



caring about you & your environment

Report 02.431

8 July 2002

File: ENV 1/11/1

[Report 2002.Env02431.NC.mm]

Report to Environment Committee
from Nigel Corry, Account Manager, Consents Management

Review of Commissioner Appointments - Delegation of Resource Management Act 1991 Functions to New Hearings' Commissioners

1. Purpose

To delegate functions under the Resource Management Act 1991 to Hearings' Commissioners.

2. Background

In June 2001 a report was presented to the Environment Committee recommending that the Committee endorse a new approach to the appointment of Hearings' Commissioners. The new approach involved advertising for expressions of interest, and making an assessment on suitability for appointment based on a set of key criteria listed below:

- Comprehensive knowledge and understanding of the RMA;
- An understanding of the rules of natural justice and impartiality;
- An understanding of conflict resolution methods and formal meeting procedures; and
- An area of technical expertise.

The intention of this approach was to provide a larger pool of Commissioners for use by the Council. In some instances in the past we have had trouble finding Commissioners available to sit on hearings, or could not find a Commissioner with the particular expertise for certain hearings. The approach we have taken in expanding our list should largely eliminate these problems.

In reality, the Regional Council either directly, or jointly notifies approximately 15% of consent applications a year, with most of these proceeding to a formal hearing. Of those that proceed to hearing, approximately one third of them require the use of Commissioners. Commissioners are used for any of the following reasons:

- The applicant requests Commissioners;
- The Regional Council is both the applicant and consent agency;
- The Regional Council is both a submitter and the consent agency;
- The Regional Council has a financial interest in the applicant, a submitter or a proposal;
- The Regional Council has made a submission to a territorial authority in respect of an application to be heard jointly with the Council;
- The Regional Council has taken an advocacy position with respect to the proposal under consideration; or
- Specialist knowledge is required to assess the proposal.

In some instances a Commissioner on our list may never actually be required by the Council.

3. Proposed New Commissioners

The following individuals expressed interest in becoming a Commissioner and were successfully assessed against the criteria outlined earlier in this report. The names and current occupations of these individuals are below.

A fuller summary of their skills and experience can be found in Attachment 1.

- **Robert Batty** – Consultant, Planit, (urban, rural and environmental planning)
- **Brent Cowie** – Consultant, Environmental Management Services (environmental management and policy analysis)
- **Michael Crozier** – Professor of Geomorphology, Victoria University
- **Michael Douglass** – Director, Douglass Consulting Services Limited (planning)
- **Robin Gunston** – Director, Mariri Consulting (strategic and business planning)
- **Ken Graham** – Retired, 23 years experience in local government (Tamaki City Council and Auckland City Council)
- **Michael Gross** – Background in local government with district and regional experience (Bay of Islands County Council and Northland Regional Council)
- **Warwick Heal** – Partner, Fletcher Vautier Moore Lawyers
- **Stuart Kinnear** – Stuart Kinnear Consultancy (planning and resource management)
- **Roger Lane** – Retired, (33 years experience with Wellington City Council)
- **David Lean** – Director, David Lean and Associates Ltd, Taranaki Regional Councillor
- **Barry Loe** – Director, Loe Pearce and Associates, (resource management investigations)
- **John Lumsden** – Consultant, (environmental and coastal management)
- **Jack McConchie** – Senior Lecturer in Geography, Victoria University
- **David McLernon** – Christchurch Branch Manager, OCTA Associates Limited (Management consultants)
- **Dave McPherson** – Senior Planner, TSE Group Ltd
- **Euan McQueen** – Director on various boards, past Wellington Regional Councillor

