

Council Briefing

Date: Thursday 04 April 2019

Time: 9.30 am

Venue: Mangawhai Club – 219 Molesworth Drive, Mangawhai

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Warkworth to Wellsford Project Lodgement of Designation and Consents

Meeting: Council Briefing
Date of meeting: 04 April 2019
Reporting officer: Curt Martin, COO & GM Infrastructure

Purpose/Ngā whāinga

The NZ Transport Agency (NZTA) wishes to inform Council of the pre-lodgement of designation and consents for the Warkworth to Wellsford (WW2W) project.

Executive summary/Whakarāpopototanga

Lodgement of designation and consents for the WW2W project is currently planned for April—June this year. Route protection is a significant milestone for the project and the NZTA is seeking support from its Northland partners through the consenting phase.

Context/Horopaki

WW2W is the second section of Ara Tūhono Pūhoi to Wellsford (with Pūhoi to Warkworth currently under construction and due to open late-2021). The Indicative Route has been refined and presented publicly in February 2017 to what is now called the Indicative Alignment within the proposed designation boundary.

Next steps/E whaiake nei

One on one meetings with technical specialists, or wider project team can be arranged ahead of lodgement with Auckland Council which is planned for May—June.

Bernard Petersen, 15 March 2019

Solid Waste Activity Review

Meeting: Council Briefing
Date of meeting: 04 April 2019
Reporting officer: Donna Powell, Solid Waste Officer

Purpose/Ngā whāinga

To inform Council of the intention to:

- carry out public consultation around kerbside general refuse and recycling collection.
- complete a Section 17A Solid Waste Service delivery review of the Solid Waste activity.
- seek approval to extend Contract 706 Eastern and Western Waste and Recyclables Collection, Disposal and Transfer Station Operation (CON706) for an additional seven-month period whilst the Section 17A Solid Waste Service delivery review and public consultation around kerbside general refuse and recycling collection is completed.

Executive summary/Whakarāpopototanga

Identified as part of the Waste Management and Minimisation Plan (WWMP) and Solid Waste Asset Management Plan (AMP) review was the need to review and potentially change how we deliver the Solid Waste Activity (in particular kerbside collection and Transfer Station management). This will involve consultation with the public about how we currently deliver the solid waste service and propose alternatives with Kaipara residents getting an opportunity to have their say in the process.

A Section 17A Solid Waste Service delivery review is a requirement under the Local Government Act (LGA) 2002. The review is required to be completed in conjunction with consideration of any significant change to relevant service levels and within two years before the expiry of any contract or other binding agreement relating to the delivery of that infrastructure, service or regulatory function; and at such other times as the local authority considers desirable, but not later than six years following the last review.

Contract 706 is due for renewal 01 November 2019, and pending the completion and outcome of the public consultation and Section 17A review, staff will seek approval for the current contract to be extended to align with the new financial year 2019/2020.

Context/Horopaki

Kaipara Refuse Ltd was awarded CON706 at a Council meeting on 22 October 2013 for a period of three years commencing 01 November 2013, with a possible right of renewal for a further three-year period at the sole discretion of the Council. In May 2016 Council approval was given for the further three-year rollover taking the contract expiry date out to 31 October 2019.

The scope of the Contract Works principally comprises the eastern and western collection of official Council approved pre-paid refuse bags, recycling bags, litterbin servicing and the operation of Council's Transfer Station facility located at Awakino Road, Dargaville.

The operation and management of the Hakaru Transfer Station (Mangawhai) will also be considered as part of the Section 17A review, and any changes for this activity will be implemented when this contract is renewed. The Hakaru Transfer Station is currently managed by Northland Waste Ltd under CON484 which is due for renewal in May 2022.

After reviews of the WMMP and Solid Waste AMP were completed in 2017/2018 it has been identified that Council should conduct public consultation around the Solid Waste services (in particular kerbside collection) and how we deliver these services. The results of this consultation will be reflected in any new contract document.

Council also needs to complete a Section 17A Solid Waste service delivery review. A section 17A review is a requirement under the LGA 2002 and is required to be completed in conjunction with consideration of any significant change to relevant service levels and within two years before the expiry of any contract or other binding agreement relating to the delivery of that infrastructure, service or regulatory function; and at such other times as the local authority considers desirable, but not later than six years following the last review.

It is expected that the consultation will be completed July/August 2019 and the Section 17A review will be completed by August/September 2019.

