

ORDINARY MEETING

OF

REGULATORY PROCESSES COMMITTEE

AGENDA

Time: 1.00pm
Date: Wednesday, 6 August 2014
Venue: Committee Room 1
Ground Floor, Council Offices
101 Wakefield Street
Wellington

MEMBERSHIP

Mayor Wade-Brown

Councillor Ahipene-Mercer (Chair)
Councillor Foster
Councillor Lee
Councillor Pannett
Councillor Sparrow

Have your say!

You can make a short presentation to the Councillors at this meeting. Please let us know by noon the working day before the meeting. You can do this either by phoning 803-8334, e-mail: public.participation@wcc.govt.nz or writing to Democratic Services, Wellington City Council, PO Box 2199, Wellington, giving your name, phone number and the issue you would like to talk about

AREA OF FOCUS

The Regulatory Processes Committee has responsibility for overseeing Council's regulatory functions.

Quorum: 3 members

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1 Meeting Conduct

1.1 Apologies

The Chairperson invites notice from members of:

1. Leave of absence for future meetings of the Wellington City Council; or
2. Apologies, including apologies for lateness and early departure from the meeting, where leave of absence has not previously been granted.

1.2 Conflict of Interest Declarations

Members are reminded of the need to be vigilant to stand aside from decision making when a conflict arises between their role as a member and any private or other external interest they might have.

1.3 Confirmation of Minutes

The Minutes of the Meeting held on 12 June 2014 were presented to the Regulatory Processes Committee for confirmation.

1.4 Public Participation

A maximum of 60 minutes is set aside for public participation at the commencement of any meeting of the Council or committee that is open to the public. Under Standing Order 3.23.3 a written, oral or electronic application to address the meeting setting forth the subject, is required to be lodged with the Chief Executive by 12.00 noon of the working day prior to the meeting concerned, and subsequently approved by the Chairperson.

1.5 Items not on the Agenda

The Chairperson will give notice of items not on the agenda as follows:

Matters Requiring Urgent Attention as Determined by Resolution of the Regulatory Processes Committee.

1. The reason why the item is not on the agenda; and
2. The reason why discussion of the item cannot be delayed until a subsequent meeting.

Minor Matters relating to the General Business of the Regulatory Processes Committee

No resolution, decision, or recommendation may be made in respect of the item except to refer it to a subsequent meeting of the Regulatory Processes Committee for further discussion.

2. General Business

PROPOSED ROAD CLOSURES – 7 SEPTEMBER 2014 AND 14 DECEMBER 2014

Purpose

1. To seek approval of the Regulatory Processes Committee for the temporary closure of roads in the Wellington City.

Summary

2. The Wellington City Council has received an application from the event organisers of the Wellington Car Club and Khandallah Fair to temporarily close a number of streets. Details of the event and the expected impact on traffic are attached to this report as attachments.
 - Wellington Car Club Sunday 7 September 2014
 - Khandallah Fair Sunday 14 December 2014

Recommendations

Officers recommend that the Regulatory Processes Committee:

1. Receive the information.
2. Note that recommendations in this report should not be amended without first carrying out further consultation with affected parties and verification from the Council's Traffic Engineer that the amendment is not likely to cause unreasonable impact on traffic.
3. Agree to close the following roads for the above event to vehicles only, subject to the conditions listed in the Proposed Temporary Road Closure Impact Report:
 - (a) For the Wellington Car Club 7 September 2014
Road Closures:
Massey road Between Scorching Bay Reserve
At the Northern entrance to former Shelly Bay Defence Base.
 - (b) For the Khandallah Fair 14 December 2014
Road Closures:
Ganges Road between Agra Crescent and Dekka Street

Background

3. The Council receives numerous requests throughout the year for public roads to be closed for events. These requests are processed and a detailed impact report prepared for each as attached. This report to the Committee has been prepared, in accordance with the procedures that were approved by the Committee on 15 December 2010.

Discussion

Consultation and Engagement

4. Affected stakeholders were notified of the Council's intention to consider the proposed temporary road closures through an advertisement in the Dominion Post. The New Zealand Police and the Ministry of Transport have also been consulted with. Any correspondence received in response to the proposed closures has been included in the attached impact report.
5. An approved traffic management plan for the event will address, and show how any objections raised are to be managed.

