

# MEETING – AGENDA –

Ngā Take

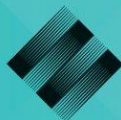


# DISTRICT PLAN COMMITTEE

Komiti Kaupapa-ā-Rohe

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**DP21-2**  
**Thursday, 23 September 2021**  
**Council Chambers**  
**Barkes Corner, Tauranga**  
**On conclusion of the Regulatory Hearings**  
**Committee at 1.00pm**



*Western Bay of Plenty  
District Council*

# District Plan Committee

## Membership

<b>Chairperson</b>	Deputy Mayor John Scrimgeour
<b>Deputy Chairperson</b>	Cr Mark Dean
<b>Members</b>	Cr G Dally Cr James Denyer Cr Murray Grainger Cr Monique Gray Cr Anne Henry Cr Margaret Murray-Benge
<b>Quorum</b>	2
<b>Frequency</b>	As required

## Role:

- To enable effective decision making with regard to Resource Management Act 1991 matters, including district plan changes, private plan changes and resource consent matters.

## Scope:

- All functions, duties and obligations as set out in the Resource Management Act 1991 relevant to plan changes, private plan changes and district plan reviews and any other matter processed under Schedule 1 of the Resource Management Act 1991, including hearing submissions and making recommendations to Council for the approval of plan changes, private plan changes and plan reviews.
- All functions, duties and obligations as set out in the Resource Management Act 1991 relevant to hearing of submissions and making decisions on notified resource consent applications.
- To make decisions on any other Resource Management Act 1991 matter referred to the Committee by the Group Manager Policy, Planning and Regulatory Services.
- To receive reports on appeals to the Environment Court on Committee or Independent Hearings Commissioner decisions made in relation to plan changes, private plan changes, and notified resource consent applications, and to provide guidance to staff authorised to negotiate and settle appeals on Council's behalf.

## Power to Act:

- To hear and make decisions on plan changes, private plan changes and district plan reviews and any other matter processed under Schedule 1 of the Resource Management Act 1991 and to recommend to Council decisions on submissions and approval of plan changes and private plan changes or any other matter, as required.
- To hear and make decisions on notified resource consent applications where submissions have been received.
- The power to co-opt expert advice on an 'as required' basis.
- The power to appoint Independent Hearings Commissioners and to appoint Hearings Panels of appropriately qualified members and/or Independent Hearings Commissioners in accordance with the Appointment of Independent Hearings Commissioner Policy.
- The power to conduct joint hearings with other local authorities where necessary and expedient to do so, including the power to appoint members and/or Independent Hearings Commissioners to Joint Hearings Committees.

- To make decisions on any resource consent application where the reporting officer is recommending that the application be refused.
- To make decisions on section 357 objections to conditions under the Resource Management Act 1991 where the reporting officer is recommending that the application be declined (either in whole or in part).
- To make decisions where draft consent orders would represent a minor change in policy direction from the District Plan and to authorise settlement of those consent orders with the Environment Court by Council's solicitors acting on behalf of Council.
- The power to establish and amend hearings protocols relating to the general conduct of hearings and hearings-related matters in accordance with the applicable legislation and the principles of administrative law and natural justice.
- To make decisions on any other Resource Management Act 1991 matter referred to the Committee by the Group Manager Policy, Planning and Regulatory Services.

## Chairperson's Delegations:

Should there be insufficient time for staff to consult with the Committee on any appeal to the Environment Court in relation to a decision made pursuant to the Resource Management Act 1991, the Chairperson or Deputy Chairperson (where the Chairperson is not available) may provide guidance to staff, and report back to the next scheduled meeting of the Committee.

Notice is hereby given that a District Plan Committee Meeting will be held in the Council Chambers, Barks Corner, Tauranga on:  
 Thursday, 23 September 2021 at On conclusion of the Regulatory Hearings Committee at 1.00pm

## Order Of Business

<b>1</b>	<b>Present</b> .....	<b>5</b>
<b>2</b>	<b>Staff Attendance</b> .....	<b>5</b>
<b>3</b>	<b>Attendance on behalf of Council</b> .....	<b>5</b>
<b>4</b>	<b>Others Present</b> .....	<b>5</b>
<b>5</b>	<b>Apologies</b> .....	<b>5</b>
<b>6</b>	<b>Declarations of Interest</b> .....	<b>5</b>
<b>7</b>	<b>Hearing</b> .....	<b>5</b>
<b>8</b>	<b>Receipt of Reports and Evidence</b> .....	<b>6</b>
8.1	Appointment of Independent Hearings Commissioner - RC13062L - Eliza Place, Kaimai Views, Ōmokoroa Road, Ōmokoroa' .....	6
8.2	Appointment of Independent Hearings Commissioner - RC12551L - Spencer Avenue, Maketu .....	8
8.3	Appointment of Independent Hearings Commissioner - RC13103S - 1343 Oropi Road, Tauranga.....	10
8.4	Appointment of Independant Commissioner - RC13112L - 20 Nettlingham Place, Te Puke.....	12
<b>9</b>	<b>Minute Notes</b> .....	<b>14</b>