Next steps/E whaiake nei

A Council report will be presented at the May 2019 Council meeting seeking approval to extend CON706 until 30 June 2020.

A Council briefing report will be prepared for June 2019 detailing options identified as part of the formative consultation that is currently underway via the People's Panel.

The Section 17A review of Solid Waste Activity will be completed and presented at the September 2019 meeting.

Donna Powell, 22 March 2019

Policy on the Appointment of Internal and Independent Hearings Commissioners

Meeting: Council Briefing
Date of meeting: 04 April 2019
Reporting officer: Mark Schreurs, Policy Analyst

Purpose/Ngā hāinga

To introduce a Draft Policy on the appointment of Internal and Independent Hearings Commissioners for elected members to discuss and give feedback on.

Context/Horopaki

Council staff have prepared a draft Appointment of Internal and Independent Hearings Commissioners Policy (**Attachment A**) for elected members to discuss. This Draft Policy has been prepared following direction from the Regulatory Working Group at their February 2019 meeting.

Discussion/Ngā kōrerorero

Council has the power under section 34A(1) of the Resource Management Act 1991 (RMA) to appoint and delegate its powers, functions and duties to Hearings Commissioners.

The main issue for the Council to address, is that it makes robust decisions whereby process and requirement issues under the RMA are beyond challenge. In order to do this, the Council will need to appoint appropriately accredited and qualified Hearings Commissioners and delegate to them, the functions, powers and duties under section 34A(1) of the RMA to hear and make decisions.

Matters commonly referred to Hearings Commissioners include:

- a) Applications for resource consents.
- b) Applications to change conditions of a resource consent.
- c) Applications to extend the consent period of a resource consent.
- d) Notices of requirement to designate land or alter a designation.
- e) Notices of requirement for a heritage order or to alter a heritage order.
- f) Private and Kaipara District Council-initiated Plan Change applications.

Hearings Commissioners can be either internal or independent. Internal Hearings Commissioners are elected members or Council employees who have been appointed by the Council to conduct hearings and authorised to either make decisions on behalf of, or recommendations to, the Council. Independent Hearings Commissioner are the same as the above in terms of their appointment and authorisation with the notable exception that they are persons who are independent of Council (i.e. not elected members or employees). This makes Independent Hearings Commissioners invaluable for hearing cases where the Council, its staff or elected members have or are perceived to have a conflict of interest. The use of Independent Hearings Commissioners can also assist to reduce the workload on elected members.

The Regulatory Working Group considered that clear and transparent direction is needed on the use of Internal and Independent Hearings Commissioners, including:

- a) How Internal and Independent Hearings Commissioners will be appointed by Council.
- b) When the use of Commissioners is warranted.
- c) How Independent Hearings Commissioners will be appointed to a Hearings Panel.
- d) How disputes over appointments will be resolved.
- e) What powers are to be delegated to Hearings Commissioners.
- f) The standardisation of Hearings Commissioners remuneration.

The Draft Policy presented with this report as **Attachment A** has been prepared to addresses these matters.

Next steps/E whaiake nei

Council staff will amend the draft Appointment of Internal and Independent Hearings Commissioners Policy presented with this report to give effect to the feedback received from elected members.


The Draft Policy shall then be re-presented to a future Council Briefing so that elected members can confirm that the new draft accurately captures the direction they desire.

The Draft Policy may then proceed to a Council meeting where it shall be presented for adoption.

Attachments/Ngā tapiritanga

Number	Title
A	Draft Appointment of Internal and Independent Hearings Commissioners Policy

Mark Schreurs, 21 March 2019

	Title of Policy	Appointment of Internal and Independent Hearings Commissioners Policy		
	Sponsor	General Manager Regulatory, Policy and Planning / Chief Executive	Authorised / adopted by	
	Author	Mark Schreurs	Date authorised / adopted	
	Type of Policy	Administration	Last review date	
	File Reference	3825.01	Next review date	

Document Control			
Version	Date	Author(s)	Comments
1 st Commenced	14 March 2019	Mark Schreurs	Draft Policy for discussion at Council Briefing.
1.0			

1 Background

The purpose of this policy is to outline the processes for recruitment, appointment and authorisation of Internal and Independent Hearings Commissioners.

This policy guides Council in appointing appropriately accredited and qualified Independent Hearings Commissioners under the RMA and delegating to them, the functions, powers and duties under section [34A\(1\)](#) of the RMA to hear and make decisions.