Financial Considerations

6. The City Events Team has assessed the proposed events with regard to their contribution towards Council's strategies and policies. The proposed events support the Council's strategy of being the "events capital" and will contribute to the economic success of the city.

Traffic Impact Assessment

7. A Council Traffic Engineer has assessed the proposed closures with regard to the expected impact on traffic. The Traffic Engineer has provided a professional opinion as to whether the resulting impact on traffic is likely to be reasonable or unreasonable. The proposed closures, if implemented according to an approved traffic management plan and in accordance with specific conditions set by the Traffic Engineer, will enable the safe running of the event and minimise the impact on traffic. If, in the opinion of the Council, the closure may or does impede traffic unreasonably, any approval granted by the Council may be revoked and the event organiser may be required to open the road at the direction of the Council's Traffic Engineer.

Conclusion

8. Approval is required from the Regulatory Processes Committee to allow the temporary closure of roads in the Wellington District for an event supported by the Wellington City Council. This will ensure that the Wellington City Council is complying with the requirements of the Local Government Act 1974 for the temporary closure of roads within its jurisdiction.

Attachments

- Attachment 1. Impact Report - Wellington Car Club Sunday 7 September 2014
Attachment 2. Impact Report - Khandallah Village Fair Sunday 14 December 2014

Author	Maria Taumaa, Street Activities Coordinator
Authoriser	Anthony Wilson, Chief Asset Officer

SUPPORTING INFORMATION

1) Strategic fit / Strategic outcome

Temporary road closures for events contribute to the council's desire to be the events capital of New Zealand. Specific council strategies that are supported by this include:

- More liveable – through prudent management of the road network.
- More eventful – some events may not be possible without temporary road closures.
- More actively engaged – affected stakeholders will have the opportunity to provide feedback on proposed closures.
- Better connected – through better management of traffic flows. Conversely road closures could sever key transport routes.
- More prosperous – the film industry relies on road closures, and other types of events increase commercial activity.

2) LTP/Annual Plan reference and long term financial impact

Administration of the proposed closures is budgeted for under Annual Plan Project C481 Network Activity Coordination. There will be no long term financial impact to the Council resulting from these closures.

3) Treaty of Waitangi considerations

No significant Treaty implications.

4) Decision-making

This is not considered to be a significant decision.

5) Consultation

a) General consultation

Key event organisers and other stakeholders (such as public transport and emergency services) have been consulted with to determine whether they would be impacted by the proposed closures, and where appropriate any traffic management plans have been modified accordingly.

b) Consultation with Maori

No specific consultation with Maori was carried out.

6) Legal implications

The process used to consider the proposed closures for approval is in accordance with the advice provided by the council's lawyers.

7) Consistency with existing policy

The plans for the proposed closures and this report have been prepared in accordance with the Code of Practice for Temporary Traffic Management and the process approved by the Regulatory Processes Committee.

PROPOSED TEMPORARY ROAD CLOSURE - IMPACT REPORT

WELLINGTON CAR CLUB - SHELLY BAY SEALED SPRINT SUNDAY 7 SEPTEMBER 2014

1. Description of Event

The Wellington Car Club wish to run a Motorsport New Zealand sanctioned race, under their approval by way of an Event Organisers Permit. The regulations and other relevant documentation are endorsed by the Motorsport New Zealand Area Steward. This event has been held for a number of years on its current course, which is approximately 2.6km long.

It is proposed to close **Massey Road** (at Scorching Bay Reserve, and the northern entrance to the former Shelly Bay Defence Base) **from 7:00am to 6:00pm on Sunday 7 September 2014**, with the start line located at Point Gordon.

Public notification signage will be erected at least 10 days prior to the event. Marshals (15 in total over the entire closure), with detour maps available, will be in place at the intersection of Miramar Ave and Shelly Bay Road, and at the intersection of Awa/Karaka Bay Roads and Marine Parade. Marshals will assist traffic by redirecting them with maps if required. Emergency access will be from either Shelly Bay Road or Karaka Bay Road and will be assisted by marshals. Where main walking tracks meet the event, road and pedestrian crossings will be controlled by marshals. The event is to be traffic managed by a Council approved traffic management plan which will be based on the Club's own traffic management and event safety plan.

Residents and businesses directly affected by the road closure (those within the closed area or directly adjacent to the closed area) will be notified by letter drop prior to the event. The road closures will be advertised in the Our Wellington Page of the Dominion Post the Tuesday before the event.

