

MEETING — AGENDA —

Ngā Take

www.westernbay.govt.nz



EXTRAORDINARY REGULATORY HEARINGS COMMITTEE

Komiti Whakariterite Kōrero



RH14
Tuesday, 13 November 2018
Mayor's Office
Barkes Corner, Tauranga
9.30am

Notice of Meeting No RH14 Te Karere

Extraordinary Regulatory Hearings Committee Komiti Whakariterite Korero

Tuesday, 13 November 2018
Mayor's Office
Barkes Corner
9.30am

Councillors:

His Worship the Mayor G Webber (Chairperson)
P Mackay
D Marshall
M Murray-Benge
J Scrimgeour
M Williams

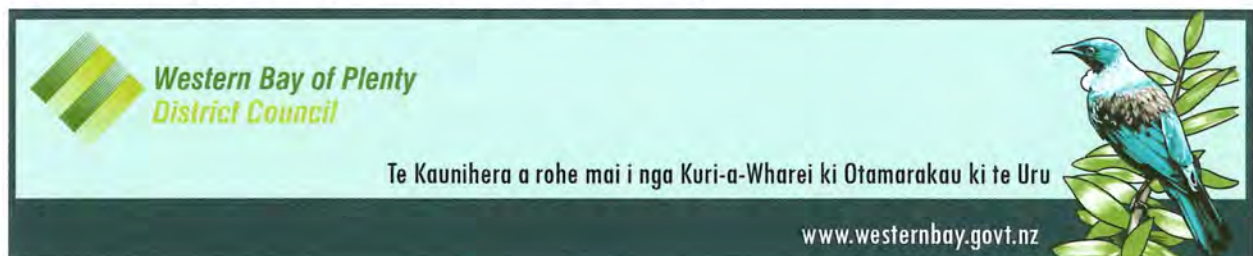
Media
Staff

Miriam Taris
Chief Executive Officer
Western Bay of Plenty District Council

Agenda approved for distribution:



Rachael Davie
Group Manager Policy, Planning and Regulatory Services



Regulatory Hearings Committee

Mangai o Te Kaunihera

Quorum:

The quorum for this meeting is three members.

Role:

Subject to compliance with Council strategies, policies, plans and legislation:

- To carry out quasi-judicial decision-making on statutory and regulatory matters, and to ensure the proper exercise of statutory and regulatory functions
- To administer and determine applications relating to:
 - Animal Enforcement Notices
 - Regulatory Hearings (Building and Health)
 - Building Consent Objections
 - Stock Droving Applications
 - Bylaw Administration and enforcement
 - Notified Planning Hearings and Resource Consents
- To monitor and review the Chief Executive Officer's management of policy decisions and programmes for which the Committee is responsible under delegated authority
- To make decisions on matters not delegated to the Chief Executive Officer
- To exercise all decision-making powers of Council within the Committee's delegated functions and in accordance with its role and to monitor performance of the delegated functions
- To monitor matters relating to consents functions as decided under delegated authority and make decisions on matters not delegated

Pursuant to the Resource Management Act 1991 to receive reports on appeals to the Environment Court on Committee or Commissioner decisions made in relation to Resource Management Act matters and to provide guidance to staff authorised to negotiate and settle appeals on Council's behalf

Chairperson Delegations:

- Pursuant to the Resource Management Act 1991 should there be insufficient time for staff to consult with the Committee on appeals to the Environment Court (in relation to decisions from the Regulatory Hearings Committee or Independent Commissioner decisions), the authority to provide guidance be delegated to the relevant Independent Chairperson with a report back to the Committee at the next scheduled meeting.
- The power to appoint hearings panels of appropriately qualified members and/or Independent Hearings Commissioners to hear and decide on specific applications should there be insufficient time for the Committee to meet to establish a Hearings Panel provided there be a report back to the Committee at the next scheduled meeting.
- Pursuant to the provisions of the Sale and Supply of Alcohol Act 2012 the power to appoint from the District Licensing Committee list of members a quorum of appropriately qualified members to hear and decide on specific applications.