The Kaipara District Council (the 'Council') has the power under sections [34](#), [34A](#) and [39](#) of the [Resource Management Act 1991](#) (RMA) to delegate functions to employees, Internal Hearings Commissioners or Independent Hearings Commissioners appointed by Council.

Commissioners may either be appointed to act alone, or with other Commissioners or Commissioners with elected members of the Council.

Under sections [100A\(4\)](#) and [357AB\(2\)](#) of the RMA Council must delegate to one or more Independent Hearings Commissioners when requested to do so by an applicant, submitter or both, its functions, duties and powers to hear and decide an application or objection. An Independent Hearings Commissioner, is a Hearings Commissioner who is not a member of the Council. These sections require an exclusive delegation to Independent Hearings Commissioners only (i.e. not a mixed panel also containing elected members or staff of Council as is allowed for under sections [34](#), [34A](#) and [39](#) of the RMA).

Hearings Commissioners are delegated responsibility for carrying out statutory decision-making duties on Council's behalf or as advisors to the Council in the making of those statutory decisions. It is vital that Hearings Commissioners provide sound advice and make sound decisions without any conflicts of interest that could open the path for challenges.

2 Objective

- a) Provide guidance, transparency and consistency on:
 - What circumstances warrant the use of a Hearings Commissioner;
 - What powers are to be delegated; and
 - What steps are to be followed in the appointment of a Hearings Commissioner.
- b) Ensure Hearings involving Independent Hearings Commissioners comply with legislation and the principles of fairness and natural justice.
- c) Ensure appropriate expertise available for complex or joint hearings (i.e. with Northland Regional Council (NRC)).

3 Definitions

In this policy, the following terms and phrases shall have these meanings:

Appointment means the formal process by which the Council appoints individuals to serve as Hearings Commissioners on behalf of the Council.

Authorisation means the formal process by which the Council delegates specific authority to individuals to undertake the functions of Hearings Commissioners on Council's behalf.

Council, unless stated otherwise, means the Kaipara District Council.

Independent Hearings Commissioner means a person who is not an elected member, nor an employee of the Council, who has been appointed by the Council to be a Hearings Commissioner to conduct Hearings and who has been authorised to either make decisions on behalf of, or recommendations to, the Council.

Independent Hearings Commissioners List (sometimes referred to as 'the List') means a list of those persons who have been appointed and authorised by resolution of the Council to be Independent Hearings Commissioners.

Internal Hearings Commissioner means an elected member or employee of the Council, who has been appointed by the Council to be a Hearings Commissioner to conduct hearings and who has been authorised to either make decisions on behalf of, or recommendations to, the Council.

Recruitment means the process of advertising for, interviewing and recommending Independent Hearings Commissioners to the Council for appointment.

Selection means the selection of an appropriate Independent Hearings Commissioner from the Independent Hearings Commissioner List to hear a specific matter on behalf of the Council.

References to sections or subsections of legislation are references to the Resource Management Act 1991 unless stated otherwise.

As per the RMA.

- Internal Hearings Commissioners – who are appointed from within a Council;
- Independent Hearings Commissioners – who are not a member of the Council i.e. appointed from outside the elected members or employees of a Council. Sections [100A\(4\)](#) and [357AB\(2\)](#) of the RMA sets out that elected members of the Council cannot be Independent Hearings Commissioners.

4 Policy Statement

4.1 Circumstances considered to warrant the use of Commissioners

The decision to use Internal Hearings Commissioners or Independent Hearings Commissioners (or a combination) should consider the following:

- a) Any legal requirements to use Hearings Commissioners e.g. [section 100A](#) of the RMA.
- b) Perceived or actual conflicts of interest or perceptions of bias.

- c) The need for specialist expertise not available within the elected members of the Council in cases where issues surrounding an application are complex or of a highly technical nature.
- d) Whether the application has substantive implications for Council policy such that input from elected members is considered necessary or desirable.
- e) The likely expense of using Independent Hearings Commissioners compared to the scale of the issues (particularly where an Independent Hearings Commissioner would have to be brought in from outside the district or region).
- f) The availability of Independent Hearings Commissioners at the time a Hearing is required.
- g) The willingness of elected members to delegate decision-making powers and functions to Independent Hearings Commissioners.