2. Events Directorate Support

The Events Directorate has no connection with, and no objection to, this event.

3. Proposal Notice and Consultation

The public notice that the Council is proposing to consider this closure was published in the following newspaper:

- Dominion Post Saturday 28 June 2014

The New Zealand Police and the Ministry of Transport have also been consulted with.

4. Objections

There have been NO objections to this closure request.

5. Traffic Impact Assessment

Prior Closures

None of the proposed closures for this event will result in a road being closed for an aggregate of more than 31 days in any year.

Traffic Impact

In the opinion of Stephen Harte Programme Manager Transport Network Development, acting as the Council's Traffic Engineer, the proposed closure, if implemented according to the plans provided, is not likely to impede traffic unreasonably subject to the conditions stated below.

However, the Council reserves the right to modify this opinion at any time.

If, in the opinion of the Council, the closure may or does impede traffic unreasonably, any approval granted by the Temporary Road Closures Subcommittee may be revoked and the event organiser may be required to re-open the road at the direction of a suitably qualified Council officer in charge of traffic.

Conditions:

- The event organiser is to provide adequate advanced notification signage at key locations and publicity to ensure that the public is advised of this rally and the road closures.
- The event marshals are to ensure safety is not compromised at locations where pedestrians and the sprint race event are in conflict and for generally maintaining public safety within the Road Closure area.
- The event organiser is to obtain Council approval on the details of a traffic management plan prior to the event.

