

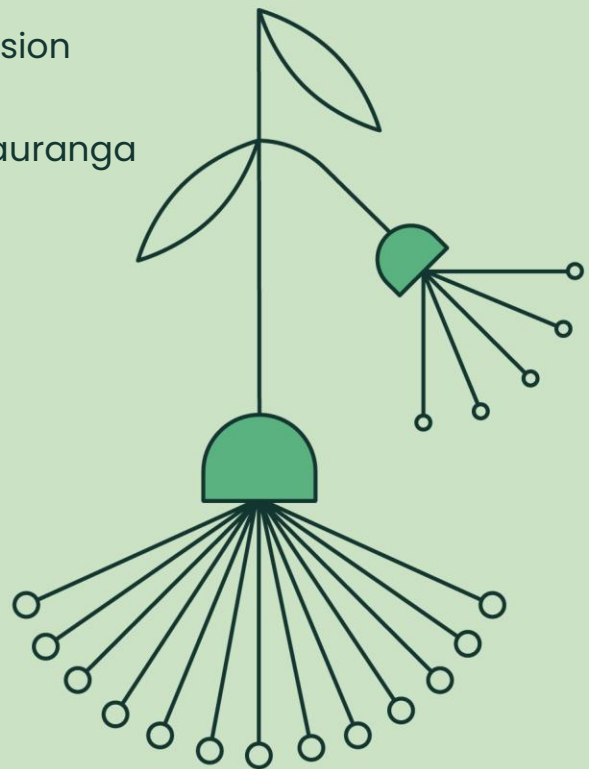
Mā tō tātou takiwā  
**For our District**

## District Plan Committee

Komiti Kaupapa-ā-Rohe

DP24-3

Wednesday, 20 November 2024, On conclusion  
of the Council meeting starting at 9.30am  
Council Chambers, 1484 Cameron Road, Tauranga



# District Plan Committee

## Membership:

Chairperson	Deputy Mayor John Scrimgeour
Deputy Chairperson	Cr Murray Grainger
Members	Cr G Dally Mayor James Denyer Cr Anne Henry Cr Margaret Murray-Benge
Quorum	Three (3)
Frequency	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 General Manager Regulatory Services or General Manager Strategy and Community.
- 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, or any other relevant legislative requirement.
- 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 General Manager Regulatory Services or General Manager Strategy and Community.

### 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, 1484 Cameron Road, Tauranga on: Wednesday, 20 November 2024 at On conclusion of the Council meeting starting at 9.30am

**Order Of Business**

**1 Present ..... 5**

**2 In Attendance..... 5**

**3 Apologies ..... 5**

**4 Consideration of Late Items..... 5**

**5 Declarations of Interest..... 5**

**6 Reports ..... 6**

6.1 Appointment of Independent Hearings Commissioners for Resource Consent Applications..... 6

- 1 PRESENT**
- 2 IN ATTENDANCE**
- 3 APOLOGIES**
- 4 CONSIDERATION OF LATE ITEMS**
- 5 DECLARATIONS OF INTEREST**

## 6 REPORTS

### 6.1 APPOINTMENT OF INDEPENDENT HEARINGS COMMISSIONERS FOR RESOURCE CONSENT APPLICATIONS

**File Number:** A6546789

**Author:** Rod Albertyn, Team Leader Consents Planning

**Authoriser:** Alison Curtis, General Manager Regulatory Services

#### EXECUTIVE SUMMARY

1. The purpose of this report is for the District Plan Committee to approve the appointment of independent commissioners for two publicly notified resource consent applications. Both applications are for coastal protection structures, and it is anticipated that hearings will be held next year. Approval of commissioners in advance of decision making ensures that Council consenting and decision making is timely.
2. The applications are proposed to be determined by external, independent commissioners based on the following:
  - a. The matters at hand are complex and technical in nature. They are therefore best considered and determined by subject matter experts.
  - b. One of the applications will be considered at a joint hearing with Bay of Plenty Regional Council. External commissioners will be best placed to impartially represent the interests of both Councils.
  - c. Given that the coastal environment is culturally sensitive, both proposals will require nuanced and in-depth consideration of Iwi/hapū values as part of the hearing process. It is therefore necessary that one member of each panel has Māori cultural expertise, with the experience and mana to address these aspects of the proposals.
  - d. Given the complexity of the applications, the time commitment required of the commissioners will be high.

#### RECOMMENDATION

1. That the Team Leader Consent Planning's report dated 20 November 2024 titled 'Appointment of Independent Hearings Commissioners for Resource Consent Applications' be received.
2. That the report relates to matters that are considered to be of **low** significance in terms of Council's Significance and Engagement Policy.

3. That the District Plan Committee delegates the necessary functions to conduct hearings and determine the resource consent applications set out in this paper.
4. That the District Plan Committee appoints the below accredited Commissioners to consider and determine the resource consent applications set out in this paper. Unless otherwise stated, delegation is provided for the applications to be considered by any of these independent commissioners, as availability allows.
  - a. Rob Van Voorthuysen
  - b. James Whetu
  - c. Amy Robinson
  - d. Poto Davis
  - e. Shadrach Rolleston

