

**MINUTES**

**FRIDAY 25 FEBRUARY 2005**

**1.01PM**

**Committee Room One  
Ground Floor, Council Offices  
101 Wakefield St  
Wellington**

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**PRESENT:**

Councillor Gill (Chair)  
Councillor Armstrong  
Councillor Cook (1.01pm – 2.32pm)  
Councillor Goulden  
Councillor Morrison  
Councillor Pepperell  
Councillor Shaw  
Councillor Wade-Brown

**APOLOGIES:**

Mayor Prendergast  
Councillor Foster

005/05RP **APOLOGIES**  
(1215/53/IM)

**RESOLVED:**

*THAT the Regulatory Processes Committee:*

- 1. Receive apologies from Mayor Prendergast, Councillor Foster for absence.*

006/05RP **MINUTES FOR CONFIRMATION**  
(1215/53/IM)

**RESOLVED:**

*THAT the Regulatory Processes Committee:*

1. *Approve the minutes of the ordinary meetings held on Monday 13 December 2004, having been circulated, be taken as read and confirmed as an accurate record of those meetings.*

007/05RP **CONFLICT OF INTEREST DECLARATIONS**  
(1215/53/IM)

**NOTED:**

Councillor Cook declared a conflict of interest in relation to Report 9 'List of Independent Hearing Commissioners' and abstained from debate and voting on the item.

008/05RP **PUBLIC PARTICIPATION**  
(1215/53/IM)

**NOTED:**

There was no public participation.

009/05RP **PROPERTY FOR DISPOSAL UNDER SECTION 40 PUBLIC WORKS ACT 1981 – STAGE ONE: 270 MASSEY ROAD, MAHANGA BAY, SEATOUN**  
Report of Wendy Gerraty – Road Stopping and Encroachment Advisor.  
(1215/53/IM) (REPORT 2)

**Moved Councillor Wade-Brown, seconded Councillor Cook the following amendment to recommendation 4.**

That officer's explore possibilities of improving the visual amenity of the fence before final sale.

The amendment was put and declared LOST on voices.

**RESOLVED AND RECOMMENDED TO COUNCIL:**

*THAT the Regulatory Processes Committee:*

1. *Receive the information*

2. *Recommend that the Council, pursuant to Section 40 of the Public Works Act 1981:*
  - a) *Agree that the area of unformed legal road adjoining 270 Massey Road, Mahanga Bay, Seatoun comprising 226m<sup>2</sup> (attached as Appendix 1 of the officer's report) is not required for a Public Work.*
  - b) *Authorise Council officers to commission a Section 40 report from suitably qualified consultants to identify whether the land must be offered back to its former owner or their successor in title, or whether an exemption from offer back applies.*
3. *Note that once the Section 40 report has been received, a further report will be presented to Council for their approval to either offer the land back to its former owner or their successor in title, or to approve the exemption from offer back.*

010/05RP **PROPERTY FOR DISPOSAL UNDER SECTION 40 PUBLIC WORKS ACT 1981 – STAGE TWO (ROAD STOPPING): 15 HAMILTON ROAD AND 104 STANDEN STREET**

Report of Wendy Gerraty – Road Stopping and Encroachment Advisor.  
(1215/53/IM) (REPORT 3)

**RESOLVED AND RECOMMENDED TO COUNCIL:**

*THAT the Regulatory Processes Committee:*

1. *Receive the information.*
2. *Recommend that the Council, pursuant to Section 40 of the Public Works Act 1981:*
  - a) *Agree that the land adjoining the following properties is exempt from offer-back based on Section 40 (4) of the Public Works Act 1981 and advice received from Land Information New Zealand accredited agents and Council's solicitors' opinion:*
    - *15 Hamilton Road, (being approximately 40m<sup>2</sup> as outlined on the aerial photograph in Appendix 1 of the officer's report)*
    - *104 Standen Street, (being approximately 42m<sup>2</sup> as outlined on the aerial photograph in Appendix 1 of the officer's report)*
  - b) *Authorise Council Officers to proceed with the road stopping process under Sections 342 and 345 of the Local Government Act 1974.*