Signed



Stephen Harte
Programme Manager Transport Network Development

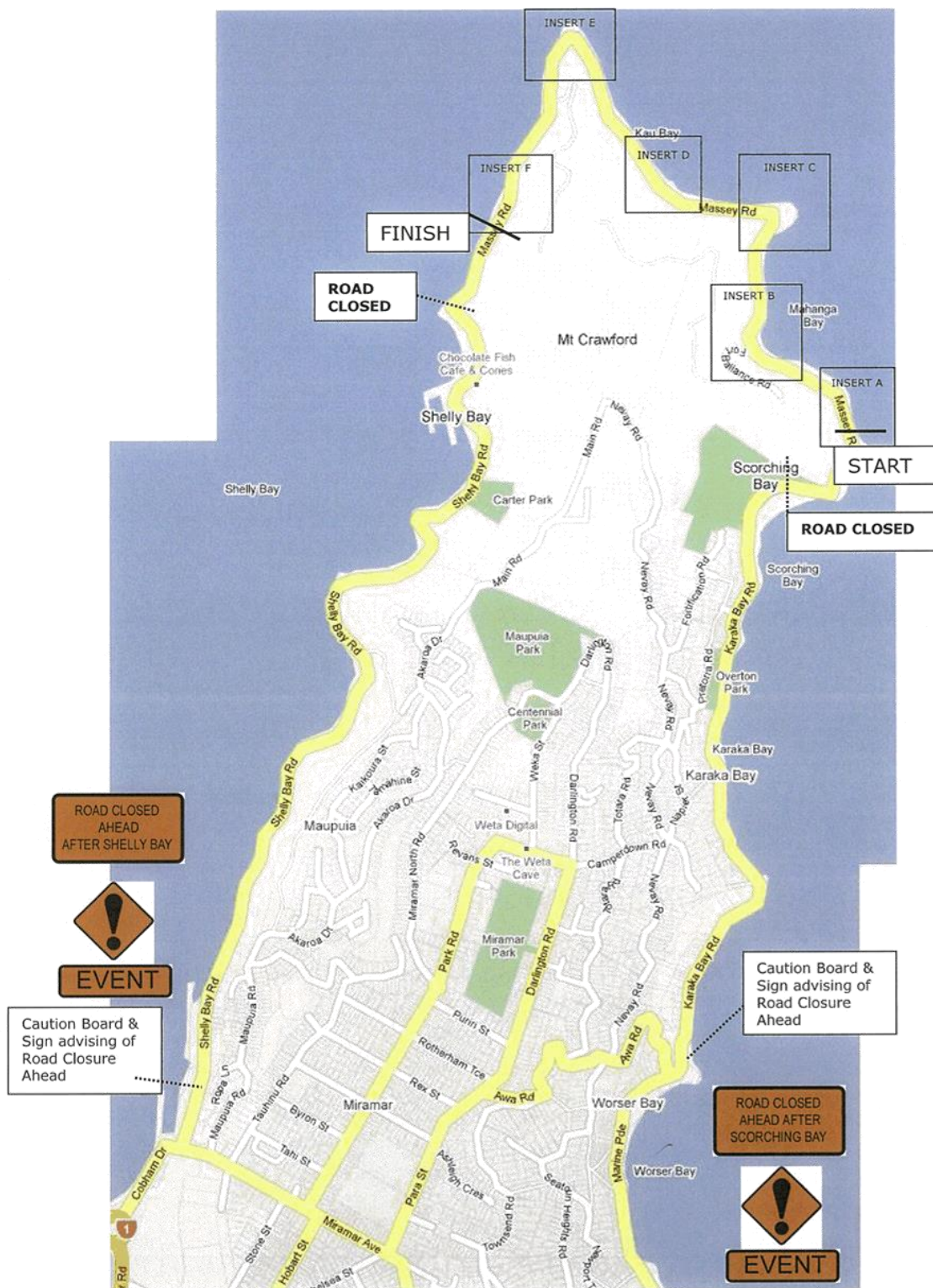
6. Attachments

- Map of proposed closure
- Copy of proposal notice from the newspaper

Prepared By: 
.....
Maria Taumaa
Street Activities Coordinator

Endorsed By: 
.....
Warrick Dent
Manager City Events

SHELLY BAY ROAD BENT SPRINT (MASSEY ROAD)
HEALTH AND SAFETY PLAN
EVENT MAP



Item 2.1 Attachment 1



The Regulatory Processes Committee will meet on Wednesday 6 August 2014 to consider the following proposed temporary road closures for events:

Wellington Car Club – Sealed Sprint Sunday 7 September 2014, 7am – 6pm

Massey Road between Scorching Bay Reserve at the Northern entrance to former Shelly Bay Defence Base

Any person objecting to a proposed road closure must contact the City Council in writing before 4.00pm 11 July 2014. Please send correspondence to Maria Taumaa, at the mailing address below, by fax to 04 801 3009 or by email to Maria.Taumaa@wcc.govt.nz

**Wellington City Council, 101 Wakefield Street,
PO Box 2199, Wellington 6140 | Wellington.govt.nz**

PROPOSED TEMPORARY ROAD CLOSURE - IMPACT REPORT

KHANDALLAH VILLAGE FAIR
SUNDAY 14 DECEMBER 2014

1. Description of Event

The Khandallah Village Fair has been organised by Martin Wilson, of Capital Productions, for the past 8 years. The fair has participation and support from a range of community groups and local businesses.

The proposed road closure is for **Ganges Road** (from Agra Crescent to Dekka Street), on Sunday 14 December 2014, from 6.00am to 6:00pm.

Road closure notification boards will be placed at each end of the closure at least one week prior to the event.

Residents and local businesses will receive two letter drops (one letter in November and one letter in early December) advising them of the event and the road closure.

The event will be managed by a qualified temporary traffic management company. Pedestrian access will not be restricted and emergency services will have immediate access to the area if required.

2. Events Directorate Support

The Events Directorate has no connection with, and no objection to, this event.

3. Proposal Notice and Consultation

The public notice advising that the Council is proposing to consider this closure was published in the :

Dominion Post on Saturday 5 July 2014

The New Zealand Police and the Ministry of Transport have also been consulted with.

4. Objections

There have been NO objections to this closure request.

5. Traffic Impact Assessment

Prior Closures

None of the proposed closures for this event will result in a road being closed for an aggregate of more than 31 days in any year.

Traffic Impact

In the opinion of Stephen Harte Programme Manager Transport Network Development, acting as the Council's Traffic Engineer, the proposed closure, if implemented according to the plans provided, is not likely to impede traffic unreasonably subject to the conditions stated below. However, the Council reserves the right to modify this opinion at any time. If, in the opinion of the Council, the closure may or does impede traffic unreasonably, any approval granted by the Temporary Road Closures Subcommittee may be revoked and the event organiser may be required to re-open the road at the direction of a suitably qualified Council officer in charge of traffic.

Conditions:

- The road closures will start at 6am and finish at 6pm.
- The event organiser is to obtain Council approval on the details of a traffic management plan prior to the event.
- The detour route is to be clearly signed during road closures.
- No vehicular traffic will be allowed within the road closure area, except for marshalled stallholders travelling at no more than walking speed (3km/h), to ensure public safety is not compromised.
- The event organiser will publicise the event via media releases, letter drops and advanced signage to notify the public of the road closures.
- The event organiser is responsible for the ongoing maintenance of the temporary traffic management plan during the road closures.
- The event organiser is responsible for maintaining public safety within the road closure area.

