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Report to Environment Committee
from Francie Pedersen, Resource Advisor

Delegation of Resource Management Act 1991 Functions to Hearing Commissioners

1. Purpose

To appoint two Commissioners, who are not on our approved list, to hear and decide on resource consent applications from Transit New Zealand.

2. Background

Transit New Zealand has applied to the Wellington Regional Council and Hutt City Council for a number of resource consents and notices of requirement relating to proposed construction works to enable the upgrade of State Highway 2 between Dowse Drive and Petone.

The nature of the applications are such that they will be heard and decided jointly by Independent Commissioners. The Hutt City Council are lead agency and have proposed using Richard Fowler and Roger Lane as Commissioners. Neither Richard Fowler or Roger Lane are on the Wellington Regional Council's list of approved commissioners. However, we are happy with them and consider that they have the necessary experience and qualifications to be commissioners for the proposed hearing as outlined below.

Richard Fowler 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. In addition, Mr Fowler has also recently acted as commissioner for the State Highway 2 and 58 upgrade hearing.

Roger Lane holds a bachelor of engineering and is a member of IPENZ. He was employed by Wellington City Council for over 30 years, mainly in the roading area.

Since retirement, he has acted as the WCC representative on the Clearwater Project (Moa Point).

It should also be noted that two additional commissioners will be appointed to sit on this hearing. However, both of these commissioners (Helen Tobin, and an Iwi commissioner who is yet to be confirmed) are already on the approved list of WRC commissioners and do not require separate appointment by the Environment Committee.

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:

- *Richard Fowler; and*
- *Roger Lane.*

To jointly hear and consider resource consent applications WGN010151 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 sections 102, 104, and 105 of that Act.

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