011/05RP **PROPOSED ROAD STOPPING ADJACENT TO 265 QUEENS DRIVE, LYALL BAY**

Report of Wendy Gerraty – Road Stopping and Encroachment Advisor.  
(1215/53/IM) (REPORT 4)

**RESOLVED AND RECOMMENDED TO COUNCIL:**

*THAT the Regulatory Processes Committee:*

1. *Receive the information.*
2. *Agree that Council resolve to publicly notify that the portion of Queens Drive, Lyall Bay, adjoining 265 Queens Drive described as Lot 5 DP 1682 and Lot 5 DP 2282, comprising 10m<sup>2</sup> as shown in Appendix 1 of the officer's report, be declared stopped in accordance with the Tenth Schedule of the Local Government Act 1974 and in so declaring that the following matters are to be noted and actioned:*
  - a) *The area of stopped road (Section 1 on SO 336839) will be amalgamated with adjoining land being Lot 5 DP 1682 and Lot 5 DP 2282 respectively held in Certificate of Title 241/25.*
  - b) *That all the service authority requirements in respect of their assets/services located within the area of road to be stopped be complied with.*
  - c) *That all costs associated with compliance with the above conditions be met by the proponent. These include all survey, administration and legal costs for this application.*
3. *Recommend that Council authorises the Manager, Property and Standards to negotiate and complete terms of sale.*

012/05RP **PROPOSED ROAD STOPPING PART TAKARAU GORGE ROAD ADJACENT 669 TAKARAU GORGE ROAD**

Report of Wendy Gerraty – Road Stopping and Encroachment Advisor.  
(1215/53/IM) (REPORT 5)

**RESOLVED AND RECOMMENDED TO COUNCIL:**

*THAT the Regulatory Processes Committee:*

1. *Receive the information.*
2. *Agree the Council resolve to publicly notify that the portion of Takarau Gorge Road, Makara, adjoining 669 Takarau Gorge Road described as Lot 1 DP 8338, comprising 3330m<sup>2</sup> as shown in*

*Appendix 1 of the officer's report, be declared stopped in accordance with the Tenth Schedule of the Local Government Act 1974 and in so declaring that the following matters are to be noted and actioned:*

- a) *That the area of stopped road (Section 1 on SO 341698) will be amalgamated with adjoining land, being Lot 1 DP 83383 held in Certificate of Title 50B/690.*
  - b) *That all of the service authority requirements, in respect of their assets/services located within the area of road to be stopped be complied with.*
  - c) *That all costs associated with the compliance of the above conditions be met by the proponent, including all survey, administration and legal costs involved in this application.*
3. *Recommend that Council authorises the Manager, Property and Standards to negotiate and complete terms of sale.*

**013/05RP PROPOSED ROAD STOPPING ADJACENT TO 68 HARBOUR VIEW ROAD**

Report of Wendy Gerraty – Road Stopping and Encroachment Advisor.  
(1215/53/IM) (REPORT 6)

**RESOLVED AND RECOMMENDED TO COUNCIL:**

*THAT the Regulatory Processes Committee:*

1. *Receive the information.*
2. *Agree that Council resolve to publicly notify that the portion of Harbour View Road, Northland, adjoining 68 Harbour View Road described as Pt Sec 29 and Lot 180 DP 1087, comprising 46m<sup>2</sup> as shown in Appendix 1 of the officer's report, be declared stopped in accordance with the Tenth Schedule of the Local Government Act 1974 and in so declaring that the following matters are to be noted and actioned:*
  - a). *The area of stopped road (Section 1 on SO 343116) will be amalgamated with adjoining land being Lot 5 DP 1682 held in Certificate of Title 8B/1056.*
  - b). *That a Memorandum of Encumbrance be registered on the new title requiring that the owners of the property at 68 Harbour View Road maintain the batter slope separating the site from the formed carriageway.*

- c). *That all service authority requirements in respect of their assets/services located within the area of road to be stopped be complied with.*
  - d). *That all costs associated with the compliance of the above conditions be met by the proponent, including all survey, administration and legal costs involved in this application.*
3. *Recommend that Council authorises the Manager, Property and Standards to negotiate and complete terms of sale.*