The event organiser is to consult and gain approval from the emergency services on the road closure and provide access for emergency vehicles.

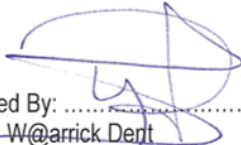
Signed 

Stephen Harte
Programme Manager Transport Network Development

Attachments

- Map of proposed closure
- Copy of proposal notice from the newspaper

Prepared By: 
Maria Taumaa
Street Activities Coordinator

Endorsed By: 
Warrick Dent
City Events Manager



STATEMENT
Coordinates
are in NZ
MGRS 5040 G
2011 datum
in urban areas
±1.5m
in rural areas
±1.00m
No data
Any contours displayed

Other data has been
compiled from a
variety of sources and
its accuracy may vary

Khandallah Village Fair: Temporary Road Closure



PROPOSAL TO CLOSE ROADS

The Regulatory Processes Committee will meet on Wednesday 6 August 2014 to consider the following proposed temporary road closures for events:

Khandallah Village Fair

6am–6pm, Sunday 14 December 2014

- Ganges Road between Agra Crescent and Dekka Street


Kilbirnie Festival

6am–6pm, Sunday 1 March 2015

- Bay Road between Coutts and Rongotai Road

Any person objecting to a proposed road closure must contact the City Council in writing before 4pm, 18 July 2014. Please send correspondence to Maria Taumaa, at the mailing address below, by fax to 04 801 3009 or by email to Maria.Taumaa@wcc.govt.nz

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PO Box 2199, Wellington 6140 | Wellington.govt.nz**



IN ACCORDANCE WITH THE LOCAL GOVERNMENT OFFICIAL INFORMATION AND MEETINGS ACT 1987, THE RESOLUTIONS PASSED AT THE EXTRAORDINARY COUNCIL MEETING HELD ON 26 JUNE 2014 ARE NOTED AS FOLLOWS:

PROPOSED LICENCES (12 MONTHS) – EVANS BAY MARINA CARPARK RESOLVED:
THAT Council:

1. Agree under Standing Order 3.16.2(d) to lie the item on the table and for it not to be discussed further at the meeting.

PROPOSED HOUSING ACCORD FOR WELLINGTON CITY RESOLVED
THAT Council:

1. Receive the information.
2. Note that Wellington City has been identified in Schedule 1 of the Housing Accords and Special Housing Areas Act 2013 as a district experiencing housing supply and affordability issues.
3. Note that the targets set out in the Accord are ambitious and may be difficult to meet, but there is authority in the Accord for the Council to renegotiate the targets.
4. Note that the Wellington City Housing Accord appoints the Mayor and Deputy Mayor of Wellington City to the joint governance steering committee that will oversee the implementation and monitoring of the Accord.
5. Agree to the proposed Wellington City Housing Accord, attached as Appendix One with a replacement final page as tabled at the meeting.
6. Note that the Mayor of Wellington City Council has signed the Wellington City Housing Accord, on the clear understanding that final approval is subject to Council ratification.
7. Note that Council, as part of its role in identifying special housing areas, and in its role of regulator, ensure:
 - The construction of houses that are of good quality, energy efficient and where possible incorporate green technology
 - there is adequate infrastructure, or the plan to provide this infrastructure, in place
 - the provision of affordable and social housing is encouraged.
 - there is sufficient space to accommodate the additional housing in any new development(s) and that they improve the amenity of existing neighbourhoods.
 - That the status of existing residents is considered.
8. Note that if the Accord is agreed, the Council has the powers to recommend the creation of Special Housing Areas and will undertake public consultation to gauge public support.