While consideration must be given to all these factors, it is generally accepted good practice to use Independent Hearings Commissioners in place of Internal Hearings Commissioners when:

- a) Council, or an individual elected member, may otherwise be perceived to have an actual or perceived conflict of interest.
- b) Council, an elected member or Council officer is the applicant.
- c) Determining objections under [section 357](#) of the RMA relating to Council charges.
- d) Matters are outside the technical knowledge or experience of elected members or the Council's employees.
- e) One or more elected members may have, or may be perceived to have, a predetermined stance on the proposal (such as when they have publicly stated opinions on the merits of a proposal in the media or at public meetings before it is heard).
- f) Combined or joint hearings under [section 102](#) of the RMA where a neutral Chair or advisor is considered desirable.

Council may also choose to employ Independent Hearings Commissioners to make decisions on applications that are politically contentious. This removes the political pressures that may otherwise be placed on elected members at key times (such as in the lead-up to elections).

Independent Hearing Commissioners may also be employed to:

- a) Assist the Council in carrying out their duties during times when elected members are not available due to conflicting meeting times, or heavy workloads (such as during annual plan hearings).
- b) To assist the Council following local body elections, when there has been a considerable turnover of elected members, and Hearing Panels are perhaps lacking in skills and expertise.
- c) To attend lengthy hearings which elected members would be unable to attend on a continuous basis due to business, financial, family or other commitments.

4.2 Appointment to Independent Hearings Commissioners List

Council will maintain a list of Independent Hearings Commissioners who collectively have the skills needed for future Hearings. Council will review this list every three years, following the triennial local body elections, or as required to assess if there are any specialist skills required that are not available in the existing pool.

Where Council identifies the need to add additional or replacement Hearings Commissioners to the list in order to fill any skills shortages, it will undertake recruitment to fill the shortage.

Council will advertise vacancies for Independent Hearings Commissioners. This may be done in numerous ways but will always include a notice in a newspaper circulating in the district.

Applicants should complete the Standardised Commissioner Curriculum Vitae ([Appendix 1](#)) which may be accompanied by a full curriculum vitae and such other supporting information as the applicant desires.

Skilled persons sought will generally have some legal, planning, community, political, scientific, technical, landscape, heritage, ecological, engineering or Tikanga knowledge and experience. Final approval and listing will be based on the following attributes:

- a) Mandatory Pass or Fail
 - Must be Ministry for the Environment accredited RMA Commissioner with evidence provided.
 - Must accept terms and condition of contract.
 - Applicants must provide written acceptance of proposed charge-out rates.
- b) Relevant skills 45% ranking
 - Ability and experience to undertake work successfully and efficiently on a Hearings Panel.
 - Ability to assess information and facts, with a working knowledge of the RMA.
 - When issues to be decided are of a cultural, technical or legal nature, must have relevant legal, planning or technical background and show wide experience across the expected range of matters e.g. tikanga Māori, coastal development, engineering, landscape.
- c) Relevant experience 45% ranking
 - List of projects and outcomes been involved in over last five years.
 - Referees.
- d) Local district knowledge 10% ranking
 - Local knowledge and awareness of district aspirations.
 - Knowledge of strategic documents e.g. District Plan and Regional Policy Statement.
- e) The applicant agrees to and signs a three year contract term.
- f) Council decision approves applicant for the list

4.3 Independent Hearings Commissioners List

Council's Independent Hearings Commissioners List shall contain the following information:

- Name of Approved Commissioner
- Date of Approval
- Accreditation date and expiry
- If they are an Endorsed Chair
- Key skills and competencies
- Contact details: e-mail, telephone and address

4.4 Appointment of Independent Hearings Commissioners to a Hearings Panel

When selecting Independent Hearings Commissioners to be appointed to a Hearings Panel, the Council shall follow this process:

- a) The Independent Hearings Commissioners List shall be reviewed and those Hearings Commissioners who have the necessary skills and experience to hear the application shall be shortlisted.
- b) The Hearings Commissioners on the short list shall be contacted in alphabetical order regarding their availability and they will then refuse or accept the offer to sit on the Hearings Panel.
- c) If selection is required for another Hearings Panel and the same names are selected for the short list, the alphabetical listing will start from where it finished for the previous selection process, so that the equal opportunity is afforded to all those on the List.
- d) The Hearings Commissioners appointed to any given Hearings Panel and the process used to appoint them shall be disclosed to the public and communicated to the applicant.

4.5 Appointment of Internal Hearings Commissioners

4.5.1 Appointment

Elected members of the Council may be appointed to serve as Internal Hearings Commissioners provided they:

- a) Fulfil the accreditation requirements of the RMA by holding a current Ministry for the Environment certificate under the Making Good Decisions programme.
- b) Do not have any actual or perceived conflict of interest.
- c) Are aware of the potential workload involved (e.g. the need to read through and analyse all submissions).
- d) Can be available as required.

