONERS FOR A HEARING PANEL TO HEAR APPLICATIONS FOR WASTEWATER DISCHARGES FOR A GROUP OF PROPERTIES AT TANGOIO

Reason for Report

1. This item seeks the appointment of two commissioners to a Hearing Panel to hear applications to discharge wastewater from 41 properties at Tangoio.

Officers' Recommendation(s)

2. That Paul Cooney (Chair) and Councillor Hinewai Ormsby be appointed as the members of the hearing panel to hear the applications listed in Schedule 1:
3. That the commissioners are appointed under section 34A of the RMA and are delegated authority under RMA sections 37, 37A, 39, 39AA, 40 41, 41A, 41B, 41C, 41D, 42, 42A, 103B, 104 - 108, 108A, 108AA, 109, and 113 - 115 to hear, consider and decide the applications and submissions.

Background /Discussion

4. Applications have been lodged for 41 properties (recently subdivided) at Tangoio seeking consent to discharge wastewater individually from each property. The applications have been lodged so that they can be considered as a group. These are attached.
5. The applications were limited notified to the Maungaharuru-Tangitū Trust (MTT) as an adversely affected party.
6. MTT submitted in opposition to the applications and wish to be heard.

Options Assessment

7. There have been discussions between applicants and MTT and Council staff through this application process. The matter might be resolved without a hearing and staff are looking at a pre-hearing meeting. However, there is a need to be prepared for a hearing.
8. To this end it is considered panel members with experience and expertise in the Resource Management Act (RMA) and tāngata whenua values are required.
9. It is proposed that Mr Paul Cooney and Councillor Hinewai Ormsby be appointed to sit on this hearings panel. Both are currently accredited under the Making Good Decisions programme. Mr Cooney, who is an accredited Chairperson, would be the Chair.
10. Mr Cooney has sat on and chaired hearings for HBRC previously. These were for the application to upgrade the Te Mata Mushrooms composting operation, and for the HBRC gravel consents hearing. Mr Cooney is a lawyer with extensive RMA experience.

Financial and Resource Implications

11. The cost of this Hearing will be borne by the applicants.

Decision Making Process

12. Council and its committees are 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:
 - 12.1. The decision does not significantly alter the service provision or affect a strategic asset, nor is it inconsistent with an existing policy or plan.
 - 12.2. The use of the special consultative procedure is not prescribed by legislation.
 - 12.3. The decision is not significant under the criteria contained in Council's adopted Significance and Engagement Policy.
 - 12.4. The persons affected by this decision are all persons with an interest in the region's management of natural and physical resources under the RMA.
 - 12.5. 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, the Committee can exercise its discretion and make this decision without consulting directly with the community in accordance with its Terms of Reference.

Recommendations

That Hearings Committee:

1. Receives and considers the *Appointment of Commissioners for a Hearing Panel to hear applications for Wastewater Discharges for a group of properties at Tangoio* 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 Council can exercise its discretion and make decisions on this issue without conferring directly with the community or persons likely to have an interest in the decision.
3. Appoints Paul Cooney (Chair) and Cr Hinewai Ormsby as the members of the hearing panel to hear the applications listed in Schedule 1.
4. Confirms that the commissioners are appointed under section 34A of the RMA and are delegated authority under RMA sections 37, 37A, 39, 39AA, 40 41, 41A, 41B, 41C, 41D, 42, 42A, 103B, 104 -108, 108A, 108AA, 109, and 113 - 115 to hear, consider and decide the applications and submissions.

Authored by:

Malcolm Miller
MANAGER CONSENTS

Approved by:

Katrina Brunton
GROUP MANAGER POLICY & REGULATION

Attachment/s

- 1 [Tangoio group of wastewater applications](#)