PROPOSAL TO CLOSE ROADS
The Regulatory Processes Committee will meet on Wednesday 6 August 2014 to consider the following proposed temporary road closures for events:

Khandallah Village Fair
6am – 6pm, Sunday 14 December 2014

- Ganges Road between Agra Crescent and Dekka Street

Kilbirnie Festival
6am – 6pm, Sunday 1 March 2015

- Bay Road between Coutts and Rongotai Road

Any person objecting to a proposed road closure must contact the City Council in writing before 4pm, 18 July 2014. Please send correspondence to Maria Taumaa, at the mailing address below, by fax to 04 801 3009 or by email to Maria.Taumaa@wcc.govt.nz

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GUIDELINES FOR THE COMPOSITION OF RMA HEARING PANELS

Purpose

1. This report seeks approval of guidelines for the composition of Resource Management hearing panels.

Summary

2. The Chair of the Regulatory Processes Committee is delegated to appoint hearings commissioners from the list of approved commissioners to hearings panels for Resource Management hearings. This report proposes a set of guidelines to inform the appointment process as per section 1.7 of the Terms of Reference and Delegations for the 2013/16 Triennium.

Recommendations

Officers recommend that the Regulatory Processes Committee:

1. Receive the information.
2. Approve the guidelines for the composition of hearing panels as attached in Attachment 1, noting that these replace all previous guidelines relating to the appointment of commissioners and composition of hearings panels.

Background

3. The Council maintains a list of approved hearings commissioners from which the Council appoints the members of Resource Management hearing panels. At the start of the triennium, the Council delegated all those persons who were on the Council's list of approved hearings commissioners the functions, powers and duties to conduct RMA hearings and to make associated decisions in respect of resource consent applications, designations, heritage orders, objections to additional charges and plan changes.
4. The Chair of the Regulatory Processes Committee has been delegated the authority to appoint hearings commissioners from this list to hearings panels for Resource Management hearings, subject to consulting with the Deputy Mayor (and the Chair of the Transport and Urban Development Committee for plan change hearings).
5. When reviewing the operation of the process from previous triennia, it was recommended that a set of guidelines are developed to guide the appointment process. Therefore the Committee delegations agreed at the commencement of the triennium included provision for this Committee to agree guidelines.

Discussion

Guidelines for the Composition of RMA Hearing Panels

6. Once agreed by the Committee, the composition of the hearings panel for Resource Management hearings must meet the guidelines approved by the Regulatory Processes Committee. Approval is sought for these guidelines (attached as Attachment 1).

Legal Requirements and Certification

7. A hearings panel (or sole commissioner) is needed under the RMA in circumstances where a hearing is required for resource consent applications, changes of conditions, notices of requirement, heritage orders, objections, and plan changes.
8. The RMA prescribes that unless “exceptional circumstances” exist all commissioners appointed to a hearings panel for any of the above hearing processes must be accredited¹. Further, notwithstanding “exceptional circumstances”, sole commissioners and chairpersons, and over half of all hearing panels in groups with no chairperson, must always be accredited².
9. Exceptional circumstances only apply where there is not the time or opportunity to ensure that all persons in the group are accredited³. From Council’s perspective, there may be certain situations in which it is necessary to appoint a commissioner who has not been accredited, for example if a highly specific skill set such as structural engineering is required and there are no available accredited persons, and not sufficient time for such persons to become accredited.

Elected Members and Independent Commissioners

10. The RMA empowers Council to delegate certain functions, duties and powers to hearings commissioners who may or may not be a member of the local authority. The Chair of the Regulatory Processes Committee is delegated to appoint Councillors (sitting as hearing commissioners) and/or independent hearing commissioners to hearings panels⁴.
11. In certain instances an independent hearings commissioner(s) must be used. Under the RMA (s100A), an applicant or submitter may request an independent commissioner for resource consent applications. Council retains discretion as to which commissioner(s) is appointed in such circumstances.
12. There are other times when it may be prudent to utilise independent commissioners rather than elected members. The Ministry for the Environment (MfE) have provided the following generally accepted best practice guidelines for when independent commissioners should be used:
 - the Council, or an individual elected representative, may be perceived to have an actual or perceived conflict of interest
 - determining objections under s357 relating to council charges

¹ The vehicle for accreditation as approved by the Minister is the Making Good Decisions Programme. In addition to the Making Good Decisions Programme, automatic accreditation is given to current and former judges, as well as to Environment Court (and Deputy) Commissioners with more than five years’ experience in that capacity.

² Note that Cr’s Foster and Pannett are the only Councillors currently accredited.

³ These changes apply from 12 September 2014 as per section 14 of RM Amendment Act (No 2) 2011

⁴ This is subject to consultation with the Deputy Mayor (and the Chair of Transport and Urban Development for plan change hearings).