- 1      **PRESENT**
- 2      **STAFF ATTENDANCE**
- 3      **ATTENDANCE ON BEHALF OF COUNCIL**
- 4      **OTHERS PRESENT**
- 5      **APOLOGIES**
- 6      **DECLARATIONS OF INTEREST**
- 7      **HEARING**

## 8 RECEIPT OF REPORTS AND EVIDENCE

### 8.1 APPOINTMENT OF INDEPENDENT HEARINGS COMMISSIONER - RC13062L - ELIZA PLACE, KAIMAI VIEWS, ŌMOKOROA ROAD, ŌMOKOROA'

**File Number:** A4300654

**Author:** Anna Price, Senior Consents Planner

**Authoriser:** Rachael Davie, Group Manager Policy Planning And Regulatory Services

#### EXECUTIVE SUMMARY

1. The Committee is asked to approve the appointment of an Independent Hearings Commissioner to consider and determine a land use consent application.

#### RECOMMENDATION

1. That the Senior Consents Planner's report dated 18 August 2021, titled 'Appointment of Independent Hearings Commissioner – RC13062L - Eliza Place, Kaimai Views, Ōmokoroa Road, Ōmokoroa', 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 the following Independent Commissioner to consider and determine the land use and subdivision consent RC13062L at Eliza Place, Kaimai Views, Ōmokoroa:
  - Commissioner Alan Withy.

#### BACKGROUND

2. As Western Bay of Plenty District Council is the applicant, determination of the application should be by an Independent Hearings Commissioner. Staff have confirmed with Mr Alan Withy his availability to consider and determine the application as an independent hearings commissioner. Following appointment of the commissioner, staff will undertake the necessary preparations.

Details of the application are included below:

**Applicant:** Classic Developments NZ Ltd

**Location:** Eliza Place, Kaimai Views, Ōmokoroa Road, Ōmokoroa

**Application:** RC13062L – An application for a combined land use and subdivision consent to develop a 25 unit, medium density residential development on Stage 6, proposed lot 199, of the approved Special Housing Area at Kaimai Views. This lot was specifically identified in the original Special Housing Area consent as a site for affordable housing and is to be developed in accordance with the Housing Affordability Forum (HAF).

**Application Process:** The application has been processed on a non-notified basis.

**Reporting Planner:** Anna Gardiner, Consultant Planner on behalf of Western Bay of Plenty District Council

#### SIGNIFICANCE AND ENGAGEMENT

3. The Local Government Act 2002 requires a formal assessment of the significance of matters and decisions in this report against Council's Significance and Engagement Policy. In making this formal assessment there is no intention to assess the importance of this item to individuals,

groups, or agencies within the community beyond the statutory process under the Resource Management Act 1991.

### ENGAGEMENT, CONSULTATION AND COMMUNICATION

4. There is no requirement for an engagement or communication plan as the Resource Management Act prescribes the process for considering a resource consent application.

### ISSUES AND OPTIONS ASSESSMENT

That the District Plan Committee appoint Independent Hearings Commissioner(s) as per the above resolution.	
Reasons why no options are available	Legislative or other reference
In accordance with the Policy, as the application is made by Western Bay of Plenty District Council; or, there is an outcome from the application that benefits the Western Bay of Plenty District Council, the appointment of an Independent Hearings Commissioner(s) is sought to consider and determine the resource consent applications.	Council's "Appointment of Independent Commissioners" Policy at Section 4.1: Conflict of Interest. Where Council has a material conflict of interest as applicant, submitter or land-owner, or circumstances may create a perception of bias (e.g.: involving a claim, or legal action).

### STATUTORY COMPLIANCE

5. The land use consent has been received and processed in accordance with the statutory processes under the Resource Management Act 1991.

### FUNDING/BUDGET IMPLICATIONS

Budget Funding Information	Relevant Detail
Independent Hearings Commissioner Charges	In accordance with Section 6.1 of the Independent Hearings Commissioners Policy: <i>"The costs of an Independent Hearings Commissioner, as negotiated at the time of appointment, will be funded by the applicant in accordance with Council's schedule of Fees and Charges".</i>

## 8.2 APPOINTMENT OF INDEPENDENT HEARINGS COMMISSIONER - RC12551L - SPENCER AVENUE, MAKETU

**File Number:** A4305534

**Author:** Chris Watt, Environmental Consents Manager

**Authoriser:** Rachael Davie, Group Manager Policy Planning And Regulatory Services

### EXECUTIVE SUMMARY

1. This Committee is asked to approve the appointment of an Independent Hearings Commissioner to consider and determine a land use consent application.

