



**Report**                **04.455**  
**Date**                 3 August 2004  
**File**                  WAR/04/00/57

**Committee**        **Council**  
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## **Delegation of Resource Management Act 1991 Functions to Hearing Commissioners**

### **1. Purpose**

To reapprove the delegation of functions under the Resource Management Act 1991 to hear and decide the East Leigh Ltd subdivision application.

### **2. Background**

The delegation of functions outlined above was approved by resolution of the Council on 30 June 2004, in respect of two Commissioners, Richard Fowler and Roger Lane. However, Richard Fowler subsequently withdrew from the case, citing a potential conflict of interest given that a partner in his law firm recently purchased a property at Riversdale.

Masterton District Council have nominated a replacement Commissioner, Mr Jim Lynch (Barrister). Mr Lynch has the appropriate resource management expertise to hear and decide the resource consent application together with Roger Lane (retired registered civil engineer). Mr Lynch is not included on the Greater Wellington lists of approved commissioners.

East Leigh Ltd proposes to develop land for a residential subdivision comprising 140 lots at their Riversdale terraces site. A resource consent application was lodged on 6 April 2004, to install and operate an appropriate stormwater management system, sewage treatment and disposal system, a culvert, and a process to achieve sediment erosion control through the bulk earthworks phase. The application was publicly notified under Section 93 of the Resource Management Act 1991.

The applications lodged with Greater Wellington and Masterton District Council are inextricably linked. Consequently, in accordance with section 102 of the Resource Management Act 1991, Greater Wellington and Masterton District Council consider it prudent to hold a joint hearing for the applications. The main benefits are:

- the applicant and submitters will only be required to present their evidence once, reducing time and cost; and
- a consistent decision will be made for the project.

After consultation with Masterton District Council, staff consider that the make up of the Committee to hear these applications should comprise legal counsel with specialist knowledge of the Resource Management Act, and an engineer with specific expertise with sewage treatment systems.

### **3. Relevant Statutory Provisions**

Section 34A 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 an employee, or hearings commissioner appointed by the local authority (who may or may not be a member of the local authority), any functions, powers, or duties under this Act except the following:*

*(a) The approval of a policy statement or plan:*

*(b) This power of delegation.*

### **4. Communication**

Masterton District Council and the applicant will be advised of the delegations.

### **5. Recommendation**

*That pursuant to section 34A of the Resource Management Act 1991, the Council appoints*

- *James D Lynch*

*to jointly hear and consider with Mr R Lane, the resource consent application WAR 040057 received by the Wellington Regional Council from East Leigh Ltd, the submissions on the application, and make a decision on the resource consent application, and to rule on all incidental and related matters including but not limited to those under sections 42A, 102, 104 (including s.104A and s.104B), and 105 of that Act, at a hearing date yet to be confirmed.*

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