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**REPORT 2**  
*(1215/53/IM)*

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## **RECORD OF HEARING PANEL APPOINTMENTS**

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### **1. Purpose of Report**

To provide information to the Committee on the appointment of elected members to hearing panels, for the period December 2004 – April 2006.

### **2. Executive Summary**

At its meeting on 25 February 2005 the Regulatory Processes Committee requested that officers report annually on the appointment of elected members to hearing panels. This is the first report and covers the period from December 2004 until April 2006. This captures the appointment of commissioners over the time this information has been specifically collected.

The information shows that, of the elected members available to act as commissioners, all have been appointed to at least one hearing over the period.

### **3. Recommendation**

It is recommended that the Committee:

1. *Receive the information.*
2. *Note the appointment of elected members to hearing panels over the reported period.*

### **4. Background**

Commissioners are appointed to hearing panels to hear and decide on applications for resource consents and to hear and make recommendations on plan changes. The Chair of the Regulatory Processes Committee, in consultation with the Mayor, appoints commissioners. In making elected member appointments they are guided by the following:

- (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.*

The Committee also agreed on guidelines for the appointment of independent commissioners, which is to be 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.*

All Councillors who have completed the LGNZ/MfE certification programme are eligible for appointment to hearing panels. Some flexibility with this was adopted by the Chair when making appointments during the period to enable all those intending to complete the programme to do so. All Councillors, except Councillor Cook, were eligible for appointment.

## **5. Discussion**

### **5.1 Resource Consent Hearings**

The following table sets out the appointment of hearing commissioners for resource consent application hearings set down for the period December 2004 until April 2006.

<b>Hearing</b>	<b>Date</b>	<b>Appointments</b>	<b>Notes</b>
Hanson Street (aka 33 Drummond Street), Newtown (Limited Notification)	16 December 2004	Councillor Foster(Chair) Councillor Armstrong Councillor Gill	
1 Hay Street, Oriental Bay (Limited Notification)	25 January 2005	Councillor Foster (Chair) Councillor Morrison	Councillor Gill was originally appointed to the panel. After considering the papers she realised she had a conflict of interest and withdrew. Councillor Morrison was appointed in her place.
8 Cambridge Tce (Fully Notified)	Originally – 2-3 February 2005	Councillor Armstrong (Chair) Councillor Gill Councillor Pepperell	<b>Hearing not held</b> – process delayed indefinitely at request of applicant on 26 <sup>th</sup> January 2005
205 Ohiro Road, Brooklyn (Limited Notification)	21 February 2005	Councillor Foster(Chair) Councillor Morrison Councillor Goulden	Councillor Gill initially appointed to hearing – dates then conflicted and Councillor Goulden appointed.
Majoribanks St (Limited Notification)	18 February 2005	Independent Commissioners	Independent commissioners appointed as no councillors available
116 Rakau Road, Hataitai (Objection to a Decision)	16 March 2005	Councillor Armstrong Councillor Morrison Councillor Wade-Brown	Objection – Commissioners not paid.
46 Ashton Fitchett Drive, Brooklyn (Non Notification)	April 2005	Councillor Gill Councillor Goulden	
18 Burn Street, Karori (Limited Notification)	6 April 2005	Councillor Gill (Chair) Councillor Pepperell Councillor Goulden	Originally Councillor Armstrong was appointed. The hearing date was changed and Councillor Armstrong was no longer available.
127 – 129 Rongotai Road (Fully Notified)	April 2005	Councillor Armstrong (Chair) Councillor Morrison, Councillor Wade-Brown	

