
Hearings Committee

OPEN MINUTES

Minutes of a meeting of the Hearings Committee held in the Level 26, 135 Albert Street, Auckland on Tuesday, 2 June 2015 at 2.00pm.

PRESENT

Chairperson
Members

Linda Cooper, JP
Cr Anae Arthur Anae
Cr Chris Darby
Cr Calum Penrose
Cr Wayne Walker

From Item 8, 2:12 pm
From Item 8, 2:04 pm

ABSENT

Mayor Len Brown
Deputy Mayor Penny Hulse
Mr David Taipari
Deputy Chairperson Penny Webster
Mr Glenn Wilcox

ALSO PRESENT

Cr Cathy Casey
Cr George Wood

1 Apologies

Resolution number HEA/2015/52

MOVED by Chairperson LA Cooper, seconded by Cr AJ Anae:

That the Hearings Committee:

- a) **accept the apologies from Mayor LCM Brown, Deputy Mayor PA Hulse, Member DE Taipari, and Member G Wilcox for absence, and Cr MP Webster for lateness.**

CARRIED

2 Declaration of Interest

Cr GS Wood declared an interest in Item 14, Appointment of Independent Commissioners: Application for resource consents by Harbour Access Trust – Proposed Community Marine Activity Hub, at 22 The Promenade, Takapuna Beach.

3 Confirmation of Minutes

Resolution number HEA/2015/53

MOVED by Chairperson LA Cooper, seconded by Cr CM Penrose:

That the Hearings Committee:

- a) **confirm the ordinary minutes of its meeting, held on Tuesday, 5 May 2015, including the confidential section, as a true and correct record.**

CARRIED

4 Local Board Input

There was no local board input.

5 Extraordinary Business

There was no extraordinary business.

6 Notices of Motion

There were no notices of motion.

7 Opposition to Council's refusal to grant a multiple dog licence

This item was withdrawn and the hearing did not proceed.

8 Determination by the Hearings Committee of an Objection to Proposed Stormwater Connection at 37A Hayr Road to service 31 Hayr Road Three Kings

Mr Michael Sin, as agent for the applicant, provided a verbal presentation and table documents in support. A copy has been placed on the official minutes and is available on the Auckland Council website as a minutes attachment.

Also in attendance was Mr Young Wu, the applicant, Mr Graeme Raymond, Ms Shelley Vogel, Mr Paul Williams, Mr Keith Knarston, Mr Glen Cheung and Mr Mike Hu.

Mr Madhav Karmarkar, the objector, provided a verbal presentation.

Cr WD Walker entered the meeting at 2.04 pm.

Cr C Darby entered the meeting at 2.12 pm.

Resolution number HEA/2015/54

MOVED by Cr AJ Anae, seconded by Cr CM Penrose:

That the Hearings Committee:

- a) **hear the objection by the owner of 37A Hayr Road, Three Kings pursuant to section 460 and Schedule 12 of the Local Government Act 1974.**
- b) **agree to determine the objection by the owner of 37A Hayr Road, Three Kings pursuant to section 460 and Schedule 12 of the Local Government Act 1974 in the confidential section of the meeting.**

CARRIED

Attachments

- A 2 June 2015 - Hearings Committee - Item 8 - Determination by the Hearings Committee of an Objection to Proposed Stormwater Connection at 37A Hayr Road to service 31 Hayr Road Three Kings - tabled document of applicant

9 Designation of independent commissioners as duty commissioners to determine resource consent applications and section 357 objections

Resolution number HEA/2015/55

MOVED by Cr CM Penrose, seconded by Cr C Darby:

That the Hearings Committee:

- a) **designate, in accordance with clause 4.2.7 of the Hearings Committee Policy, the following 12 Independent Commissioners to act as Duty Commissioners for the period from 1 July 2015 until 30 June 2016:**
 - i) **Janine Bell**
 - ii) **Kathleen Ryan**
 - iii) **Justine Bray**
 - iv) **Les Simmons**
 - v) **Mark Farnsworth**
 - vi) **Alan Watson**
 - vii) **Jenny Hudson**
 - viii) **Richard Blakey**
 - ix) **Barry Kaye**
 - x) **Robert Scott**
 - xi) **Cherie Lane**
 - xii) **Dave Serjeant**
- b) **approve in accordance with clause 5.2 of the Hearings Committee Policy, the Duty Commissioners listed in a above to be used for assigning by the Resolutions Team Principal Planners and Manager for the purpose of hearing and determining 357 objections.**

- c) delegate in accordance with clause 4.2.8 of the Hearings Committee Policy, to the Resolutions Team Principal Planners and Manager the authority to assign one or more Duty Commissioners to make decisions on resource consent applications that staff consider are not significant or contentious and where no hearing is required.
- d) delegate in accordance with clause 4.2.8 of the Hearings Committee Policy, to the Resolutions Team Principal Planners and Manager the authority to assign additional commissioners beyond the “duty” group but from the approved list of Independent Commissioners, as may be necessary depending on particular skills or knowledge required for a particular resource consent application or section 357 objection determination.