#### RECOMMENDATION

1. That the Environmental Consent Manager's report dated 18 August 2021 and titled 'Appointment of Independent Hearings Commissioner – RC12551L – Spencer Avenue, Maketu' 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 the following Independent Hearings Commissioner to consider and determine the land use consent RC12551L at Spencer Avenue, Maketu:
  - Commissioner Russel de Luca.

### BACKGROUND

2. As Western Bay of Plenty District Council is the applicant, determination of the application should be by Independent Hearings Commissioner. Staff have confirmed with Mr Russell De Luca his availability to consider and determine the application as an independent hearings commissioner.

Following appointment of the commissioner, staff will undertake the necessary preparations.

Details of the application are included below:

**Applicant:** Western Bay of Plenty District Council

**Location:** Spencer Avenue, Maketu

**Application:** RC12551L – A land use consent for earthworks within a Flood Hazard Area as a restricted discretionary activity

**Application Process:** The application has been processed on a non-notified basis.

**Reporting Planner:** Anna Gardiner, Consultant Planner – Harrison Grierson Consultants for Western Bay of Plenty District Council.

### SIGNIFICANCE AND ENGAGEMENT

3. The Local Government Act 2002 requires a formal assessment of the significance of matters and decisions in this report against Council's Significance and Engagement Policy. In making this formal assessment there is no intention to assess the importance of this item to individuals, groups, or agencies within the community beyond the statutory process under the Resource Management Act 1991.
4. The Policy requires Council and its communities to identify the degree of significance attached to particular issues, proposals, assets, decisions, and activities.
5. There is no requirement for an engagement or communication plan as the Resource Management Act prescribes the process for considering a resource consent application.



**ISSUES AND OPTIONS ASSESSMENT**

<b>That the District Plan Committee appoint Independent Hearings Commissioner(s) as per the above resolution.</b>	
<b>Reasons why no options are available</b>	<b>Legislative or other reference</b>
In accordance with the Policy, as the applications are made by Western Bay of Plenty District Council; or there is an outcome from the application that benefits the Western Bay of Plenty District Council, the appointment of Independent Hearings Commissioner(s) are sought to consider and determine the resource consent applications.	Council's "Appointment of Independent Commissioners" Policy at Section 4.1: Conflict of Interest. Where Council has a material conflict of interest as applicant, submitter or land-owner, or circumstances may create a perception of bias (e.g.: involving a claim, or legal action).

**STATUTORY COMPLIANCE**

6. The land use consent has been received and processed in accordance with the statutory processes under the Resource Management Act 1991.

**FUNDING/BUDGET IMPLICATIONS**

<b>Budget Funding Information</b>	<b>Relevant Detail</b>
Independent Hearings Commissioner Charges	In accordance with Section 6.1 of the Independent Hearings Commissioners Policy: <i>"The costs of an Independent Hearings Commissioner, as negotiated at the time of appointment, will be funded by the applicant in accordance with Council's schedule of Fees and Charges".</i>

### 8.3 APPOINTMENT OF INDEPENDENT HEARINGS COMMISSIONER - RC13103S - 1343 OROPI ROAD, TAURANGA

**File Number:** A4323889

**Author:** Anna Price, Senior Consents Planner

**Authoriser:** Rachael Davie, Group Manager Policy Planning And Regulatory Services

#### EXECUTIVE SUMMARY

1. The Committee is asked to approve the appointment of an Independent Hearings Commissioner to consider and determine a land use consent application.

#### RECOMMENDATION

1. That the Senior Consents Planner's report dated 08 September 2021, titled 'Appointment of Independent Hearings Commissioner – RC13103s – 1343 Oropi Road, Tauranga, 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 the following Independent Hearings Commissioner to consider and determine the subdivision consent RC13103S at 1343 Oropi Road, Tauranga:
  - Commissioner Alan Withy.

#### BACKGROUND

2. As a sitting Western Bay of Plenty District Council Councillor is the applicant, determination of the application should be by an Independent Hearings Commissioner. Staff have confirmed with Mr Alan Withy his availability to consider and determine the application as an independent hearings commissioner. Following appointment of the commissioner, staff will undertake the necessary preparations.

Details of the application are included below:

Applicant: Mark and Esme Dean

Location: 1343 Oropi Road, Tauranga

Application: RC13103S – An application for a minor boundary adjustment with 1359 Oropi Road, Tauranga.

Application Process: The application has been processed on a non-notified basis.

Reporting Planner: Sian Allport, Consents Technician on behalf of Western Bay of Plenty District Council

#### SIGNIFICANCE AND ENGAGEMENT

3. The Local Government Act 2002 requires a formal assessment of the significance of matters and decisions in this report against Council's Significance and Engagement Policy. In making this formal assessment there is no intention to assess the importance of this item to individuals, groups, or agencies within the community beyond the statutory process under the Resource Management Act 1991.