4.5.2 Appointment of Internal Hearings Commissioner to Planning Hearings

Subject to availability, at least one qualified elected member should be appointed to all planning hearings. Qualified elected member should be given the opportunity to sit on at least two to three consent hearings per year, subject to there being sufficient hearings held and the availability of the elected member.

4.5.3 Selection on to a Hearings Panel

When selecting a Hearings Panel in respect to an application that may be heard by Internal Hearings Commissioners (as opposed to exclusively by Independent Hearings Commissioners), preference will be given to suitably qualified elected members over Independent Hearings Commissioners. This recognises local knowledge and the residents and ratepayers' vote of confidence as evidenced through the ballot box.

What direction does Council want this policy to take on this issue? Do you want to also apply alphabetical process see 4.4 above.

4.6 Internal Hearings Commissioners List

The Council will maintain a list of Internal Hearings Commissioners who have the skills needed for Hearings. The Council will review this list every three years, following the triennial local body elections, or as required to assess if there is a need to increase the number of elected members in the existing pool. Training will be offered to elected members who are interested in becoming Hearings Commissioners. On the successful completion of the Ministry for the Environment Making Good Decisions training programme, the elected member will be listed as an Internal Hearings Commissioner.

Council's Internal Hearings Commissioners List shall contain the following information:

- Name of Approved Commissioner
- Date of Approval
- Accreditation date and expiry
- If they are an Endorsed Chair
- Key skills and competencies
- Contact details: e-mail, telephone and address

4.7 Process for Council to remove persons from Council's approved Internal or Independent Hearings Commissioners List

Commissioners may be removed from the Internal or Independent Hearings Commissioners List at the end of their contract (i.e. their contract may not be renewed).

The Independent Hearings Commissioners List will be reviewed following each triennial local body election and recommendations made if any person should be removed from the list based on:

- Expiry of three year contract term.
- Unavailable to perform duty.
- Evidence of poor performance.

Should an appointed Hearings Commissioner breach the terms of their contract or there is sufficient evidence of serious misconduct, they will be removed immediately from the list.

4.8 Disputes over Appointments

Where an applicant or elected member wishes to dispute one or more appointments to the Hearings Panel, the matter shall be referred to the Council for resolution.

It is preferable that any disputes be raised as soon as possible after the Council decision of the proposed appointments so as not to create any undue time delays for a hearing. Timing of decisions will need to be carefully managed in terms of legal timeframes for a hearing and may require an Extraordinary meeting, which would then need to ensure a quorum is in attendance.

4.9 Delegation of powers to Hearings Commissioners

Council may, from time to time, delegate Hearings Commissioners the power to hear and decide a range of matters including the following:

- a) Applications for resource consents.
- b) Applications to change conditions of a resource consent.
- c) Applications to extend the consent period of a resource consent.
- d) Notices of requirement to designate land or alter a designation.
- e) Notices of requirement for a heritage order or to alter a heritage order.
- f) Private and Kaipara District Council-initiated Plan Change applications.

In such cases, these delegations are made under [section 34A](#) of the RMA and include that Hearings Commissioners be responsible for writing decisions.

Decisions or recommendations made by Hearings Commissioners are to be reported to the Council at the first available Council meeting following the decision.

4.10 Structure of Hearing Panel

Sole Hearings Commissioners will generally be used for considering resource consent matters. A panel of three Hearings Commissioners, consisting of two Independent Hearings Commissioners and one sitting and accredited elected member, will generally hear Plan Change applications. Where required, a Chair will be appointed who will have a casting vote.

To be appointed Chair of a Hearings Panel, a Hearings Commissioner must hold a current Chair Endorsement under the Ministry for the Environment's Making Good Decisions programme.

4.11 Commissioner Remuneration to be Standardised

Hearings Commissioners' remuneration shall be standardised at \$170 per hour plus Goods and Services Tax (GST) for a Chair and \$150 per hour plus GST for Hearings Panel members. The Council will only negotiate variations to these rates in exceptional circumstances. A variation in the standardised rate will be decided by the Council.

The Council will on-charge remuneration costs to applicants or submitters as the case may require.