CARRIED

10 Recruitment of further independent commissioners

Resolution number HEA/2015/56

MOVED by Cr CM Penrose, seconded by Chairperson LA Cooper:

That the Hearings Committee:

- a) approve the review and appointment process for specific independent commissioners to supplement the current commissioner pool until 30 June 2017.
- b) delegate to the chairperson and the deputy chairperson of the Hearings Committee the authority to appoint a selection panel, comprising as a minimum, a senior manager from Democracy Services, a senior manager from Resource Consents, a member of the Independent Māori Statutory Board or staff member nominated by the Independent Māori Statutory Board and one of the chairs of the Auckland Urban Design Panel.
- c) note that the role of the selection panel is to identify, advertise for and interview a small number of commissioner candidates with urban design, planning and iwi specialist skills, given that these skills have been in shortage in the current pool.
- d) request that the selection panel provide a list of preferred candidates in a report to the Hearings Committee by September 2015, for approval to contract as additional commissioners.

CARRIED

11 Performance Development Framework for independent commissioners

Cr C Darby left the meeting at 3.05 pm.

The final version of the Performance development framework: independent commissioners was tabled at the meeting. A copy has been placed on the official minutes and is available on the Auckland Council website as a minutes attachment.

Resolution number HEA/2015/57

MOVED by Cr WD Walker, seconded by Cr CM Penrose:

That the Hearings Committee:

- a) approve the performance development framework for independent planning commissioners.

CARRIED

Attachments

- A 2 June 2015 - Hearings Committee - Item 11 - Performance development framework: independent commissioners

12 Processes for determination of demolition resource consent applications within the Residential 1 Zone of the Operative Auckland Council District Plan – Auckland City Isthmus Section

Resolution number HEA/2015/58

MOVED by Cr CM Penrose, seconded by Cr AJ Anae:

That the Hearings Committee:

- a) designate under clause 4.2 of Hearings Committee Policy, that resource consent applications involving the demolition or removal of, pre-1940 buildings within the Residential 1 Zone of the Operative Auckland Council District Plan – Auckland City Isthmus Section, and proposed scheduled buildings within the Proposed Auckland Unitary Plan, be determined by two independent commissioners as set out below, being:
 - i) the Duty Commissioner (as chair) at the time in which the application is ready to be determined, being one of either:
 - Janine Bell
 - Barry Kaye
 - Les Simmons
 - David Hill
 - Richard Blakey
 - ii) And one of either:
 - John Hill
 - Richard Knott
 - Cherie Lane.
- b) assign the above duty commissioners in (a) above, in accordance with clauses 5.2 of Hearings Committee Policy to such applications subject to availability at short notice.
- c) delegate to the Team manager – Resolutions the assignment of one alternate commissioner beyond this duty group, but from the list of independent commissioners if necessary, to cover a particular skill or knowledge associated with a particular resource consent.
- d) note that this delegation does not prevent applications clearly of a minor nature being determined at a staff level.

CARRIED

13 Appointment of Independent Commissioners: Application for resource consent - Establish a public artwork on the northern end of Queens Wharf, 85-89 Quay Street, Auckland 1021

Resolution number HEA/2015/59

MOVED by Cr AJ Anae, seconded by Cr CM Penrose:

That the Hearings Committee:

- a) **appoint Leigh McGregor (chair), Robert Scott and Bill Kapea to hear submissions and determine the application for resource consent by Waterfront Auckland, to establish a public artwork on the northern end of Queens Wharf, Auckland Central under section 104 of the Resource Management Act 1991.**
- b) **delegate to the chair to determine the application, if no submissions are received or the application otherwise does not require to be heard.**
- c) **delegate authority to the chairperson of the Hearings Committee to make replacement appointments should any of the independent commissioners in (a) above be unavailable.**

CARRIED

14 Appointment of Independent Commissioners: Application for resource consents by the Harbour Access Trust – Proposed Community Marine Activity Hub, at 22 The Promenade, Takapuna Beach

Resolution number HEA/2015/60

MOVED by Cr CM Penrose, seconded by Cr AJ Anae:

