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Report to Environment Committee
from Paula Bullock, Account Manager

Delegation of Resource Management Act 1991 Functions to Hearing Commissioners

1. Purpose

To appoint three Commissioners to hear and decide on resource consent applications from Transit New Zealand.

2. Background

Transit New Zealand has applied to the Wellington Regional Council, Hutt City Council, Upper Hutt City Council and Porirua City Council for a number of resource consents and notices of requirement relating to the construction of a new interchange (intersection of SH58 and SH1) and the realignment of SH58 (from SH1 intersection to an area around the Britton's House Removal site).

The nature of the applications are such that they will be heard and decided by Independent Commissioners. Two of the proposed commissioners (Helen Tobin and Russell Howie) are already on the Regional Council's list of approved commissioners. The third, lawyer Richard Fowler, has not been used by the WRC as a commissioner before. Accordingly, Mr Fowler cannot be appointed as a commissioner until the Environment Committee has agreed to the appointment.

Richard Fowler has the necessary qualifications and experience to be a Hearings Commissioner. He is a senior partner with law firm Phillips Fox and has expertise in the Resource Management Act 1991. In the past eight years, Mr Fowler has acted as a resource management Hearings Commissioner for five local authorities.

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. **Communications**

Parties affected by this decision will be notified through appropriate Resource Management Act 1991 provisions.

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:

- *Helen Tobin*
- *Russell Howie; and*
- *Richard Fowler*

To jointly hear and consider resource consent applications WGN010006 and WGN010007 received by the Wellington Regional Council from Transit New Zealand,

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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