4.12 Appendix 1: Standardised Hearings Commissioner Curriculum Vitae

Hearings Commissioner Contact Details																												
Name:																												
Company																												
Contact Phone:	Mobile:	Work:																										
Contact E-mail:																												
Relevant Qualifications																												
Address:	Postal:	Physical:																										
	Post Code:	Post Code:																										
Identify the last five Hearings you have been involved in.	Hearing Title	Date	Organisation	Outcome																								
Please tick your relevant areas of expertise: <table border="0" style="width: 100%;"> <tr> <td><input type="checkbox"/> Chair</td> <td><input type="checkbox"/> Subdivision Consents</td> <td><input type="checkbox"/> Other, please specify:</td> </tr> <tr> <td><input type="checkbox"/> Panel Member</td> <td><input type="checkbox"/> Heritage Issues</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Writing Decisions</td> <td><input type="checkbox"/> Landscape Issues</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Mediation</td> <td><input type="checkbox"/> Ecology Issues</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Legal Issues</td> <td><input type="checkbox"/> Noise/Acoustic</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Tikanga Māori</td> <td><input type="checkbox"/> Transport/Traffic</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Planning Policy</td> <td><input type="checkbox"/> Hazardous Substances</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Land Use Consents</td> <td><input type="checkbox"/> Financial Contributions</td> <td></td> </tr> </table>					<input type="checkbox"/> Chair	<input type="checkbox"/> Subdivision Consents	<input type="checkbox"/> Other, please specify:	<input type="checkbox"/> Panel Member	<input type="checkbox"/> Heritage Issues		<input type="checkbox"/> Writing Decisions	<input type="checkbox"/> Landscape Issues		<input type="checkbox"/> Mediation	<input type="checkbox"/> Ecology Issues		<input type="checkbox"/> Legal Issues	<input type="checkbox"/> Noise/Acoustic		<input type="checkbox"/> Tikanga Māori	<input type="checkbox"/> Transport/Traffic		<input type="checkbox"/> Planning Policy	<input type="checkbox"/> Hazardous Substances		<input type="checkbox"/> Land Use Consents	<input type="checkbox"/> Financial Contributions	
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PC 4 Update Report

Meeting: Council Briefing
Date of meeting: 04 April 2019
Reporting officer: Kathie Fletcher, Policy Manager

Purpose/Ngā hāinga

To update Council on the progress of the implementation of Plan Change 4 (PC4).

Context/Horopaki

A key component of the consent order for PC4 was the creation of a risk assessment guide for subdivision consent applications. KDC agreed at mediation to work collaboratively with Fire and Emergency New Zealand (FENZ) and some of the section 274 parties on this guide. No such guide exists for local government in New Zealand, so the guide had to be created from scratch. This has proven to be a formidable task as Council Officers have tried to make it a tool that works in a practical manner for developers, consent planners, FENZ and concerned community members. Council Officers originally aspired to have this guide ready for Council's first day of business in January 2019. It is proving difficult to create a pragmatic guide that makes it easy to apply to subdivision consent applications for users, both internal and external to Council. Council Officers have always taken a precautionary approach to the guide. Whilst this has resulted in taking more time than expected to complete, it is based on the Council Officers primary aim to create a reliable risk assessment guide that provides our communities with confidence, that where there is a fire risk, fire management and safety is paramount to Council.

With regards to the number of consent holders impacted by PC4, Council Officers can only provide estimate figures by undertaking word searches on MagiQ. Using relevant search terms, the maximum number of results was 756 resource consents. That is a combination of subdivision and land use where fire safety is likely to have been applied for, and then presumably consented.

Discussion/Ngā kōrerorero

Work completed

A series of meetings have been held engaging FENZ, Jonathan Larsen, Malcolm Halley, Clive Boonham, Mark Rowbotham and staff (policy, planning, consents, building team members). This resulted in nine versions of the guide before reaching a final draft. Regular internal meetings and discussions held to analyse different versions and address community and FENZ concerns and demands. Application form has been completed (See Attachment "A").

Work left to complete

- Legal opinion to be sought on precedent created and legal and financial ramifications if existing consents amended to reflect PC4 without costs to applicant;
- Final Draft guide recirculated to interested parties;
- Final amendments and changes made if required to final Draft;

- Testing in the field;
- Upload guide to website;
- Communicate with developers letting them know about the risk assessment guide.

Completion timeframe early April 2019.

Financial implications

If consent planners are required to undertake work legally mandated with costs recovery provisions under the RMA with no costs recovery, as proposed by some community members, this will potentially have perverse outcomes for current consent planning budget and future forecasting.