- matters are outside the technical knowledge or experience of elected members or the Council's own staff
 - one or more committee members may have, or may be perceived to have, a closed mind on the proposal (such as when publicly stating opinions on the merits of a proposal in the media or at public meetings before it is heard)
 - combined or joint hearings under s102 where a neutral chairperson or adviser is considered desirable.
13. Regarding Community Board members, the Terms of Reference for the 2013/16 triennium provide that up to two accredited members can be available for appointment from the Tawa Community Board and Makara-Ohariu Community Board for resource consent hearings relating to applications within the boundaries of the corresponding Community Board areas. The Terms of Reference make it clear that no Community Board members will be eligible for selection in circumstances where the respective Board has made a submission on the matter to be decided.
14. Except where Council is bound by an applicant's request for an independent commissioner, it is recommended that Council adopt MfE's best practice guidelines. Regard should also be had to the ability to use accredited community board members for resource consent hearings within the Boards' respective areas where the board has not made a submission.

Conflict of Interest & Bias

15. In order to protect the integrity of Council decision making it is essential that any persons given hearing authority are not affected by personal motives, and are free from interests that could give rise to a conflict of interest or the appearance of bias or prejudice to the hearings process. The principle is that justice should not only be done, but should be seen to be done.
16. Conflict of interest and bias can arise where a commissioner has/had a close relationship (e.g. personal, employment or membership) with an individual or organisation affected by the matter, or where statements or conduct could give rise to the perception of predetermination. In particular, it includes situations where the Council or a Council Controlled Organisation 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.

Tangata Whenua

17. There may be situations where commissioners with experience in tikanga Maori should be used where applications involve issues of relevance to tangata whenua. Examples would include proposals that may affect urupa, wahi tapu, mahinga kai, or statutory acknowledgements and activities or issues identified in iwi management plans. Regard should be had to the use of commissioners with experience in tikanga Maori in these circumstances.

Number

18. To avoid a stalemate, hearing panels comprising an even number of commissioners should be avoided. It is therefore generally appropriate for either a single commissioner or a panel of three commissioners to be appointed.
19. The number of commissioners should be decided on a case by case basis, a key factor being the reasonableness of charging for more than one commissioner (see 5.1.8 for

further discussion). Other key factors which should inform the number of commissioners include the complexity of the application, likely controversy, number of submitters, nature of the application (e.g. resource consent, objection etc.), and the need for specialist expertise on the panel.

Expertise

20. It is important to acknowledge that the hearings process is quasi-judicial in nature and that commissioners' decisions can be legally challenged, involving significant amounts of money, which the Council cannot recover from court proceedings. Consequently, it is imperative that hearings' commissioners are well trained, experienced, and have a sound knowledge in planning and regulatory issues.
21. Further to the above, the skills and experience of the commissioners employed should match the nature, scale and technical complexity of the issues on which a decision is being made. These issues may include design, architecture, heritage, engineering, subdivision, or issues of significance to tangata whenua. Having appropriate specialist knowledge in such relevant areas will enhance the likelihood of robust decision making, and minimise the risk to Council of appeals and associated cost.
22. It is recommended that the experience and specialist knowledge of all commissioners should be taken into account and matched to the complexity and scale of applications to be decided.

Availability

23. The RMA prescribes specific timeframes for the hearing process. In addition, anyone exercising functions, duties and powers under the RMA is required to avoid unreasonable delay. It is important that any person appointed as a hearings commissioner is available for the required dates and expected duration of the hearing such that hearings can be conducted promptly. This will avoid delay, and will also reduce potential costs of additional days for the applicant and other parties to the hearing.
24. It is recommended that all persons appointed as hearings commissioners are available for the required dates and expected duration of the hearing, including being able to sit for full days.

Charges

25. The overall cost passed on to applicants will be a function of the number of commissioners appointed, and their charge out rates. It is therefore recommended that regard should be given to commissioners with a level of charge that is fair and reasonable for the nature of the work involved. Further regard should be given to the reasonableness of costs when, and the necessity for, appointing multiple commissioners.

Consultation and Engagement

26. No consultation and engagement has been undertaken.

Financial considerations

27. There are no relevant financial considerations.

Climate change impacts and considerations

28. There are no climate change impacts or considerations.

Long-term plan considerations

29. There are no long term plan considerations.

Conclusion

30. The report has recommended the approval of guidelines for the composition of resource management hearing panels. These guidelines have been developed to inform the appointment of commissioners to hearings panels as required under the terms of reference for the 2013/16 triennium.