<b>Hearing</b>	<b>Date</b>	<b>Appointments</b>	<b>Notes</b>
Kumototo Site 7 (Fully Notified)	June 2005	Independent Commissioners	Independent commissioners appointed as Council owned land
90 Downing Street - Subdivision Consent (Fully Notified)	1 April 2005	Independent Commissioners	Joint hearing with Regional Council. Hearing originally set down for May. There was a need to have experienced commissioners – Onslow/Western ward Councillors excluded – Councillor Armstrong not available – Independent Commissioner Sue Piper and Councillor Gill appointed.  Independent commissioners were eventually appointed because Councillors were unavailable.
127 – 129 Rongotai Road - Fully Notified	July 2005	Councillor Armstrong (Chair) Councillor Morrison Councillor Wade Brown	Reconvened hearing from April
7 Dixon Street (Objection Decision)	August 2005	Councillor Armstrong Councillor Pepperell	Objection hearing – commissioners not paid
West Taranaki – 29 Jervois Quay – Wellington Waterfront (Fully Notified)	August 2005	Independent Commissioners	Council ownership. Commissioners appointed.
10 Alpha Street (Fully Notified)	5 September 2005	Sue Piper (Chair) Councillor Gill Councillor Wain	Portfolio Chairs unavailable. Councillors Pepperell and Goulden unavailable. Chair had to be familiar with similar applications and experienced. Independent Commissioner therefore appointed as chair.
205 Ohiro Road, Brooklyn (Limited Notification)	9 September 2005	Councillor Foster (Chair) Councillor Morrison Councillor Gill	Further hearing on same consent as heard in February. Decision made to reconvene same commissioners as first hearing. Councillor Goulden unavailable –

Hearing	Date	Appointments	Notes
			Councillor Gill appointed in his place.
Westwind Windfarm (Fully Notified)	October – November 2005	Councillor Armstrong (Chair) Councillor Shaw 2 Independent Commissioners (appointed by the Regional Council)	Joint hearing with Regional Council. Councillor Gill was originally appointed. As it was a city-wide issue Councillors were to be appointed from across the city with the exception of the Western Ward.  Councillor Gill withdrew for health reasons.
37 Donald Street (Limited Notification)	7 October 2005	Councillor Gill (Chair) Councillor Morrison Councillor Ritchie	
65 Pretoria Road (Limited Notification)	21 October 2005	Councillor Foster (Chair) Councillor Pepperell Councillor Gill	
Rata Road (Limited Notification)	November 2005	Councillor Foster (Chair) Councillor McKinnon Councillor Ruben	
Evans Bay Yacht Club (Limited Notification)	18 November 2005	Independent Commissioners	Commissioners used as Council land was involved.
Buckingham Road (Limited Notification)	16 December 2005	Councillor Gill (Chair) Councillor McKinnon Councillor Wain	
25 Maida Vale Road (Limited Notification)	19 December 2005	Councillor Morrison (Chair) Councillor Gill	Councillors Foster and Armstrong approached but unavailable to chair.
27 Maupuia Street (Limited Notification)	17 January 2006	Independent Commissioner	Independent Commissioner appointed as Airport involved.
11 Waru Street (Limited Notification)	27 January 2006	Councillor Armstrong (Chair) Councillor McKinnon Councillor Pepperell	Councillor Wade-Brown approached but not available.  <b>Hearing Cancelled</b>
272 Ohariu Valley Road (Fully Notified)	13 <sup>th</sup> February 2006	Councillor Gill (Chair) Councillor Wain Councillor Morrison	Same committee that had been set up in 2005. Councillor McKinnon approached but not

<b>Hearing</b>	<b>Date</b>	<b>Appointments</b>	<b>Notes</b>
			available.
42 Sefton Street (Limited Notification)	February 2006	Councillor Gill (Chair) Councillor McKinnon Councillor Pepperell	Councillors Armstrong and Foster approached to chair but not available. Councillor Ahipene-Mercer not available.  <b>Hearing Cancelled</b>
85 Brougham Street (Limited notification)	February 2006	Councillor Armstrong (Chair) Councillor Morrison Councillor Wade- Brown	<b>Hearing cancelled</b>
Marine Education Centre (Fully Notified)	20 February 2006	Independent Commissioners	Joint hearing with Regional Council. Two independent commissioners appointed as Council supported project.
Karori Sanctuary (Fully Notified)	4, 5, 6 March 2006	Independent Commissioners	Independent Commissioners appointed as Council supported the project.
Cambridge Tce (Fully Notified)	29, 31 March 2006	Councillor Armstrong (Chair) Councillor Pepperell Councillor Gill	Same committee as originally appointed
Homebush Road (Limited Notification)	19 April	Councillor Foster (Chair) Councillor Pepperell Councillor Ahipene- Mercer	Moved to 1 <sup>st</sup> May

## 5.2 Plan Change Hearings

The following table sets out the appointment of hearing commissioners for plan change hearings set down for the period December 2004 until April 2006. Note: Councillors are not paid for sitting on plan change hearing panels.