Council Officers are reluctant to put a figure on the cost to Council for the work around variations to conditions and consent notices. The application fee is \$1,200 so it is possible the application fees alone could be \$907,200.00, if 756 resource consents figure is correct. However the actual costs of processing would be dependent on the circumstances of each consent. Council should not be giving the impression that the variation process is a rubber stamp exercise as it will depend on the specific circumstances of each site. In some cases it may be relatively straightforward, however other situations will not be.

A legal opinion is being sought. In the process of getting a legal opinion Council Officers will be asking Brookfields (Council's lawyers) whether there is any other legal way to approach the variations to land use consents. Council Officers will be asking Brookfields to investigate if there is any other acceptable (and legal approach) where a new plan rule is more permissive than a rule which a consent has been granted for. Council Officers do not think a variation to a consent notice can be avoided, but the relevant current FAQs in relation to conditions of land use consents are:

Properties with an existing land use consent relating to fire-fighting water supply ONLY (or fire and relocated building)

Q: What happens if there is a granted land use consent for my property with a breach of the fire rule only, or the fire and relocated buildings rule, and I have now installed the dedicated reserve water for fire-fighting but I would like to remove it (or use it for regular water supply)?

A: You have two options available:

You must retain the reserve water for fire-fighting supply as your land use consent is conditional on providing the fire-fighting water supply; OR

You can apply to Council for a Certificate of Compliance under the Resource Management Act for the building without the reserve water. The application fee for this application is \$1000.00.

If you have not had a Code of Compliance Certificate issued under the Building Act, then you will also need to have a minor variation to your building consent agreed by Council. This can be done on the site as a notation on the approved building consent plans.

Properties with an existing land use consent relating to fire-fighting water supply and other breaches

Q: What happens if there is a granted land use consent for my property with a breach of multiple rules, including the fire rule, and I have now installed the dedicated reserve water for fire-fighting but I would like to remove it (or use it for regular water supply)?

A: You have two options available:

You must retain the reserve water for fire-fighting supply as your land use consent is conditional on providing the fire-fighting water supply; OR

You can apply to Council for a variation to your existing land use consent for the building without the reserve water. The application fee for this application is \$1,200.00.

You will also need to have a minor variation to your building consent agreed by Council. This can be done on the site as a notation on the approved building consent plans.

Policy and planning implications

Once completed we will have met legal requirements of consent order and have fulfilled final task for PC4. Potentially KDC has also created a planning tool and precedent for other councils.

Risks and mitigation

The estimates provided are not to be relied upon as providing an accurate number of consent holders. The number is based on a simple work search and may in reality be a lot less.

Field testing of the guide is essential. This will provide consent and policy planners, developers and FENZ the confidence the guide is a useful tool to assess fire risk for new subdivisions in Kaipara.

Next steps/E whaiake nei

1. Seek a legal opinion from Brookfields.
2. Share proposed guide with interested external parties (FENZ, community members).
3. Address feedback.
4. Field test with interested parties.

Attachments/Ngā tapiritanga

Number	Title
A	Application form

Kathie Fletcher, 24 March 2019

Kia ora

The Kaipara District Plan requires the sufficiency of firefighting water supplies to be considered as part of the assessment of the subdivision of land. The subdivision assessment criteria state that consideration must be given to whether “Sufficient firefighting water supply is available, taking into account a risk based assessment”. The advice note (Note 8) to the subdivision assessment criteria provides an example of what will be considered as sufficient firefighting water supply for a single residential dwelling enabled by a subdivision. This will generally include 10,000 litres of water from sources that are:

- within 90m of the identified building platform on the lot;
- existing, or likely to be available at the time of development of the lot;
- accessible and available all year-round; and
- may be comprised of water tanks, permanent natural water bodies, dams, or swimming pools (whether located on or off the lot).

Option 1: If you are proposing a communal water supply (to be installed at the time of subdivision) or reliance on an open water source for firefighting water supply, please complete Section A.

Option 2: If you are proposing dedicated water supply for individual lots, please complete Section B.

Option 3: If your subdivision proposal will not result in 10,000L of water being available within 90m of all identified building platforms, then you will need to complete the risk assessment (see Form XXX).

Section A.