General Delegations:

All delegated decision-making powers in respect to the following functions:

- a) Resource Management

- Decisions on subdivisions and other non-notified applications for discretionary or non-complying activities recommended for refusal or otherwise referred to the Committee by the Group Manager Policy, Planning and Regulatory Services
 - Hearings of and decisions on notified applications to which there have been objections
 - Conditions of approval, extensions
 - Changes or cancellation of consent
 - Conditions of surrender of consents
 - Hearings of and decisions on objections to decisions and conditions of resource consents in relation to applications decided under staff delegated authority
 - Hearings of and decisions on notices of requirement
- b) Animal Enforcement Notices, including:
- Objection to classification as probationary owner
 - Objection to disqualification
 - Objection to classification as a dangerous dog
 - Objection to abatement notice – barking dogs
 - Application for return of dog
 - Application for release of dog retained for threatening public safety
- c) Stock Droving and Speed Restriction Applications under the relevant bylaws
- d) Regulatory Hearings (Building and Health)

Joint Hearings

- The power to conduct Joint Hearings with other local authorities where considered necessary in accordance with the provisions of the First Schedule of the Resource Management Act and as mutually approved by Council and the relevant other authority(ies).
- The power to appoint members and/or Commissioners to Joint Hearings Committees.
- Subject to the provisions of the Act Joint Hearings within the Western Bay of Plenty District shall be conducted in accordance with operational protocols and procedures approved by the Regulatory Hearings Committee from time to time.

Hearing Panels

The power to appoint hearings panels of appropriately qualified members and/or Independent Hearings Commissioners to Chair, hear, and decide on all Resource Consent applications.

Other

The Committee may delegate any of its functions, duties or powers to a subcommittee or joint committee subject to the restrictions on its delegations and provided that any sub-delegation to subcommittees or joint committees includes a statement of purpose and specification of task.

The Committee may, without confirmation by Council, exercise or perform any function, power or duty in like manner, and with the same effect, as the Council could itself have exercised or performed them.

Agenda for Meeting No. RH14

Pages

**Present
In Attendance
Apologies**

RH14.1

Appointment of Independent Commissioners - November 2018 **6-10**

Attached is a report from the Environmental Consents Manager dated 5 November 2018.

Western Bay of Plenty District Council

Regulatory Hearings Committee

Appointment of Independent Hearings Commissioners - November 2018

Purpose

This report seeks from the Regulatory Hearings Committee, the appointment of Independent Hearings Commissioners to consider and determine a number of resource consent applications.

Recommendation

- 1. THAT the Environmental Consent Manager's report dated 5 November 2018 and titled "Appointment of Independent Hearings Commissioners - November 2018" be received.***
- 2. THAT the report relates to issues that are considered to be of low significance in terms of Council's Significance and Engagement Policy.***
- 3. THAT the Regulatory Hearings Committee appoints the following Independent Hearings Commissioner to consider and determine the resource consent RC11181L at Te Puna Road, Te Puna.***

Commissioner Alan Withy

- 4. THAT the Regulatory Hearings Committee appoints the following Independent Hearings Commissioner to consider and determine the resource consent RC11161L at 106 Beach Road, Waihi Beach.***

Commissioner Russell De Luca

- 5. THAT the Regulatory Hearings Committee appoints the following Independent Hearings Commissioner to consider and determine the resource consent RC11043S at 98A Munro Road, Minden, Te Puna.***

Commissioner Bill Wasley & Regulatory Hearings Committee panel.