That the Hearings Committee:

- a) **appoint a panel of Karyn Sinclair (chair), Rebecca Macky, Melean Absolum and local board member Lisa Whyte, to hear submissions and make a decision under section 104 of the Resource Management Act 1991 on the application for resource consents (LCO-2140694, REG-2140695, REG-2140696 and REG-2140847) to develop the proposed Community Marine Activity Hub at 22 The Promenade, Takapuna Beach.**
- b) **delegate to the Chairperson of the Hearings Committee the authority to make replacement appointments should any of the commissioners or local board member appointed under a) above be unavailable.**

CARRIED

Secretarial note: Pursuant to standing order 1.8.6 Cr WD Walker requested his dissenting vote be recorded.

15 Appointment of Commissioners: Application for Resource Consent - Proposed Retirement Village, 14 Rangitoto Avenue and 19 Ara Street, Remuera Auckland

Resolution number HEA/2015/61

MOVED by Cr CM Penrose, seconded by Chairperson LA Cooper:

That the Hearings Committee:

- a) **appoint independent commissioner Richard Blakey to make the notification determination on the applications for resource consent (R/LUC/2015/1280, R/REG/2015/1281 and R/REG/2015/1282) to develop a retirement village at 14 Rangitoto Avenue and 19 Ara Street, Remuera, pursuant to sections 95A and 95B of the Resource Management Act 1991 (“RMA”).**
- b) **subject to the notification decision above, either;**
 - i) **appoint the same independent commissioner as appointed in (a) to make a decision under section 104 of the RMA in the event that the application proceeds on a non-notified basis or otherwise does not require a hearing, or**
 - ii) **appoint Pamela Peters, Rebecca Skidmore, and local board member Graeme Easte, to sit with the commissioner appointed under (a) as the chair, in the event that the application proceeds on a notified basis and a hearing is required, to hear submissions and make a decision under section 104 of the RMA;**
- c) **delegate to the Chairperson of the Hearings Committee the authority to make replacement appointments should any of the commissioners or local board member appointed under (a) and (b) above be unavailable.**

CARRIED

16 Appointment of Commissioners: Application for resource consent for proposed dwelling, 92 Coromandel Road, Waiheke Island

Resolution number HEA/2015/62

MOVED by Cr CM Penrose, seconded by Cr AJ Anae:

That the Hearings Committee:

- a) **appoint independent commissioner Barry Kaye to make a notification decision on the application for resource consent to construct a new dwelling and associated works at 92 Coromandel Road, Waiheke Island, pursuant to section 95 of the Resource Management Act 1991 (“the RMA”).**
- b) **subject to the notification decision that is made in (a) above:**
 - i. **appoint the same commissioner as in (a) above to make a substantive decision on the application pursuant to section 104 of the RMA, should the application proceed on a non-notified basis or otherwise does not require a hearing; or**
 - ii. **appoint Bill Kapea, to sit with the commissioner appointed in (a) above as the chair, to hear submissions and make a substantive decision on the application pursuant to section 104 of the RMA, should the application proceed on a notified basis and a hearing is required.**
- c) **delegate authority to the chairperson of the Hearings Committee to make replacement appointments should any of the independent commissioners in (a)-(b) above be unavailable.**

CARRIED

17 Appointment of Commissioners: Application for resource consent - Proposed 24 hour fast food restaurant, 543 Te Atatu Road, Te Atatu Peninsula

Resolution number HEA/2015/63

MOVED by Cr CM Penrose, seconded by Chairperson LA Cooper:

That the Hearings Committee:

- a) **appoint independent commissioner Les Simmons to make the notification determination under sections 95A and 95B of the Resource Management Act 1991 (“RMA”) on the application for resource consent (LUC-2015-471) to develop a 24 hour drive-thru restaurant at 543 Te Atatu Road, Te Atatu Peninsula.**
- b) **subject to the notification decision above, either;**
 - i) **appoint the same independent commissioners in (a) to make a decision under section 104 of the RMA on the application, should the application be non-notified or a hearing not required, or**
 - ii) **appoint Ian Munro, Philip Brown, and local board member Catherine Farmer, to sit with the commissioner appointed under (a) as the chair, should the application be notified and a hearing is required, to hear submissions and make a decision under section 104 of the Resource Management Act 1991**
- c) **delegate to the Chairperson of the Hearings Committee the authority to make replacement appointments should any of the commissioners or local board member appointed under (a) and (b) above be unavailable.**

CARRIED

18 Consideration of Extraordinary Items

There was no consideration of extraordinary items.