Communal Water Supply or Open Water Source

Tank Farm

Number and volume of tanks _____

Total water volume available _____ Litres

☐ Buried ☐ Semi Buried ☐ Ground Mount

Within 90m of all identified building sites

☐ Yes ☐ No

Access to water supply:

☐ Designated hardstand

☐ To be signposted

☐ Fire appliance access

Please describe the proposed mechanism to ensure the communal water supply is provided and maintained (e.g. consent notice, body corporate or other entity requirements)?

Comments: _____

Open Water

Total volume of open water _____ Litres

Within 90m of all identified building sites

☐ Yes ☐ No

Access to water supply:

☐ Designated hardstand

☐ To be signposted

☐ Fire appliance access

Comments: _____

** Please show tank or open water source locations, volume and methodology for access on the proposed scheme plan/s. Designated tank supply or open water must be within 90m of all identified building sites – not a radius, but taking into consideration travel distances via streets and Ro.Ws etc. Distance measurement is usually taken to the property entrance, provided the distance from the entrance to the identified building site is 20m or less.*

** If considering using a neighbouring property a signed written agreement must be obtained from the other party and be included with the application.*

** For open water the minimum water depth must be 1m within 2 metres of the working (hardstand) area at all times of the year.*

Section B.

Dedicated Water Supply for Individual Lots

Tank:

Within 90m of all identified building sites?

☐ Yes

☐ No

Volume of dedicated firefighting water per lot _____ Litres

Please describe the proposed mechanism to ensure the dedicated water supply is provided and maintained on the proposed lots (e.g. consent notice for individual lots, body corporate or other entity requirements)?

Comments: _____



District Plan Progress

Meeting: Council Briefing
Date of meeting: 04 April 2019
Reporting officer: Kathie Fletcher, Policy Manager

Purpose/Ngā hāinga

To inform Council on the progress of the District Plan review.

Context/Horopaki

This report is to keep Councillors informed on the progress of the review.

Discussion/Ngā kōrerorero

Regional Policy Statement requirements. Meeting held with Michael Day (Natural Resources Policy Manager, Northland Regional Council (NRC) to assure NRC we are working on compliance with RPS as part of review. A spreadsheet giving details of what is intended as part of review was also provided to NRC.

Geotechnical Survey and Land Stability Assessment. The Geotechnical report for Maungaturoto has been completed. This report and risk maps will assist applicants and staff to determine what risks should be considered and what mitigation measures should be provided for. The Draft report for Kaiwaka has been received and Council Officers are reviewing providing ENGEO with feedback by 04 April 2019. Draft reports for Dargaville, Mangawhai, Matakohē and the Kaipara West Coast are expected to be completed soon.

Spatial Planning for Key Urban Areas/ urban capacity studies. The Request for Pricing and Information has been compiled and sent out to consultants to submit proposals. It is envisaged that appointments will be made in May 2019 and financed from the 2018/2019 budget.

Identifying Significant Natural Areas and Biodiversity. The survey for Stage 1 of this study is progressing. In Stage 2 ground truthing and landowner engagement will be undertaken and in Stage 3 District Plan provisions will be formulated. It is anticipated that this study will comply with proposed requirements that may come through the proposed National Policy Statement on Indigenous Biodiversity.

Outstanding Natural Features. The technical report has been completed. Mana Whenua engaged and are contributing to commentary on the report.

Coastal erosion and Coastal inundation. This project has been delayed due to the lack of LiDAR data. It will have to be rolled over to 2019/2020 budget as processing of data not available until May 2020 according to communications with NRC. However, if LiDAR data becomes available this project must be completed as we are already two years overdue on RPS implementation.

Engineering Standards review. Council staff meeting to be held 03 April 2019 to progress review as is indicated in the LTP.

Financial implications/Ngā ahumoni hīraunga

Adjustments to the original budget had to be made due to movement in availability of information and reprioritisation has been done.

Policy and planning implications/Kaupapa here me hoahoa hīraunga

Much consideration is being given to logistics planning in order to utilise key calendar events and optimise on existing community engagement across the organisation.

Risks and mitigation/Ngā tūraru me ngā whakatika

The review is progressing smoothly in accordance with the project plan.

Next steps/E whaiake nei

Kaiwaka sub-region community engagement event on 08 April 2019, 7pm to 9pm.

Mangawhai community engagement event 13 April 2019, noon to 2pm.

Dargaville community engagement event (TBC).

Public presentations by Bruce Hayward on the geology of Kaipara 10 and 11 April 2019, 6pm Dargaville and Mangawhai consecutively.

Kathie Fletcher, 27 March 2019