Attachments

Attachment 1. Guidelines for the Composition of Hearing Panels

Author	Andy Christofferson, Manager Best Practice
Authoriser	Anthony Wilson, Chief Asset Officer

SUPPORTING INFORMATION

1) Strategic fit / Strategic outcome

The determination of resource management matters is a key part of achieving the Council's Urban Development Strategy. The Council is required to hear and decide matters as part of its statutory functions under the RMA and Local Government Act.

2) LTP/Annual Plan reference and long term financial impact

There will be no financial impact to the Council. Costs for the use of commissioners for resource consent hearings are passed on to applicants.

3) Treaty of Waitangi considerations

Any Treaty of Waitangi implications will be taken into account at the time the hearings commissioners are nominated and appointed. It is recommended that regard be had to the use of commissioners with experience in tikanga Maori.

4) Decision-making

This is not a significant decision.

The report sets out guidelines for the composition of hearing panels. The approval of the guidelines is a specific responsibility of the Regulatory Processes Committee.

5) Consultation

a) General consultation

No general consultation was carried out.

b) Consultation with Maori

No consultation with Maori was carried out.

6) Legal implications

The Resource Management Act 1991 provides for the Council to delegate certain powers and functions to hearings commissioners who may or may not be a member of the local authority.

The Council also has many functions under the Resource Management Act 1991 that are either exercised by Council itself, officers or hearings commissioners.

The Director CEO's Office has been consulted during the development of this report.

7) Consistency with existing policy

The decision is consistent with the Council agreed delegations.

GUIDELINES FOR THE COMPOSITION OF HEARING PANELS

1. All persons appointed as hearings commissioners must be accredited, except where “exceptional circumstances” exist.
2. All persons appointed as hearings commissioners must be on the Council’s list of approved hearings commissioners.
3. All commissioners must confirm that they are free from interests that could give rise to a conflict of interest or the appearance of bias or prejudice to the hearings process.
4. The composition of hearings panels or the selection of a sole commissioner is to be determined with regard to the following matters:
 - (a) the experience and specialist knowledge of all commissioners should be taken into account and matched to the complexity and scale of applications to be decided.
 - (b) in determining the number of hearing commissioners to be appointed regard shall be had to the complexity of the application, likely controversy, number of submitters, composition of the panel, nature of the application, the reasonableness of charges and the need for specialist expertise.
 - (c) to avoid a stalemate an odd number of commissioners should be appointed.
 - (d) all commissioners should be available for the required dates and expected duration of the hearing, including being able to sit for full days.
 - (e) persons with experience in tikanga Maori should be considered where applications involve issues of relevance to tangata whenua.
 - (f) up to two accredited community board members may be appointed for resource consent hearings within the Makara-Ohariu and Tawa Community Boards’ respective areas, except where the board has made a submission on the matter to be decided.
 - (g) Independent Commissioners should be used in the following situations:
 - (i) the Council may have an actual or perceived conflict of interest. This includes where the Council or a Council controlled organisation 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

- (ii) determining objections under s357 relating to council charges
 - (iii) matters are outside the technical knowledge or experience of elected members
 - (iv) combined or joint hearings under s102 where a neutral chairperson or adviser is considered desirable.
 - (v) An applicant requests an independent commissioner under section 100A of the RMA
 - (vi) Where there are no or insufficient available and accredited elected members
 - (vii) Where in other circumstances the Chair of the Regulatory Processes Committee determines that appointment of independent hearings commissioner(s) is necessary or desirable for reasons which may include the appearance of predetermination or prejudice (such as when a committee member may have publicly stated opinions on the merits of a proposal in the media or at public meetings before it is heard)
5. Agree that unless independent hearing commissioners are appointed for reasons 6(g)(i), (ii), (iv) or (v) above, hearing panels may include a combination of both elected member hearing commissioner(s) and independent hearing commissioner(s).

3. Public Excluded

Motion to exclude the public

THAT the public be excluded 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 and 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:

General subject of the matter to be considered	Reasons for passing this resolution in relation to each matter	Ground(s) under section 48(1) for the passing of this resolution
3.1 Review of the List of Approved Hearings Commissioners	s7(2)(a) The withholding of the information is necessary to protect the privacy of natural persons, including that of a deceased person.	s48(1)(a) That the public conduct of this item would be likely to result in the disclosure of information for which good reason for withholding would exist under Section 7.