### PROPOSED INDEPENDENT COMMISSIONERS

3. **Rob Van Voorthuysen** is a highly experienced hearing panel chair and planning expert. Rob primarily acts as an Independent Hearings Commissioner nationwide, having served on over 390 hearings and acted as chairperson for more than 290 of them. He first obtained Making Good Decisions accreditation in 2005 and renewed his Chair's endorsement in 2022.
4. **James Whetu** is an experienced hearings commissioner. He has extensive experience in resource management policy and planning, including research, with expertise in the integration, incorporation and consideration of Te Ao Māori and Te Tiriti o Waitangi. James is a Director and the Principal Consultant of Whetū Consultancy Group. He recently sat on the panel that considered Western Bay of Plenty's Tinex Group Limited resource consent application. James has Making Good Decisions accreditation.
5. **Amy Robinson** is a practitioner with 20 years' experience in the natural resource management sector, specialising in coastal management. She has held management roles at Waikato Regional Council and Department of Conservation. She is the Co-chair of the New Zealand Coastal Society. Amy has not sat on any hearings panels yet, but has had hearings experience and has been an independent decision-maker for a number of non-notified applications. She will be sitting on her first hearing next month as sole commissioner for an Environment Canterbury application. Amy has Making Good Decisions accreditation.
6. **Poto Davis** has held governance roles since 2010 for her Iwi, Ngāti Koroki Kahukura, as well as chair and co-chair for projects in her local community and across Waikato. She is inaugural chair of Manawanui Development Limited Partnership (2016), the commercial arm of her Iwi. Poto's strong environmental interest and governance experience has seen her facilitate strategic planning hui for whānau and marae trusts, and contribute to planning in the Waipa District. Poto has sat on

a number of hearings panels and has been recommended by Bay of Plenty Regional Council. She has Making Good Decisions accreditation.

7. **Shadrach Rolleston** is a strategic policy planner and advisor with over 20 years experience in both the private and public sector. Shadrach was appointed by the Minister of Local Government as a Crown Commissioner for Tauranga City Council, where he served from 2021 – 2024. He has not sat on any hearings panels yet, but has extensive RMA and Iwi engagement experience. His first hearing is scheduled next month for Hauraki District Council's Oceania Gold private plan change. Shadrach has Making Good Decisions accreditation.

### STATUTORY COMPLIANCE

5. The ability for Territorial Authorities to delegate their powers and functions to other persons is prescribed under section 34A (1) of the Resource Management Act 1991. Accordingly, recommendations 3 & 4 relating to the appointment of Independent Commissioners to consider these resource consent applications is statutorily compliant.

### SIGNIFICANCE AND ENGAGEMENT

6. 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.
7. The Policy requires Council and its communities to identify the degree of significance attached to particular issues, proposals, assets, decisions, and activities.
8. While there will be strong community interest in these resource consent applications, the decision to appoint Independent Commissioners is considered to be of low significance because the decision-making steps are prescribed by the Resource Management Act 1991, and the Act allows local authorities to delegate their powers and functions.

### RESOURCE CONSENTS TO BE DECIDED BY INDEPENDENT COMMISSIONERS

#### 1. Glen Isla Coastal Protection Structure

Details of the application are as follows:

Applicant:	Glen Isla Coastal Protection Society
Location:	Recreational Reserve and Esplanade Reserve land at Waihi Beach comprising part of the reserve commonly referred to as Three Mile Creek Reserve and legally described as Lot 18 DPS 22035 and Lot 19 DPS 22035.
Notification Status:	To be publicly notified
Reporting Planner:	Bevan Hudson (Senior Planner, Western Bay of Plenty District Council)



**Application:** The Glen Isla Protection Society Incorporated comprise a group of beachfront homeowners at 9, 11, 13, 15, 16, 14 and 12 Glen Isla Place, Waihi Beach. Their properties, located immediately south of "Three Mile Creek", adjoin an approximately 200m stretch of unarmoured coastline which is part of the Three Mile Creek Reserve and owned by the Western Bay of Plenty District Council.

Following a series of recent large erosion events, including Cyclone Gabrielle, the Protection Society proposes to establish a buried coastal erosion protection structure, supplemented with dune reshaping and replanting at Three Mile Creek Reserve. The intent is to protect the Reserve land and adjacent properties from further erosion, and future-proof the properties from the effects of sea-level rise.

Staff consider it appropriate to delegate decision-making authority to a panel of three Independent Commissioners. As a publicly notified application of significant public interest, a hearing will be held, necessitating an experienced Chairperson supported by a panel with appropriate technical and cultural expertise. This is best achieved with an independent hearings panel. This application is not required to be considered by way of hearing by Bay of Plenty Regional Council.

## **2. Shaw Road Coastal Protection Structure**

Details of the application are as follows:

<b>Applicant:</b>	Waihi Beach Protection Society Incorporated
<b>Location:</b>	Coastal area adjacent to Shaw Road, Waihi Beach
<b>Notification Status:</b>	To be publicly notified
<b>Reporting Planner:</b>	Bella Sandoy (Intermediate Planner, Western Bay of Plenty District Council)
<b>Application:</b>	The stretch of coastline in question is subject to erosion, which necessitated the construction of a 1050m long rock revetment. The Protection Society seeks consent to extend this existing rock revetment, from its northern end at 41 Shaw Road through to and including 17 Shaw Road, allowing it to taper back to a natural dune face across the adjacent property at 15 Shaw Road.

Staff consider it appropriate to delegate decision-making authority to a panel of three Independent Commissioners. As a publicly notified application of significant public interest, a hearing will be held, necessitating an experienced Chairperson supported by

a panel with appropriate technical and cultural expertise. This is best achieved with an independent hearings panel. This hearing will be held jointly with Bay of Plenty Regional Council, with the Regional Council being the lead agency.

### ISSUES AND OPTIONS ASSESSMENT

<b>That Council appoint Independent Hearings Commissioners, as per the above resolution.</b>	
<b>Reasons why no options are available Section 79 (2) (c) and (3) Local Government Act 2002</b>	<b>Legislative or other reference</b>
In accordance with the Policy, given the complex, high-profile nature of the proposals, the appointment of Independent Commissioners is sought to consider and determine the resource consent applications.	Council's 'Appointment of Independent Commissioners' Policy at Section 4.1.

### 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>