

OIR: 2324/645

20 September 2023

[REDACTED]
[REDACTED]

Tēnā koe [REDACTED]

Request for Information under the Local Government Official Information and Meetings Act 1987 (the Act) (the LGOIMA)

Thank you for your email of **25 August 2023** requesting the following information:

- 1. We would also like to know who was on the hearing panel, where they are from and why they were selected. i.e. was anyone resident in the community on the panel.***

The Independent Hearing Panel (IHP) was made up of commissioners who are independent of Council and accredited under the 'Making Good Decisions' programme. The 'Making Good Decisions' programme provides RMA decision-makers with the skills needed to run fair and effective hearings, and to make informed decisions.

The IHP for Plan Change 2: Intensification (PC2) included three commissioners; John Maassen, Rauru Kirikiri, and Jane Black. Information is available on Council website on each commissioner via the following hyperlink:

<https://www.kapiticoast.govt.nz/your-council/forms-documents/district-plan/operative-plan-changes/plan-change-2-intensification/independent-hearing-panel/>

The selection of these commissioners was made by delegated authority by the chair of the Strategy and Operations Committee in September 2021. The rationale for selecting the commissioners is included in the attached memorandum.

Please note, the personal details of other parties have been withheld from the memorandum. The decision to withhold this information is made under section

Please note that any information provided in response to your request may be published on the Council website, with your personal details removed.

7(2)(a) of the Act which allows for Council to withhold information in order to protect the privacy of natural persons, including that of deceased natural persons.

In Council's view the reasons for withholding these details are not outweighed by public interest considerations in section 7(1) favouring their release.

2. ***What is the justification for allowing a piece of land currently zoned rural to allowing high density housing of six storeys with no direct communication or consultation with the residents directly affected?***

The answer to this question has been prepared on the understanding you are specifically referring to the rezoning through PC2 of 59 – 69 Raumati Road.

The rezoning of this land was initially signalled through public consultation on a draft version of the plan change in April – May 2022. The rezoning of this land was then included in the proposed version of PC2 which was publicly notified for submissions on 18 August 2022. Public notification included direct mailing of the public notice to all ratepayers in the district.

For more details about the engagement undertaken during the preparation of PC2, please refer to the Section 32 Evaluation Report in the hyperlink, below. In particular, Page 117 – Section 3.5:

https://www.kapiticoast.govt.nz/media/xmzfukmb/pc2_s32.pdf

In regard to the justification for the rezoning of the site, please note that only part of the site was rezoned from rural lifestyle to residential as part of PC2. The parts of the site that are located adjacent to Raumati Road (and the small part that fronts Kiwi Road) was already zoned as General Residential Zone prior to PC2. This is evident from the rezoning extent shown on page 10 in Appendix V to the Section 32 Evaluation Report in the hyperlink, below:

https://www.kapiticoast.govt.nz/media/cllki1qd/pc2_s32_appendixv_proposednewgenreszones.pdf

As noted in Appendix V, this site is assessed as area RB-01 outlined in Boffa Miskell (2022), *Kāpiti Coast Urban Development Greenfield Assessment*, which is Appendix N (split into two parts due to the size of the document) of the Section 32 Evaluation Report in the hyperlinks, below:

https://www.kapiticoast.govt.nz/media/mggf20dy/pc2_s32_appendixn_udgreenfieldassessment_pt1.pdf

https://www.kapiticoast.govt.nz/media/5amotdlv/pc2_s32_appendixn_udgreenfieldassessment_pt2.pdf

There are several mentions of this area across the report, but the specific assessment of the constraints and opportunities associated with the site is set out on page 88 of Part 2.

In addition to the identification of flood hazards on the site as part of the assessment in Appendix N, site was also included in the stormwater assessment contained in Appendix P to the Section 32 Evaluation Report in the following hyperlink. Specific mention of the site is made on pages 2 and 12 of this memorandum:

https://www.kapiticoast.govt.nz/media/r15ngx4k/pc2_s32_appendixp_newgenres_stormwaterassessment.pdf

3. Could you please give us the details of what KO submitted to KCDC in the PC2 submission process, and what exactly has been agreed and declined?