- **Karl Mischewski** – Self employed Consultant – Sustainable Management Solutions
- **Rob Munro** – Sole Practitioner Munro Law (court and dispute resolution practice)
- **Stephen Palmer** – Self employed architectural designer; Wanganui District Councillor
- **Conrad Pharazyn** – Pharazyn Landscape Design (landscape architecture)
- **Jim Saunders** – Manager, Environmental Planning, NZ Historic Places Trust
- **Robert Sowman** – Founder, RJS Associates (environmental planning, heritage, arts and tourism)
- **Donald Turley** – Environmental Lawyer
- **Bill Wasley** – Founder of Wasley Knell Consultants (environmental audits, resource consent work)
- **Bob Wear** – School of Biological Sciences, Victoria University
- **Jane Whitlock** – Emergency Management Advisor, Vindex Marine Limited
- **Derek Wilshire** – Consultant, Common Sense Solutions (natural resource management)

Full copies of the CVs and covering letters of all of the above can be provided if required.

4. **Role of Existing Commissioners**

Under this proposal, there is no intention to review the role of those already acting as Commissioners for the Council. Currently, there are 19 individuals who have delegated authority to act as a Commissioner for the Regional Council, five of which are Iwi Commissioners.

All of these existing Commissioners have been written to informing them of the proposed expansion of our list, and seeking clarification that they wish to remain on the Council's Commissioner list.

5. **Relevant Statutory Provisions**

Section 34 of the Resource Management Act 1991 provides for the delegation of functions, powers, or duties by local authorities. The relevant extracts are:

- (1) *A local authority may delegate to any committee of the local authority established in accordance with the Local Government Act 1974 any of its functions, powers, or duties under this Act...*
- (3) *A local authority may delegate to any hearings commissioner or commissioners appointed by the local authority for this purpose, who may or may not be a member of the local authority, any of its functions, powers, or duties under this Act, other than -*
 - (a) *The approval of a policy statement or plan or any change to a policy statement:*

- (b) *This power of delegation.*
- (4) *A local authority may delegate to any of its officers any of its functions, powers, or duties under this Act, other than -*
- (a) *the approval of a policy statement or plan or any change to a policy statement or a plan:*
- (b) *the making of a recommendation on a requirement for a designation or heritage order under Part VII:*
- (c) *the granting of a resource consent for a non-complying activity in respect of any application which is notified in accordance with section 93:*
- (d) *this power of delegation.*

6. **Implementation and Review**

Commissioners will be used as and when required. It is worth noting that there is no obligation on the part of Council to actually appoint Commissioners. A Commissioner will only be used if and when a consent hearing arises which requires their particular skills and experience.

Appointments will be made until 30 June 2005 at which time the Commissioner list will again be reviewed.

7. **Communication**

Parties affected by this decision will be notified through appropriate Resource Management Act 1999 provisions.

8. **Recommendation**

That pursuant to section 34(3) of the Resource Management Act 1991, the Environment Committee, acting under authority delegated by the Wellington Regional Council under section 34(1) of that Act, appoint the following Commissioners to hear and consider resource consent applications received by the Wellington Regional Council and the submissions on those applications, and make a decision on the resource consent application under section 104 and 105 of that Act and, when necessary, jointly hear, consider, determine and recommend under section 102 of the Act any applications to any other council when these applications are being dealt together:

*Robert Batty
Michael Crozier
Robin Gunston*

*Brent Cowie
Michael Douglass
Ken Graham*

*Michael Gross
Stuart Kinnear
David Lean
John Lumsden
David McLernon
Euan McQueen
Rob Munro
Conrad Pharazyn
Robert Sowman
Bill Wasley
Jane Whitlock*

*Warwick Heal
Roger Lane
Barry Loe
Jack McConchie
Dave McPherson
Karl Mischewski
Stephen Palmer
Jim Saunders R
Donald Turley
Bob Wear
Derek Wilshire*

Report prepared by:

Approved for submission:

NIGEL CORRY
Account Manager, Consents Management

PAULA HAMMOND
Manager, Consents Management

JANE BRADBURY
Divisional Manager, Environment

Attachment:

1. **Resource Consent Hearings Commissioners Applications**