19 Procedural motion to exclude the public

Resolution number HEA/2015/64

MOVED by Chairperson LA Cooper, seconded by Cr CM Penrose:

That the Hearings Committee:

- a) **exclude the public from the following part(s) of the proceedings of this meeting.**

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution follows.

This resolution is made in reliance on section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by section 6 or section 7 of that Act which would be prejudiced by the holding of the whole or relevant part of the proceedings of the meeting in public, as follows:

C1 Resource Consent Appeals: Status Report 2 June 2015

Reason for passing this resolution in relation to each matter	Particular interest(s) protected (where applicable)	Ground(s) under section 48(1) for the passing of this resolution
<p>The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.</p>	<p>s7(2)(i) - The withholding of the information is necessary to enable the local authority to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).</p> <p>In particular, to enable the local authority to undertake without prejudice negotiations of appeals that are before the Environment Court.</p>	<p>s48(1)(a)</p> <p>The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.</p>

C2 Noting the urgent decision of 21 May 2015: Resource Consent Appeal: Kimberley Trust v Auckland Council

Reason for passing this resolution in relation to each matter	Particular interest(s) protected (where applicable)	Ground(s) under section 48(1) for the passing of this resolution
<p>The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.</p>	<p>s7(2)(i) - The withholding of the information is necessary to enable the local authority to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).</p> <p>In particular, the report contains information relating to an Environment Court appeal, and the disclosure of information may prejudice the council's position in regards to negotiations and the potential settlement of the appeal.</p>	<p>s48(1)(a)</p> <p>The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.</p>

C3 Deliberations on an Objection to Proposed Stormwater Connection at 37A Hayr Road to service 31 Hayr Road Three Kings

Reason for passing this resolution in relation to each matter	Particular interest(s) protected (where applicable)	Ground(s) under section 48(1) for the passing of this resolution
The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.	<p>s7(2)(f)(ii) - The withholding of the information is necessary to maintain the effective conduct of public affairs through the protection of such members, officers, employees and persons from improper pressure or harassment.</p> <p>In particular, the protection of such members, officers, employees, and persons from improper pressure or harassment while deliberating whether or not to uphold the objection to a proposed stormwater connection.</p>	<p>s48(1)(a)</p> <p>The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.</p>

The text of these resolutions is made available to the public who are present at the meeting and form part of the minutes of the meeting.

CARRIED

3.25pm The public was excluded.

Resolutions in relation to the confidential items are recorded in the confidential section of these minutes and are not publicly available.

3.34pm The public was re-admitted.

RESTATEMENTS

It was resolved while the public was excluded:

C1 Resource Consent Appeals: Status Report 2 June 2015

That the Hearings Committee:

- b) agree that the report and attachments remain confidential, but agree that the list and description of current appeals as of 20 May 2015, apart from council's status position on the appeals, be re-stated in the open section of the minutes.

Attachments

- A 2 June 2015 - Hearings Committee - Item C1 - Resource Consent Appeals: Status Report 2 June 2015

C2 Noting the urgent decision of 21 May 2015: Resource Consent Appeal: Kimberley Trust v Auckland Council

That the Hearings Committee:

- b) agree that the decisions, report and attachments regarding 'Noting the urgent decision of 21 May 2015: Resource Consent Appeal: Kimberley Trust v Auckland Council', not be re-stated in the open section of the minutes.

C3 Deliberations on an Objection to Proposed Stormwater Connection at 37A Hayr Road to service 31 Hayr Road Three Kings

Resolution number HEA/2015/65

MOVED by Cr CM Penrose, seconded by Cr AJ Anae:

That the Hearings Committee:

- a) endorse the proposed connection and its associated route through the neighbouring land at 37A Hayr Road, Three Kings to undertake drainage works generally as set out in the agenda report, pursuant to Section 460 of the Local Government Act 1974 and as referenced on plan titled Proposed Stormwater Extension to Public Stormwater line (Eden Consultants Limited) Project no.14/028 dated 28 March 2014, for the following reasons;
 - i) it is the only practicable route because the alternative option was not acceptable to be vested as a public asset, and would result in duplication of infrastructure.
 - ii) any impacts on 37A Hayr Road would be temporary and can be managed through the construction management plan.
- b) agree that the decision under a) be restated in the open section of the minutes.

3.34 pm

The Chairperson thanked Members for their attendance and attention to business and declared the meeting closed.

CONFIRMED AS A TRUE AND CORRECT RECORD
AT A MEETING OF THE HEARINGS COMMITTEE
HELD ON

DATE:.....

CHAIRPERSON:.....