The submissions made by Kāinga Ora (KO) can be found in the links, below:

- Submission S122

<https://www.kapiticoast.govt.nz/media/w1hapl22/s122-k%C4%81inga-ora-homes-and-communities-pc2-submission-15-09-2022.pdf>

- Further submission S122.FS.1

<https://www.kapiticoast.govt.nz/media/ictha40q/s122-fs-1-k%C4%81inga-ora-homes-and-communities-further-submission-24-11-2022.pdf>

Regarding what exactly has been agreed and declined, please refer to the Independent Hearing Panel's report in the hyperlink, below. In particular, Page 6 – [8](c)(i); and Pages 28 – 34 in Section 3.2 para [45] to [52]:

<https://www.kapiticoast.govt.nz/media/jrmofuz1/ihp-report-to-kapiti-coast-district-council-on-pc2.pdf>

4. We also would like to know what the plans are for the reserve on Gabriel Street

The reserve is held under the Reserves Act as a Recreational Reserve but is yet to be classified under the Act. Therefore, no Reserve Management Plan has been prepared for the reserve on Gabriel Street at this stage.

At present, there are no plans for any development of the site.

You have the right to request the Ombudsman to review this decision. Complaints can be sent by email to info@ombudsman.parliament.nz, by fax to (04) 471 2254, or by post to The Ombudsman, PO Box 10152, Wellington 6143.

Ngā mihi,

A handwritten signature in black ink, appearing to be 'Kris Pervan', with a stylized, flowing script.

Kris Pervan

Group Manager Strategy and Growth

Te Kaihautū Rautaki me te Tupu

MEMO

TO: Councillor Gwynn Compton, Strategy and Operations Committee
Chairperson

CC Kris Pervan, Group Manager Strategy and Growth
James Jefferson, Group Manager Regulatory Services

FROM: Jason Holland, District Planning Manager

DATE: 13 September 2022

SUBJECT: **APPOINTMENTS TO THE INDEPENDENT HEARINGS PANEL FOR
PROPOSED PLAN CHANGE 2 TO THE OPERATIVE KAPITI COAST
DISTRICT PLAN 2021**

Purpose of this memo

1. To seek your approval to appoint independent hearing commissioners, and a chairperson, to the independent hearings panel for Proposed Plan Change 2 (PC2).

Confirming your delegation to appoint hearing commissioners

2. [Clause 96\(1\) of Schedule 1](#) of the Resource Management Act 1991 (RMA) requires that the Council appoint a panel of independent hearings commissioners (an independent hearings panel) to conduct a hearing and make recommendations on PC2.
3. [Section 34A](#) of the RMA allows Council to delegate functions, powers or duties in relation to RMA hearings to appointed hearings commissioners. [Section 39B](#) of the RMA requires that all hearing commissioners are suitably accredited, which is achieved by being certified through the Making Good Decisions Programme.
4. The [Governance Structure and Associated Delegations 2019-2022](#) (p.7) states, in respect of the Strategy and Operations Committee, that:

The Chair of the Committee, in consultation with the Group Manager Regulatory Services will have the responsibility for the appointment of (RMA-related) hearing panels.¹

About Plan Change 2

5. [PC2](#) is Council's response to the [Resource Management \(Enabling Housing Supply and Other Matters\) Amendment Act 2021](#). This legislation requires all Tier 1 councils (including Kāpiti Coast District Council) to amend their district plans by preparing an

¹ Pages 9-10 of the Delegations 2019-2022 document list the functions, powers or duties (i.e., the delegations) that Council ordinarily delegates to appointed independent RMA hearings commissioners. For this plan change, that list of delegations is overridden by (to the extent it is not consistent with) specific direction in the RMA directing Council to delegate all of the functions, powers or duties that the independent hearings panel requires to conduct a hearing and make recommendations to Council (see clause 96 of Schedule 1).

[Intensification Planning Instrument](#) using the [Intensification Streamlined Planning Process](#) (ISPP).

6. The ISPP follows the traditional Schedule 1 plan change process except that:
 - a. by [direction of the Minister for the Environment](#),² Council must notify its decision on the independent hearing panel's recommendations by 20 August 2023
 - b. the ISPP does not provide for any appeals on this decision.³
7. On [28 July 2022](#), Council approved public notification of PC2. PC2 was [publicly notified](#) on 18 August 2022, with the period for public submissions closing at 5pm, Thursday 15 September.

