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Report 00.812

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Report to the Rural Services and Wairarapa Committee
from Steve Blakemore, Manager, Planning & Resources

Delegation of Resource Management Act 1991 Functions to Maori Hearings Commissioners

1. Purpose

To obtain approval for the delegation of functions under the Resource Management Act 1991 to Maori Hearings Commissioners.

2. Background

2.1 At present the authority to hear and decide all resource consent applications has been delegated by the Wellington Regional Council to the Rural Services and Wairarapa Committee which has in turn delegated these responsibilities to any duly appointed hearings committees or hearings commissioners.

2.2 Hearings Commissioners are drawn from a list of people who have been appointed by the Rural Services and Wairarapa Committee.

The selection of commissioner/s to hear a specific application is delegated jointly to the Chairperson of the Rural Services and Wairarapa Committee and the Divisional Manager, Wairarapa and takes into account factors such as availability and expertise.

2.3 Over the past year or so Councillors and staff have been working with the Region's Iwi to improve the ability of Tangata Whenua to participate in the resource management process. Improved participation in the resource consent decision making process was considered to be one way in which Tangata Whenua can meet their Kaitiaki obligations. In addition, it represents one positive way for the Council to meet those sections of Part II of the Resource Management Act 1991 that refer to Maori values.

2.4 At its meeting on 3 August 2000 the Policy and Finance Committee adopted the following recommendations from Report 00.576:

1. *That the Committee recommends that Council adopt a policy of appointing a Maori as a commissioner to all resource consent hearings*
2. *That the Iwi representatives of Ara Tahi be invited to nominate Maori as hearing commissioners.*
3. *That the Council provide training for Maori and non-Maori commissioners as outlined in this report*
4. *That the Council and Iwi evaluate the success of the policy one year following its implementation.*

Council subsequently adopted this recommendation.

- 2.5 Since the report was adopted, Ara Tahi Iwi representatives have nominated four people as hearing commissioners. Before those nominees can hear and decide a consent application the Environment Committee must appoint them as commissioners.

3. Relevant Statutory Provisions

- 3.1 Section 34 of the Resource Management Act 1991 provides for the delegation of functions, powers, or duties by local authorities. The relevant extracts are:

- (1) *A local authority may delegate to any committee of the local authority established in accordance with the Local Government Act 1974 any of its functions, powers, or duties under this Act...*
- (2) *A local authority may delegate to any hearings commissioner or commissioners appointed by the local authority for this purpose, who may or may not be a member of the local authority, any of its functions, powers, or duties under this Act, other than -*
 - (a) *the approval of a policy statement or plan or any change to a policy statement:*
 - (b) *this power of delegation.*
- (3) *A local authority may delegate to any of its officers any of its functions, powers, or duties under this Act, other than -*
 - (a) *the approval of a policy statement or plan or any change to a policy statement or a plan:*
 - (b) *the making of a recommendation on a requirement for a designation or heritage order under Part VII:*
 - (c) *the granting of a resource consent for a non-complying activity in respect of any application which is notified in accordance with section 93:*

(d) *this power of delegation.*

5. Nominated Commissioners

- Te Akapikirangi Arthur
- Liz Mellish
- Turoa Royal
- Miria Pomare

6. Implementation

6.1 A Maori Hearings Commissioner will be included in all future notified consent hearings. They will be selected and engaged under current procedures.

6.2 Hearing Committee memberships will vary to reflect different circumstances such as:

(i) Normal Hearing

One Maori Hearings Commissioner plus one or possibly two Regional Councillors

(ii) Hearing of a Regional Council Application

One Maori Hearings Commissioner and one or more other `list` Commissioners

(iii) Joint Hearings with a District Council

One Maori Hearings Commissioner and Regional Councillors/District Councillors/Commissioners as agreed to be appropriate.

7. Communications

No additional communication is considered necessary.

8. Recommendation

That pursuant to section 34(3) of the Resource Management Act 1991, the Rural Services and Wairarapa Committee, acting under authority delegated by the Wellington Regional Council under section 34(1), appoint the following persons:

- *Liz Mellish*
- *Miria Pomare*
- *Te Akapikirangi Arthur*
- *Turoa Royal*

- (i) *to hear and consider resource consent applications received by the Wellington Regional Council and the submissions on those applications, and*
- (ii) *to make a decision on the resource consent application under sections 104 and 105 of that Act, and*
- (iii) *when necessary, to jointly hear, consider, determine and recommend under section 102 of that Act any applications to any other council when these applications are being dealt together.*

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