Tangoio group of wastewater applications

| | | |
|------------|--|-------------------------------------|
| APP-126760 | Discharge to Land - Becker Property Group Limited | Lot 2 - Beach Rd, Tangoio |
| APP-126853 | Discharge to Land - Rachelle Mary Basher and Teresa Margaret Basher and Katherine Ann Basher | Lot 33 Tangoio Beach Road, Tangoio, |
| APP-126871 | Discharge to Land - Douglas Gregory McClelland and Sarah Jane Taylor | Lot 32 Beach Road, Tangoio, |
| APP-126886 | Discharge to Land - Thomas George Gaddum and Ella Louise Gracie Gaddum | Lot 10, 21 Beach Road, Tangoio, |
| APP-126899 | Discharge to Land - Stephen Tausia Moratti | Lot 11, 20 Beach Road, Tangoio, |
| APP-126984 | Discharge to Land - Dakota Taylor Gregory and Drew Hamish Strother | Lot 3, Te Karu Lane, Tangoio |
| APP-127159 | Discharge to Land - Andrew John Brown and Elizabeth Catherine Anstis | Lot 34 - Beach Road, Tangoio, |
| APP-127206 | Discharge to Land - George Thomas Fuller and Esra Cakir-Fuller | Lot 7 - 10 Beach Road |
| APP-127414 | Discharge to Land - Tawanui Developments Limited | Lot 38 |
| APP-127415 | Discharge to Land - Tawanui Developments Limited | Lot 39 |
| APP-127416 | Discharge to Land - Tawanui Developments Limited | Lot 40 |
| APP-127417 | Discharge to Land - Tawanui Developments Limited | Lot 41 |
| APP-127413 | Discharge to Land - Tawanui Developments Limited | Lot 1 |
| APP-127413 | Discharge to Land - Tawanui Developments Limited | Lot 4 |
| APP-127413 | Discharge to Land - Tawanui Developments Limited | Lot 5 |
| APP-127413 | Discharge to Land - Tawanui Developments Limited | Lot 6 |
| APP-127413 | Discharge to Land - Tawanui Developments Limited | Lot 28 |
| APP-127413 | Discharge to Land - Tawanui Developments Limited | Lot 8 |
| APP-127413 | Discharge to Land - Tawanui Developments Limited | Lot 9 |
| APP-127413 | Discharge to Land - Tawanui Developments Limited | Lot 12 |
| APP-127413 | Discharge to Land - Tawanui Developments Limited | Lot 13 |
| APP-127413 | Discharge to Land - Tawanui Developments Limited | Lot 14 |
| APP-127413 | Discharge to Land - Tawanui Developments Limited | Lot 15 |
| APP-127413 | Discharge to Land - Tawanui Developments Limited | Lot 16 |
| APP-127413 | Discharge to Land - Tawanui Developments Limited | Lot 17 |
| APP-127413 | Discharge to Land - Tawanui Developments Limited | Lot 18 |
| APP-127413 | Discharge to Land - Tawanui Developments Limited | Lot 19 |

| | | |
|------------|--|--------|
| APP-127413 | Discharge to Land - Tawanui Developments Limited | Lot 20 |
| APP-127413 | Discharge to Land - Tawanui Developments Limited | Lot 21 |
| APP-127413 | Discharge to Land - Tawanui Developments Limited | Lot 22 |
| APP-127413 | Discharge to Land - Tawanui Developments Limited | Lot 23 |
| APP-127413 | Discharge to Land - Tawanui Developments Limited | Lot 24 |
| APP-127413 | Discharge to Land - Tawanui Developments Limited | Lot 25 |
| APP-127413 | Discharge to Land - Tawanui Developments Limited | Lot 26 |
| APP-127413 | Discharge to Land - Tawanui Developments Limited | Lot 27 |
| APP-127413 | Discharge to Land - Tawanui Developments Limited | Lot 29 |
| APP-127413 | Discharge to Land - Tawanui Developments Limited | Lot 30 |
| APP-127413 | Discharge to Land - Tawanui Developments Limited | Lot 31 |
| APP-127413 | Discharge to Land - Tawanui Developments Limited | Lot 35 |
| APP-127413 | Discharge to Land - Tawanui Developments Limited | Lot 36 |
| APP-127436 | Discharge to Land - Tawanui Developments Limited | Lot 37 |
| APP-127413 | Discharge to Land - Tawanui Developments Limited | Lot 38 |
| APP-127413 | Discharge to Land - Tawanui Developments Limited | Lot 39 |
| APP-127413 | Discharge to Land - Tawanui Developments Limited | Lot 40 |
| APP-127413 | Discharge to Land - Tawanui Developments Limited | Lot 41 |

**Subject: APPOINTMENT OF COMMISSION FOR DECIDING APPLICATIONS FOR LAPSE DATE
EXTENSION BY WATER HOLDINGS HAWKE'S BAY LIMITED**

Reason for Report

1. This item seeks the appointment of Commissioners to decide on an application made by Water Holdings Hawke's Bay Limited (WHHB). WHHB has applied for a lapse date extension that will extend the lapse date from 2024 to 2030.

