

**MINUTES OF WESTERN BAY OF PLENTY DISTRICT COUNCIL
DISTRICT PLAN COMMITTEE MEETING NO. DP22-4
HELD IN THE COUNCIL CHAMBERS, BARKES CORNER, TAURANGA AND
VIA ZOOM UNDER COVID-19 PROTECTION FRAMEWORK ORANGE AND LIVESTREAMED
ON WEDNESDAY, 29 JUNE 2022 AT 1.00PM**

1 PRESENT

Deputy Mayor J Scrimgeour (Chairperson), Cr G Dally, Cr M Dean, Cr J Denyer, Cr M Grainger, Cr M Gray, Cr A Henry and Cr M Murray-Benge

2 STAFF IN ATTENDANCE

R Davie (General Manager Strategy and Community), A Curtis (General Manager Regulatory Services), P Martelli (Resource Management Manager), A Price (Senior Consents Planner), R Foxley (Senior Consents Planner), H Wi Repa (Governance Technical Support), J Osborne (Governance Support Administrator), and B Clarke (Senior Governance Advisor)

STAFF VIA ZOOM

C Watt (Development Project Facilitator)

3 APOLOGY

APOLOGY

RESOLUTION DP22-4.1

Moved: Cr M Gray

Seconded: Cr M Murray-Benge

That an apology for lateness from Cr Henry be accepted.

CARRIED

4 CONSIDERATION OF LATE ITEMS

NIL.

5 DECLARATIONS OF INTEREST

Nil.

CHANGE TO THE ORDER OF BUSINESS

The Chairperson requested that the next item of business be Item 6.2 "Appointment of Independent Hearings Commissioner – June 2022", in order to release staff from the meeting.

RESOLUTION DP22-4.2

Moved: Cr M Grainger

Seconded: Cr J Denyer

That, in accordance with Standing Orders, the order of business be changed and Item 6.2 "Appointment of Independent Hearings Commissioner – June 2022", be dealt with as the next item of business, noted in the minutes as Item 6.1.

CARRIED

6. REPORTS

6.1 APPOINTMENT OF INDEPENDENT HEARINGS COMMISSIONER – JUNE 2022

The Committee considered a report from the Resource Management Manager who introduced the report.

1.04pm Cr Henry entered the meeting.

In response to questions, the Chairperson noted the following:

- He would sit as Chairperson of the Hearings Panel, and Independent Commissioner Withy would sit as a Member of the Hearings Panel.
 - He had discussed the composition of the Hearings Panel with planning staff and deemed that three Councillors and an Independent Commissioner were sufficient to hear the two District Plan Change matters. He considered that it would be unnecessarily unwieldy to the process, to have the entire Committee on the panel.
 - The General Manager Strategy and Community advised that, in this capacity, the panel would be sitting in a 'quasi-judicial body', rather than as a 'committee of the whole', particularly for plan change processes or resource consent hearings. She further noted it would be unusual to have a Hearings Panel constituted of eight Commissioners.
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RESOLUTION DP22-4.3

Moved: Cr J Denyer

Seconded: Cr M Grainger

1. That the Resource Management Manager's report dated 29 June 2022 titled 'Appointment of Independent Hearings Commissioner – June 2022' be received.
 2. That the report relates to an issue that is considered to be of low significance in terms of Council's Significance and Engagement Policy.
 3. That the District Plan Committee appoints **Independent Hearings Commissioner Alan Withy** to assist the District Plan Committee to consider and determine Private
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Plan Change 93 Te Puna Springs and Private Plan Change 94 Washer Road Industrial Zone.

CARRIED

6.2 RC4942V02L - APPLICATION FOR EXTENSION TO LAPSE PERIOD OF CONSENT - PUM ORCHARDS LIMITED - DECLINE RECOMMENDATION

The General Manager Regulatory Services introduced the Senior Consents Planner, Mr. Foxley, who was the author of the assessment report shown as the cover report attachment.

The Committee considered the assessment report and a cover report from the Environmental Consents Manager who, in his new role as Development Project Facilitator, gave an introduction (via Zoom) as follows:

- Mr. Foxley had produced a comprehensive and robust assessment against the statutory provisions of section 125 of the Resource Management Act 1991 (RMA).
- Staff did not have the delegation to consider or approve a recommendation to decline. That lay solely with the District Plan Committee.
- There were no submitters, the application was not notified, and there were no other parties to the hearing.
- The Applicant had been made aware of the recommendation and date of this meeting, and had not indicated that they wished to appear before the Committee.
- It was now a matter for the Committee to determine the matter based on the information presented within the staff report. The Senior Consents Planner had reached a recommendation to decline.

Staff responded to questions as follows:

- The Applicant had asked for an extension of timeframe to the lapse date of three years. The Applicant's Agent had been advised, in writing, that the recommendation was to decline, and they did not state the Applicant wished to be heard at the hearing.
- There was a period of some months when the Applicant did not investigate and look to move forward and give effect to that consent, after the time the property was purchased. They could have done a lot to give effect to the consent, from earthworks to removing the dwelling on the site. There were three or possibly more Bay of Plenty Regional Council (BOPRC) consents required to give effect, but the Applicant had not sought to extend those, or obtain those BOPRC consents, and that had informed his recommendation.

- Council had been engaged with PUM Orchards Limited's legal representation, and they did not seek to appear before this Committee.
 - The primary application would have lapsed, but the Applicant had the right to lodge an objection, under section 357A of the RMA, to the Council's decision as resolved by the Committee. The issue then was that the objection, in terms of process, would likely find its way back before the District Plan Committee.
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RESOLUTION DP22-4.4

Moved: Cr M Murray-Benge

Seconded: Deputy Mayor J Scrimgeour

1. That the Environmental Consents Manager's report, dated 29 June 2022, titled 'RC4942V02L - Application for Extension to Lapse Period of Consent - PUM Orchards Limited - Decline Recommendation' be received.
2. That the report relates to an issue that is considered to be of low significance in terms of Council's Significance and Engagement Policy.
3. That the District Plan Committee declines the Application for Extension to Lapse Period of Consent by PUM Orchards Limited (RC4942V02L).

CARRIED

The meeting was declared closed at 1.15pm.**The minutes were confirmed as a true and correct record by Council on 11 August 2022.**