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## Hearings Committee

### OPEN MINUTES

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Minutes of a meeting of the Hearings Committee held in the Level 26, 135 Albert Street, Auckland on Tuesday, 20 September 2016 at 2.00pm.

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#### **PRESENT**

**Chairperson**  
**Deputy Chairperson**  
**Members**

Cr Linda Cooper, JP  
Cr Penny Webster  
Cr Anae Arthur Anae

Until 2.58 pm, Item C2.  
From 2.03 pm, Item 8, until 2.57 pm, Item C1.

Cr Chris Darby  
Cr Calum Penrose  
Member Liane Ngamane (alt.)  
Member Glenn Wilcox

#### **ABSENT**

Mayor Len Brown, JP  
Deputy Mayor Penny Hulse  
Member David Taipari  
Cr Wayne Walker

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**1 Apologies**

Resolution number HEA/2016/71

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

**That the Hearings Committee:**

- a) **accept the apologies from Mayor LCM Brown, Deputy Mayor PA Hulse, Member DE Taipari, and Cr WD Walker for absence.**

**CARRIED**

**2 Declaration of Interest**

Cr C Darby subsequently declared an interest at Item 10 Delegation for council staff to participate as interested parties - Cowie Street Residents' Association & Others v Auckland Council, ENV-2016-AKL-000172.

**3 Confirmation of Minutes**

Resolution number HEA/2016/72

MOVED by Chairperson LA Cooper, seconded by Member G Wilcox:

**That the Hearings Committee:**

- a) **confirm the ordinary minutes of its meeting, held on Tuesday, 23 August 2016, 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 Appointment of independent commissioners for resource consent applications associated with the Omaha Wastewater Treatment Plant**

Resolution number HEA/2016/73

MOVED by Deputy Chairperson MP Webster, seconded by Member G Wilcox:

**That the Hearings Committee:**

- a) **appoint Leigh McGregor (Chair), Nigel Mark-Brown and Gina Sweetman to hear submissions and make a decision under section 104 of the Resource Management Act on the associated applications for resource consents REG-67919, REG-67921, REG-67923 and LAN-67924 for the operation and upgrading of the Omaha Wastewater Treatment Plant.**
- b) **delegate to the chairperson appointed in (a) above the authority to make decisions on the resource consent applications should no submissions be received or a hearing not otherwise be required.**
- c) **delegate authority to the chairperson of the Hearings Committee to make a replacement appointment should any of the independent commissioners appointed in (a) above be unavailable. If a replacement appointment is required following the end of the current political term and prior to the new council being sworn in, the replacement appointment shall be approved under staff delegation.**

**CARRIED**

**8 Appointment of independent commissioners: Notice of Requirement made by Auckland Transport for Lincoln Road, Henderson**

*Cr AJ Anae entered the meeting at 2.03 pm.*

Resolution number HEA/2016/74

MOVED by Chairperson LA Cooper, seconded by Member L Ngamane:

**That the Hearings Committee:**

- a) **appoint Richard Blakey (Chair), Rebecca Skidmore, and Alan Pattle to hear and make, under section 171 of the Resource Management Act 1991, a recommendation on the Notice of Requirement by Auckland Transport.**
- b) **delegate authority to the chairperson of the Hearing Committee to make replacement appointments should any of the appointed independent commissioners in (a) above become unavailable. If a replacement appointment is required following the end of the current political term and prior to the new council being sworn in, the replacement appointment shall be approved under staff delegation.**

**CARRIED**

**9 Appointment of independent commissioners to hear and make recommendations on the Notice of Requirement by Auckland Transport to alter the City Rail Link Designation 405 (Aotea Station, Albert Street)**

Resolution number HEA/2016/75

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

**That the Hearings Committee:**

- a) **appoint Alan Watson (Chair), Rebecca Macky, Michael Parsonson and Basil Morrison to hear submissions and make a recommendation on a Notice of Requirement for the alteration to Designation 405 (City Rail Link) pursuant to section 171 of the Resource Management Act 1991.**
- b) **delegate authority to the chairperson of the Hearings Committee to make a replacement appointment should any of the independent commissioners appointed in (a) above be unavailable.**

**CARRIED**

**10 Delegation for council staff to participate as interested parties - Cowie Street Residents' Association & Others v Auckland Council, ENV-2016-AKL-000172**

Cr C Darby declared an interest in this item and neither spoke nor voted on the issue.

*Cr C Darby left the meeting at 2.13 pm.*

Resolution number HEA/2016/76

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

**That the Hearings Committee:**

- a) **delegate the council's Senior Solicitor - Litigation and Regulatory and the Team Leader, Planning – Central and Islands to participate as interested parties under s274 of the Resource Management Act 1991 in relation to the appeal Cowie Street Residents' Association & Others v Auckland Council (ENV-2016-AKL-000172) against Auckland Transport's confirmation of its' requirement for a designation (Proposed Plan Modification 380 Notice of Requirement) and the associated resource consents approved by council.**
- b) **authorise the council's representatives to participate in mediation on the appeals for the purpose of resolving the issues of appeal, or narrowing the issues in advance of any Environment Court hearing.**

**CARRIED**

**11 Local board involvement in resource consent processes**

*Cr C Darby returned to the meeting at 2.14 pm.*

Note: staff will investigate the feasibility of listing publicly all resource consent applications on Auckland Council's website.