Officers' Recommendation(s)

2. The officers' recommendation is to appoint David McMahon as Commissioner to decide on the lapse date extension applications for the following resource consents:
 - 2.1 AUTH-120421-02 (LU120370Ca)
 - 2.2 AUTH-120423-02 (WP120371Ma)
 - 2.3 AUTH-120425-02 (LU120372Ca)
 - 2.4 AUTH-120427-02 (WP120373Ta)
 - 2.5 AUTH-120429-02 (LU120374Ca)
 - 2.6 AUTH-120431-02 (WP120375Ta)
 - 2.7 AUTH-120433-02 (LU120376Ca)
 - 2.8 AUTH-120435-02 (LU120377Ca)
 - 2.9 AUTH-120437-02 (LU120378Ca)
 - 2.10 AUTH-120439-02 (DP120379Wa)
 - 2.11 AUTH-120441-02 (LU120380Ca)
 - 2.12 AUTH-120443-02 (DP120381Wa)
 - 2.13 AUTH-120445-02 (LU120382La)
 - 2.14 AUTH-120452-02 (LU120388Pa)
 - 2.15 AUTH-120466-02 (CD120400Da)
 - 2.16 AUTH-121944-01 (LU150332L & WP150357U).
3. That the Commissioner is appointed under section 34A of the RMA and is delegated authority under RMA sections 37, 37A and 125 to consider and decide the applications.

Background /Discussion

4. Water Holdings Hawke's Bay Limited hold a group of consents (18) that permit them to dam, take and use water and to carry out related land uses in the Tukituki catchment. These are the consents that authorise the Ruataniwha water storage project. They were originally held by HBRIC before they were transferred to WHHB in 2018.
5. When these activities were consented, a lapse date of 10 years was set. This date is now two years away. The consents will lapse from 18 June 2024 if they are not given effect to prior to that date. The consent holders have applied to extend the lapse date to 2030. It is this matter that needs to be decided upon.

6. The majority of the consents are authorised by the Hawke's Bay Regional Council, but there are also consents authorised by Central Hawke's Bay District Council and Hastings District Council.
7. The proposal is to engage one Commissioner to consider and decide on the lapse date extension applications on behalf of all the Councils involved.

Options Assessment

8. This lapse date extension application needs to be decided upon. Given that the consents were previously held by HBRIC, it is considered important that the decision is made by an independent person.
9. The matter to be decided is a fairly narrow one. It is to decide on the matter of the lapse date extension as set out in s125 of the Resource Management Act (RMA). It is considered that this can be addressed by a single Commissioner with Resource Management Act (RMA) experience. Independence and clear distance from the Ruataniwha water storage debate is considered necessary.
10. It is proposed that David McMahon serve as the Commissioner and to decide on behalf of all Councils. The other Councils agree with this proposal.
11. David McMahon is a Director of the Resource Management Group, based in Wellington. He is a practicing planner with more than 30 years' experience and is an accredited making Good Decisions Commissioner.

Financial and Resource Implications

12. The cost of this Hearing will be borne by the applicants.

Decision Making Process

13. Council and its committees are 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, nor is it inconsistent with an existing policy or plan.
 - 13.2. The use of the special consultative procedure is not prescribed by legislation.
 - 13.3. The decision is not significant under the criteria contained in Council's adopted Significance and Engagement Policy.
 - 13.4. The persons affected by this decision are all persons with an interest in the region's management of natural and physical resources under the RMA.
 - 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, the Committee can exercise its discretion and make this decision without consulting directly with the community in accordance with its Terms of Reference.

Recommendations

That the Hearings Committee:

1. Receives and considers the *Appointment of Commission for deciding applications for lapse date extension by Water Holdings Hawke's Bay Limited* staff report.
2. Agrees that the decisions to be made are not significant under the criteria contained in Hawke's Bay Regional Council's adopted Significance and Engagement Policy, and that the Committee can exercise its discretion and make decisions on this issue in accordance with its Terms of Reference.

3. Appoints Mr David McMahon as Commissioner to decide on the lapse date extension applications for the following resource consents:
 - 3.1. AUTH-120421-02 (LU120370Ca)
 - 3.2. AUTH-120423-02 (WP120371Ma)
 - 3.3. AUTH-120425-02 (LU120372Ca)
 - 3.4. AUTH-120427-02 (WP120373Ta)
 - 3.5. AUTH-120429-02 (LU120374Ca)
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 - 3.7. AUTH-120433-02 (LU120376Ca)
 - 3.8. AUTH-120435-02 (LU120377Ca)
 - 3.9. AUTH-120437-02 (LU120378Ca)
 - 3.10. AUTH-120439-02 (DP120379Wa)
 - 3.11. AUTH-120441-02 (LU120380Ca)
 - 3.12. AUTH-120443-02 (DP120381Wa)
 - 3.13. AUTH-120445-02 (LU120382La)
 - 3.14. AUTH-120452-02 (LU120388Pa)
 - 3.15. AUTH-120466-02 (CD120400Da)
 - 3.16. AUTH-121944-01 (LU150332L & WP150357U)
4. Confirms that the Commissioner is appointed under section 34A of the RMA and is delegated authority under RMA sections 37, 37A and 125 to consider and decide the applications.

Authored by:

Malcolm Miller
MANAGER CONSENTS

Approved by:

Katrina Brunton
GROUP MANAGER POLICY & REGULATION

Attachment/s

There are no attachments for this report.