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Report to Environment Committee
from Romae Duns, Account Manager

Delegation of Resource Management Act 1991 Functions to Hearing Commissioners

1. Purpose

To approve the delegation of functions under the Resource Management Act 1991 to hear and decide the Oriental Bay Beach enhancement project applications.

2. Background

Wellington City Council (as applicant) proposes to enhance the current Oriental Bay beach and environs. The enhancement of the existing Freyberg and Oriental Beaches and creation of a new eastern beach, headland groyne structures, jetty and steps, landscaping and a variety of other activities are proposed for the area.

Wellington City Council (applicant) has applied for a land use consent, coastal permits and a restricted coastal activity for the beach enhancement project.

The applications lodged with Wellington Regional Council and Wellington City Council (regulatory arm) are inextricably linked. Consequently, in accordance with section 102 of the Resource Management Act 1991, the WRC and WCC (regulatory) consider it prudent to hold a joint hearing for the applications. The main benefits of having a joint hearing are:

- the applicant 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 Wellington City Council, we consider that the make up of the Committee to hear these applications should comprise an iwi representative, a planner, a landscape architect and a coastal engineer/geomorphologist.

We propose to appoint Alistair Aburn who has the appropriate planning expertise. As Mr Aburn has already been appointed to the WRC list of approved commissioners, his appointment to hear the above applications does not require approval of the Environment Committee.

To date, we have not selected an iwi commissioner as we must first determine whether the local iwi submits on the applications. The iwi commissioner will be selected from the WRC list of approved commissioners and, as with Mr Aburn, will not require approval of the Environment Committee.

As the applications include a restricted coastal activity, a representative of the Minister of Conservation must also be present. The Minister of Conservation has decided to appoint John Lumsden. Mr Lumsden is not on the WRC list of approved commissioners and therefore requires delegation under this report.

Mr Lumsden is a coastal engineer based in Christchurch and has significant experience with coastal structures and management. He has experience in the Wellington Region, include work along the Kapiti Coast, Island Bay and Worsler Bay. It is intended that Mr Lumsden will fulfill the requirement of a coastal engineer/geomorphologist and MoC representative.

Frank Boffa is the only approved landscape architect on the approved commissioners' list but is unavailable for the hearing. Wellington City Council (regulatory) has recommended Conrad Pharazyn as having the necessary qualifications to act as a commissioner on this hearing. Mr Pharazyn has worked on many projects in the Wellington Region, including landscaping for our regional parks.

3. **Relevant Statutory Provisions**

Section 34 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 any committee of the local authority established in accordance with the Local Government Act 1974 any of its functions, powers, or duties under this Act...*
- (3) *A local authority may delegate to any hearings commissioner or commissioners appointed by the local authority for this purpose, who may or may not be a member of the local authority, any of its functions, powers, or duties under this Act, other than -*
 - (a) *The approval of a policy statement or plan or any change to a policy statement;*
 - (b) *This power of delegation.*
- (4) *A local authority may delegate to any of its officers any of its functions, powers, or duties under this Act, other than -*

- (a) *the approval of a policy statement or plan or any change to a policy statement or a plan:*
- (b) *the making of a recommendation on a requirement for a designation or heritage order under Part VII:*
- (c) *the granting of a resource consent for a non-complying activity in respect of any application which is notified in accordance with section 93:*
- (d) *this power of delegation.*

4. **Communication**

Wellington City Council, applicant and regulatory authority will be advised of the delegations.

5. **Recommendation**

That pursuant to section 34(3) of the Resource Management Act 1991, the Environment Committee, acting under authority delegated by the Wellington Regional Council under section 34(1) of that Act, appoints

- *John Lumsden; and*
- *Conrad Pharazyn*

to jointly hear and consider resource consent applications WGN020036 received by the Wellington Regional Council from Wellington City Council, the submissions on those applications, and make a decision on those resource consent applications under section 102, 104, and 105 of that Act.

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