014/05RP **PROPOSED ROAD STOPPING PART CARLTON STREET  
ADJACENT 55 CARLTON STREET, MELROSE**

Report of Wendy Gerraty – Road Stopping and Encroachment Advisor.  
(1215/53/IM) (REPORT 7)

**RESOLVED AND RECOMMENDED TO COUNCIL:**

*THAT the Regulatory Processes Committee:*

1. *Receive the information.*
2. *Agree that Council resolve to publicly notify that the portion of Carlton Street, Melrose, adjoining 55 Carlton Street described as Lot 9 DP 11314, comprising 27m<sup>2</sup> as shown in Appendix 1 of the officer's report, be declared stopped in accordance with the Tenth Schedule of the Local Government Act 1974 and in so declaring that the following matters are to be noted and actioned:*
  - (a) *The area of stopped road (Section 1 on SO 331829) will be amalgamated with adjoining land being Lot 9 DP 11314 held in Certificate of Title 463/177.*
  - (b) *That a memorandum of Encumbrance be registered on the new title requiring the owners of the property at 55 Carlton Street maintain the batter slope separating the site from the legal road.*
  - (c) *That all service authority requirements in respect of their assets/services located within the area of road to be stopped be complied with.*
  - (d) *That all costs associated with the compliance of the above conditions be met by the proponent, including all survey, administration and legal costs involved in this application.*
3. *Recommend that Council authorise the Manager, Property and Standards to negotiate and complete terms of sale.*

**015/05RP PROPOSED ROAD STOPPING PART BLACK ROCK ROAD  
ADJACENT 61 BLACK ROCK ROAD**

Report of Wendy Gerraty – Road Stopping and Encroachment Advisor.  
(1215/53/IM) (REPORT 8)

**RESOLVED AND RECOMMENDED TO COUNCIL:**

*THAT the Regulatory Processes Committee:*

1. *Receive the information.*
2. *Agree that Council resolve to publicly notify that the portion of Black Rock Road, Newlands, adjoining 61 Black Rock Road described as Lots 1 and 2 DP 14838, comprising 458m<sup>2</sup> as shown in Appendix 1 of the officer's report, be declared stopped in accordance with the Tenth Schedule of the Local Government Act 1974 and in so declaring that the following matters are to be noted and actioned:*
  - (a) *That the area of stopped road (Section 1 on SO339269) will be amalgamated with adjoining land, being Lots 1 and 2 DP14838 held in Certificate of Title 562/18.*
  - (b) *That a protective covenant be placed on the area of land to be stopped for the protection of the existing mature trees, and that this is done at the expense of the proponent.*
  - (c) *That the boundary is moved to a minimum of 0.5m from the back of the kerb where the land adjoining the road is level and a 1.5m set back of the boundary where the land is higher than the road.*
  - (d) *That all of the service authority requirements, in respect of their assets/services located within the area of road to be stopped be complied with, and that an easement be entered into with regard to the United Network power lines that cross the area proposed to be stopped.*
  - (e) *That all costs associated with the compliance of the above conditions be met by the proponent, including all survey, administration and legal costs involved in this application.*
3. *Recommend that Council authorises the Manager, Property and Standards to negotiate and complete terms of sale.*

016/05RP **GUIDELINES FOR APPOINTMENT OF HEARING PANELS**

Report of Irene Clark, Best Practice Manager.  
(1215/53/IM)

(REPORT 1)

**Moved Councillor Wade-Brown the following new recommendation 6.**

That officer's report back to the Regulatory Processes Committee on an annual basis on:

- The number of resource consent and district plan hearings individual elected members sat on.
- The number of resource consent and district plan hearings individual elected members were allocated to sit on but were cancelled.

The motion was **ACCEPTED** by the Committee.

**Moved Councillor Wade-Brown, seconded Councillor Pepperell the following amendment to 2v.**

"2v. consideration may be given to including no more than one local elected member (of the three hearing commissioners) if appropriate in a particular case;"

The amendment was **put** and a division called.

Voting For: Councillors Pepperell and Wade-Brown.

Voting Against: Councillors Armstrong, Cook, Gill, Goulden, Morrison and Shaw.

Majority Vote: 2:6

The amendment was declared **LOST**.