#### ENGAGEMENT, CONSULTATION AND COMMUNICATION

4. There is no requirement for an engagement or communication plan as the Resource Management Act prescribes the process for considering a resource consent application.

## ISSUES AND OPTIONS ASSESSMENT

That the District Plan Committee appoint Independent Hearings Commissioner(s) as per the above resolution.	
Reasons why no options are available	Legislative or other reference
In accordance with the Policy, as the application is made by a Elected Member of Western Bay of Plenty District Council, the appointment of an Independent Hearings Commissioner(s) is sought to consider and determine the resource consent application.	Council's "Appointment of Independent Commissioners" Policy at Section 4.1: Conflict of Interest. Where Council, or in this case an Elected Member, has a material conflict of interest as applicant, submitter or land-owner, or circumstances may create a perception of bias (e.g.: involving a claim, or legal action).

## STATUTORY COMPLIANCE

- The land use consent has been received and processed in accordance with the statutory processes under the Resource Management Act 1991.

## FUNDING/BUDGET IMPLICATIONS

Budget Funding Information	Relevant Detail
Independent Hearings Commissioner Charges	In accordance with Section 6.1 of the Independent Hearings Commissioners Policy:  <i>"The costs of an Independent Hearings Commissioner, as negotiated at the time of appointment, will be funded by the applicant in accordance with Council's schedule of Fees and Charges".</i>

## 8.4 APPOINTMENT OF INDEPENDANT COMMISSIONER - RC13112L - 20 NETTLINGHAM PLACE, TE PUKE

**File Number:** A4322540

**Author:** Anna Price, Senior Consents Planner

**Authoriser:** Rachael Davie, Group Manager Policy Planning And Regulatory Services

### EXECUTIVE SUMMARY

1. The Committee is asked to approve the appointment of an Independent Hearings Commissioner to consider and determine a land use consent application.

### RECOMMENDATION

1. That the Senior Consents Planner's report dated 7 September 2021, titled 'Appointment of Independent Hearings Commissioner – RC13112L – 20 Nettlingham Place, Te Puke', 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 the following Independent Hearings Commissioner to consider and determine the land use RC13112L at 20 Nettlingham Place, Te Puke:
  - Commissioner Alan Withy.

### BACKGROUND

2. As Western Bay of Plenty District Council is the applicant, determination of the application should be by an Independent Hearings Commissioner. Staff have confirmed with Mr Alan Withy his availability to consider and determine the application as an independent hearings commissioner. Following appointment of the commissioner, staff will undertake the necessary preparations.

Details of the application are included below:

**Applicant:** Western Bay of Plenty District Council

**Location:** 20 Nettlingham Place, Te Puke

**Application:** RC13112L – An application for earthworks within a floodable area, associated with the construction of stormwater pond 5 and wetland under Designation U130.

**Application Process:** The application has been processed on a non-notified basis.

**Reporting Planner:** Anna Price, Senior Consents Planner on behalf of Western Bay of Plenty District Council

### SIGNIFICANCE AND ENGAGEMENT

3. The Local Government Act 2002 requires a formal assessment of the significance of matters and decisions in this report against Council's Significance and Engagement Policy. In making this formal assessment there is no intention to assess the importance of this item to individuals, groups, or agencies within the community beyond the statutory process under the Resource Management Act 1991.

### ENGAGEMENT, CONSULTATION AND COMMUNICATION

4. There is no requirement for an engagement or communication plan as the Resource Management Act prescribes the process for considering a resource consent application.

## ISSUES AND OPTIONS ASSESSMENT

That the District Plan Committee appoint Independent Hearings Commissioner(s) as per the above resolution.	
Reasons why no options are available	Legislative or other reference
In accordance with the Policy, as the application is made by Western Bay of Plenty District Council; or, there is an outcome from the application that benefits the Western Bay of Plenty District Council, the appointment of an Independent Hearings Commissioner(s) is sought to consider and determine the resource consent applications.	Council's "Appointment of Independent Commissioners" Policy at Section 4.1: Conflict of Interest. Where Council has a material conflict of interest as applicant, submitter or land-owner, or circumstances may create a perception of bias (e.g.: involving a claim, or legal action).

## STATUTORY COMPLIANCE

- The land use consent has been received and processed in accordance with the statutory processes under the Resource Management Act 1991.

## FUNDING/BUDGET IMPLICATIONS

Budget Funding Information	Relevant Detail
Independent Hearings Commissioner Charges	In accordance with Section 6.1 of the Independent Hearings Commissioners Policy:  <i>"The costs of an Independent Hearings Commissioner, as negotiated at the time of appointment, will be funded by the applicant in accordance with Council's schedule of Fees and Charges".</i>

**9**      **MINUTE NOTES**