Resolution number HEA/2016/77

MOVED by Deputy Chairperson MP Webster, seconded by Cr CM Penrose:

**That the Hearings Committee:**

- a) **note the ability of local boards to express views and preferences on any application pursuant to section 15 of the Local Government ( Auckland Council) Act 2009.**
- b) **adopt the recommendations of the Local Board involvement in Resource Consents Working Party. The following improvements/adjustments to the current process to be made are as follows:**
  - i) **existing local board-identified triggers for provisions of full details of resource consent applications, for the purpose of making comment on notification, be reviewed and refined (particularly once the Proposed Auckland Unitary Plan becomes operative),**
  - ii) **enhanced training is provided to local board members about the Resource Management Act process and their role within it (in the first instance as part of the induction process),**
  - iii) **the purpose of the Resource Consents weekly list is principally for information purposes rather than comments and will be clearly communicated to local boards,**
  - iv) **a standard practice is developed and endorsed to enable local boards to speak to their local views and preferences when a hearing occurs in relation to a resource consent application,**
  - v) **that the Hearings Committee policy on elected members sitting on hearings panels within their own local board area is supported, with close attention to consideration of issues of conflict of interest on a case by case basis.**
- c) **refer the recommendations contained in (b), above, to the governing body for information purposes only early in the next political term.**

**CARRIED**

**12 Noting the urgent decision of 1 September 2016 to appoint independent commissioners**

Staff tabled two Hearings Committee reports relating to an urgent decision and a delegated decision made on 13 and 14 September 2016 respectively. Copies have been placed on the official minutes and are available on the Auckland Council website as minutes attachments.

Resolution number HEA/2016/78

MOVED by Chairperson LA Cooper, seconded by Deputy Chairperson MP Webster:

**That the Hearings Committee:**

- a) **note the decision of 1 September 2016 to appoint Leigh McGregor (chair), Alan Pattle, Gavin Lister, and William Kapea to make a decision on the Notice of Requirement for the Takanini Stormwater Conveyance Corridor (Papakura Plan Amendment 48).**
- b) **note the decision of 13 September 2016 to accept the request by 3rd Fairway Developments Limited for direct referral of its application for resource consents to undertake a subdivision to create 31 residential lots at 84 Laurel Oak Drive and 51 Appleby Road,, Albany, to the Environment Court.**
- c) **note the decision of 14 September 2016 to appoint Murray Kay to the Accord Territorial Authority Panel to consider the Bellfield Road Special Housing Area Plan Variation (Plan Variation 20) and concurrent qualifying development consent application.**

**CARRIED**

**Attachments**

- A 20 September 2016, Hearings Committee, Item 12 - Urgent decision of 13 September 2016
- B 20 September 2016, Hearings Committee, Item 12 - Delegated decision of 14 September 2016

**13 Determination of an Objection to a Stormwater Connection through 33 Barrack Road, to service 19B Banks Road, Mount Wellington.**

*Deputy Chairperson MP Webster left the meeting at 2.33 pm.*

*Deputy Chairperson MP Webster returned to the meeting at 2.50 pm.*

The applicant, Mr Satendra Singh, gave a presentation in support of the item. Council staff gave a presentation in support of the item.

Note: The opposer, Mr Wong, chose not to attend and did not send a representative to present on his behalf.

Resolution number HEA/2016/79

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

**That the Hearings Committee:**

- a) **hear the matter of the objection to a stormwater connection through 33 Barrack Road, pursuant to section 460 of the Local Government Act 1974.**
- b) **agree to determine the objection to a stormwater connection through 33 Barrack Road, pursuant to section 460 of the Local Government Act 1974, in the public excluded section of the meeting.**

**CARRIED**

#### 14 Consideration of Extraordinary Items

There was no consideration of extraordinary items.

#### 15 Procedural motion to exclude the public

Resolution number HEA/2016/80

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

**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 20 September 2016

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.	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).  In particular, the report contains information that could compromise the council in undertaking without prejudice negotiations of these appeals that are before the Environment Court.	s48(1)(a)  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.



**C2 Deliberations on an Objection to a Stormwater Connection through 33 Barrack Road, to service 19B Banks Road, Mount Wellington**

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.	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.  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 line connection.	s48(1)(a)  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.

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**

2.51 pm The public was excluded.

3.05 pm The public was re-admitted.

**RESTATEMENTS**

It was resolved while the public was excluded:

**C1 Resource Consent Appeals: Status Report 20 September 2016**

Resolution number HEA/2016/81

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

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 9 September 2016, apart from council's status position on the appeals, be re-stated in the open section of the minutes.

**Attachments**

- A 20 September 2016, Hearings Committee, Item C1 - Resource Consent Appeals: Status Report 20 September 2016

**C2 Deliberations on an Objection to a Stormwater Connection through 33 Barrack Road, to service 19B Banks Road, Mount Wellington**

Resolution number HEA/2016/82

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

That the Hearings Committee:

- a) determine the objection by the owner of 33 Barrack Road, pursuant to section 460 of the Local Government Act 1974.
- b) endorse, pursuant to Section 460(1) of the Local Government Act 1974 the proposed drainage works connection and its associated route through the land at 33 Barrack and 13 Banks Roads, to service 19B Banks Road Mount Wellington, as referenced on plan titled 'Proposed Public Stormwater Network Plan' by Babington and Associates Project no. 130801 and dated 11 July 2014, for the following reasons:
  - i) the only practical route of any stormwater drain to serve 19B Banks Road is through 33 Barrack and 13 Banks Roads
  - ii) other drainage routes have been considered and are not practical, including on site soakage which was not feasible due to the geology of the area as demonstrated by test drilling by the applicant
  - iii) the owner of 33 Barrack Road, Mount Wellington, was given the opportunity to be heard before a committee of council.
- c) agree that the decision under clause a) and b) be restated in the open section of the minutes.

3.05 pm

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

CONFIRMED AS TRUE AND CORRECT BY  
THE CHAIRPERSON AND CHIEF EXECUTIVE  
UNDER STANDING ORDER 8.1.4 ON

**DATE:**.....

**CHAIRPERSON:**.....

**LEAD OFFICER:**.....