**Moved Councillor Shaw, seconded Councillor Goulden the following amendment to recommendation 3(ii).**

"Where in other circumstances the Chief Executive and/or Chair of the Regulatory Processes Committee determines that appointment of independent hearings commissioners is necessary or desirable **for reasons which may include; avoiding a conflict of interest, or the appearance of predetermination or prejudice any hearing.**"

The amendment was **put** and declared **CARRIED** on the voices.

**RESOLVED:**

*THAT the Regulatory Processes Committee:*

1. *Receive the information.*
2. *Agree that the selection of Wellington City Council elected member hearing panels by the Chair of the Regulatory Processes Committee, in consultation with the Mayor, will be guided by consideration of the following factors:*
  - (i) *The panel chair will generally be the hearing commissioner with the most experience in hearings of the type and nature to be heard;*
  - (ii) *Availability on the specified hearing date;*
  - (iii) *Freedom from actual or perceived conflict of interest related to the matter to be heard;*
  - (iv) *At least 2 of the hearing commissioners should have experience in the type and nature of matter being heard. Experience will generally be acquired after involvement in a number of hearings (or hearing days) of that type or nature;*
  - (v) *The standard practice will be for Councillor hearing commissioners to be from wards outside the ward of the matter being heard. However, for resource consent related hearings, consideration may be given to including no more than one local elected member (of the three hearing commissioners) if appropriate in a particular case;*
  - (vi) *The appointment of a member of the Tawa Community Board as a hearing commissioner will only apply for those resource consent hearings relating to applications within the boundaries of the Tawa Community Board;*
  - (vii) *Hearing commissioners for resource consent related hearings will be those who have achieved certification through the MfE/LGNZ RMA: Making Good Decisions Programme.*
3. *Agree that independent hearing commissioners will be appointed for hearing panels in the following circumstances:*
  - (i) *Where the Council or a Council owned or controlled entity is an applicant or submitter, or where the Council owns or intends to own land or buildings subject to an application or hearing, or where the Council to any reasonable observer would appear to have an interest which could influence those hearing the matter, and*
    - (a) *where the matter is a resource consent application that has been publicly notified pursuant to s 93 of the Resource Management Act 1991;*
    - (b) *where submissions have been received; and*
    - (c) *where a hearing is required.*

*or*

(ii) *Where in other circumstances the Chief Executive and/or Chair of the Regulatory Processes Committee determines that appointment of independent hearings commissioners is necessary or desirable **for reasons which may include; avoiding a conflict of interest, or the appearance of predetermination or prejudice any hearing.***

*or*

(iii) *Where the availability of elected members is such that, to meet statutory timeframes, elected members require assistance to hear any matter.*

*or*

(iv) *Where a case to be heard involves particular technical matters and a specialist skill on the panel is appropriate.*

4. *Agree that where independent hearing commissioners are appointed for reasons (iii) or (iv) above, hearing panels may include a combination of both elected member hearing commissioners and independent hearing commissioners.*
5. *Note that informal feedback on hearing commissioner practice will be based on the key aspects of the LGNZ/MfE certification programme.*
6. ***That officer's report back on an annual basis to the Regulatory Processes Committee on:***
  - ***The number of resource consent and district plan hearings individual elected members have sat on.***
  - ***The number of resource consent and district plan hearings individual elected members were allocated to sit on but were cancelled.***

**NOTED:**

The resolutions differ from the recommendations in the officer's report as follows:

The Committee added the words in **bold**.

017/05RP **RESOLUTION TO EXCLUDE THE PUBLIC**  
(1215/53/IM)

**RESOLVED:**

*THAT the Regulatory Processes Committee:*

1. *Pursuant to the provisions of the Local Government Official Information and Meetings Act 1987, exclude the public from the following part of the proceedings of this meeting namely:*

*Report 9: List of Independent Hearing Commissioners*

*Grounds: S48(1)(a)                      That public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding them would exist.*

*Reason: Section 7(2)(a):              To protect the privacy of natural persons.*

The meeting moved into public excluded session at 2.31pm.

(Councillor Cook left the meeting at 2.32pm)

For item 018/0RP please see the public excluded minutes.

The meeting concluded at 2.56pm.

Confirmed: \_\_\_\_\_

Chair  
/       /