<b>Hearing</b>	<b>Date</b>	<b>Appointments</b>	<b>Notes</b>
Plan Changes 32 and 33 (Renewable Energy, Ridgelines, Rural)	Commenced January 2005	Councillor McKinnon Councillor Wade- Brown 2 Independent Commissioners	Councillor Shaw initially appointed but unavailable following appointment  The choice of commissioners was made on the rationale of availability, actual conflict of interest and avoiding any perceived conflict of interest, especially in the major rural areas. (Onslow/Western and Northern Ward Councillors

Hearing	Date	Appointments	Notes
			not considered for appointment).  Two independent commissioners were appointed (Euan McQueen and Julia Williams) for their specific skills and knowledge relevant to the plan changes.
Plan Change 30 (Rezoning Ohiro Properties land)	Commenced March 2005	Independent Commissioners	Independent Commissioners (Euan McQueen and Julia Williams) appointed to hear Plan Change 30. This appointment was to ensure continuity with dealing with Plan Changes 32/33. Councillors were considered for appointment but, given the time constraints and with Annual Plan and other resource consent meetings happening, no Councillors were available.
Plan Change 34 (Minor Changes)	Commenced September 2005	Councillor Foster Councillor Shaw	
Plan Change 35 (Hazardous Substances)	September 2005	Councillor Gill Councillor Morrison Councillor Armstrong	No hearing was required, only deliberations.
Plan Change 36 (Northern Growth Policy)	October 2005	Councillor Foster Councillor Wade-Brown	
Plan Change 37 (Chest Hospital Rezoning)	August 2005	Independent Commissioner	Independent commissioner appointed as the Council owns the land

### 5.3 Appointment Statistics

Individual Councillors have sat on the following number of hearings. Where an appointment was made but the hearing was not held this has not been counted.

Councillor	Resource Consent Hearing	Plan Change Hearing	Total Appointments
Ahipene-Mercer	1		1
Armstrong	6	1	7
Foster	7	2	9

<b>Councillor</b>	<b>Resource Consent Hearing</b>	<b>Plan Change Hearing</b>	<b>Total Appointments</b>
Gill	11	1	12
Goulden	3		3
McKinnon	2	1	3
Morrison	8	1	9
Pepperell	5		5
Ritchie	1		1
Ruben	1		1
Shaw	1	1	2
Wade Brown	2	2	4
Wain	3		3
<b>TOTAL</b>	<b>51</b>	<b>9</b>	<b>60</b>

## **6. Conclusion**

The Chair of the Regulatory Services Committee, in consultation with the Mayor, makes appointments to hearing panels. These appointments are made within the guidelines set by the Committee.

Appointments will continue to be recorded and reported to the Regulatory Services Committee each year.

Contact Officer:

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## **Supporting Information**

**1) Fit with Strategic Objectives/Strategic Outcomes**

*The determination of resource management matters is a key part of achieving the Council's Built and Natural Environment Key Achievement Area. The Council is required to hear and decide matters as part of its statutory functions under the RMA.*

**2) LTCCP/Annual Plan reference and long term financial impact**

*Not relevant.*

**3) Treaty of Waitangi considerations**

*There are no Treaty of Waitangi considerations.*

**4) Decision-Making**

*No decision is required to be made. The report sets out the appointment of Councillor hearing commissioners.*

**5) Consultation**

**a) General Consultation**

*Not required.*

**b) Consultation with Maori**

*Not required.*

**6) Legal Implications**

*Not relevant.*

**7) Consistency with existing policy**

*Not relevant.*