.....
Chris Watt
Environmental Consents Manager

Approved for release to the Regulatory Hearings Committee



.....
Rachael Davie
Group Manager – Policy, Planning & Regulatory Services

1. Background

In accordance with Section 4.1 of Council's Appointment of Independent Hearings Commissioners Policy 2017 it is necessary to appoint Independent Hearings Commissioners as the resource consent applications requiring consideration and decision making have been submitted by the Western Bay of Plenty District Council as applicant; or there is a benefit to Council arising from the decision if consent is granted. Against the latter application, an appointment of an Independent Commissioner removes any potential for challenge on the basis of 'conflict of interest'.

Staff have confirmed with the following Independent Hearings Commissioners their availability to consider and determine the applications.

1. Applicant: New Zealand Transport Agency
 Location: Te Puna Road, Te Puna
 Application: RC11181L: New Te Puna Hall as a "Place of Assembly on Commercial land within minor performance standards, screening and encroachment onto Rural zoned land. This application is to supersede the Notice of Requirement considered by Independent Hearings Commissioner Alan Withy which was approved and then appealed to the Environment Court by the neighbouring submitter, Mr & Mrs Muggidge.
 Application Process: Land Use Consent.
 Reporting Planner: Harrison Grierson Consultants on behalf of WBOPDC
 Commissioner: Mr Alan Withy as he is familiar with the site and previous application.

2. Applicant: Western Bay of Plenty District Council
 Location: 106 Beach Road, Waihi Beach
 Application: RC11161L: Rural Front Yard less than 5m for Kiwicamp facility
 Application Process: Land Use Consent
 Reporting Planner: Harrison Grierson Consultants on behalf of WBOPDC
 Commissioner: Mr Russell De Luca as he is the closest located planning consultant to the subject site.

3. Applicant: Kenneth Hugh Thompson
 Location: 98A Munro Road, Minden, Te Puna
 Application: RC11148S: Three lot Minden subdivision in the Minden 1C zone. Utilisation of subdivision rights off other properties.
 Application Process: Subdivision Consent.
 Reporting Planner: Harrison Grierson Consultants on behalf of WBOPDC
 Commissioner: Mr Bill Wasley (Chair) with certified Councillors sitting as the Regulatory Hearings Committee panel.

On the appointment of the Commissioners, staff will undertake the necessary engagement and provision of application material for their consideration.

2. Significance and Engagement

The Local Government Act 2002 requires a formal assessment of the significance of matters and decisions in this report against Council's Significance and Engagement Policy. In making this formal assessment there is no intention to assess the importance of this item to individuals, groups, or agencies within the community beyond the statutory process under the Resource Management Act 1991.

The Policy requires Council and its communities to identify the degree of significance attached to particular issues, proposals, assets, decisions, and activities.

3. Engagement, Consultation and Communication

There is no requirement for an engagement or communication plan.

The resource consent application is bound by its own statutory process under the Resource Management Act 1991 which has its own statutory requirement on engagement through 'affected persons' assessment and subsequent public or limited notification processes (if required).

4. Issues and Options Assessment

THAT the Regulatory Hearings Committee appoint Independent Hearings Commissioner(s) as per the above resolution.	
Reasons why no options are available	Legislative or other reference
In accordance with the Policy, as the applications are made by Western Bay of Plenty District Council; or, there is an outcome from the application that benefits the Western Bay of Plenty District Council, the appointment of Independent Hearings Commissioner(s) are sought to consider and determine the resource consent applications.	Council's "Appointment of Independent Commissioners" Policy at Section 4.1: Conflict of Interest: Where Council has a material conflict of interest as applicant, submitter or land-owner, or circumstances may create a perception of bias (eg: involving a claim, or legal action).

5. Statutory Compliance

The resource consent applications have been received and processed in accordance with the statutory processes under the Resource Management Act 1991.

6. Funding/Budget Implications

Budget Funding Information	Relevant Detail
Independent Hearings Commissioner Charges	<p>In accordance with Section 6.1 of the Independent Hearings Commissioners Policy:</p> <p><i>"The costs of an Independent Hearings Commissioner, as negotiated at the time of appointment, will be funded by the applicant in accordance with Council's schedule of Fees and Charges".</i></p>