Hearings Panel size, skills and composition

8. PC2 is a significant change to the District Plan which staff anticipate will attract a reasonably large (several hundred) number of submissions, which may raise a wide range of resource management planning issues, and which may take two full weeks (or longer) to hear verbal submissions on.
9. It is also a novel plan change, being the first (and only) plan change that will be developed under the recent Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021.
10. This plan change is also of significant interest to tangata whenua. [Clause 96\(2\) of Schedule 1](#) of the RMA requires Council to consult with tangata whenua (through relevant iwi authorities) when considering appointing hearing commissioners. In response, Ngāti Toa Rangatira, Ngā Hapū o Ōtaki (Ngāti Raukawa ki te Tonga), and Te Āti Awa ki Whakarongotai all confirmed they wish to see a commissioner appointed with an understanding of tikanga Māori and of the perspectives of local iwi or hapū. Their recommendations for that appointment are discussed further below.
11. Given the significance, scale and uniqueness of this plan change, and feedback from tangata whenua, staff propose appointing three independent hearing commissioners including:
 - a. a chair with expertise in law
 - b. a member with expertise in planning; and
 - c. a member with an understanding of tikanga Māori and of the perspectives of local iwi or hapū.

Appointment of Chair of the Independent Hearings Panel for PC2

12. To identify potential candidates for the role of chair, Council staff identified who on the [list of certificate holders \(non-local body elected members\)](#) in the Making Good Decisions Programme has legal expertise, chair accreditation, and who work in the

² The usual timing for notifying Council's decision is 2 years from public notification ([cl.10\(4\)\(a\)](#) of Schedule 1).

³ The traditional Schedule 1 process provides for appeals to the Environment Court ([c.14](#) of Schedule 1).

Wellington region. Suggestions and feedback were also sought from an experienced planning practitioner (Hamish Wesney, Boffa Miskell) and from in-house counsel (Tim Power).

13. 7(2)(a) [redacted] and John Maasen met the criteria and came highly recommended.

14. 7(2)(a) Privacy [redacted]
[redacted]

15. John Maasen is a Kāpiti-based barrister and experienced hearings panel commissioner and chair, with 30 years experience in those roles. John is well known to Council, including elected members. Most recently he acted as facilitator when terms of reference were set for the independent review of Council that was carried out by Martin Jenkins. His CV is Attachment 1.

16. John has confirmed his potential willingness and availability to carry out this role and is not aware of any conflicts of interest.

17. Council officer's recommendation is to appoint John Maasen as chair of the independent hearings panel for PC2, subject to confirming his position regarding conflicts of interest after submissions have been received.

Panel member with expertise in tikanga Māori

18. To identify potential candidates for this role, nominations were initially sought from Ngāti Toa Rangatira, Ngā Hapū o Ōtaki (Ngāti Raukawa ki te Tonga), and Te Āti Awa ki Whakarongotai. Four potential candidates were put forward by iwi:

a. 7(2)(a) Privacy

b. Rauru (Rau) Kirikiri

c. 7(2)(a) [redacted]

d. 7(2)(a) Privacy

7(2)(a) Privacy [redacted]
[redacted]
[redacted]
[redacted]

[redacted]

[redacted]
[redacted]
[redacted]

22. Rau Kirikiri is Wellington-based with 16 years experience as a hearings commissioner, having sat on a range of panels covering both district council and regional council work and resource consenting and plan making. Rau has current accreditation through the Making Good Decisions Programme. His CV is Attachment 2.

23. Rau has confirmed his potential willingness and availability to carry out this role and is not aware of any conflicts of interest.

24. Council officer's recommendation is to appoint Rauru Kirikiri as an independent hearings commissioner for PC2, subject to confirming his position regarding conflicts of interest after submissions have been received.

Panel member with expertise in planning

25. To identify a potential planner as an independent commissioner on the hearings panel, the list of certificate holders was reviewed for planners working in Wellington and who came recommended from an experienced planning practitioner [REDACTED], Boffa Miskell).

26. From those investigations, Jane Black and 7(2)(a) Privacy met the criteria and came highly recommended.

7(2)(a) Privacy
[REDACTED]
[REDACTED]
[REDACTED]

28. Jane Black is an experienced planner who has operated a consultancy out of Wellington for almost 15 years. Jane's particular strengths are in urban design, and she has sat on a number of hearing panels across the Wellington region. Her CV is Attachment 3.

29. Jane has confirmed her potential willingness and availability to carry out this role and is not aware of any conflicts of interest.

30. Council officer's recommendation is to appoint Jane Black as an independent hearings commissioner for PC2, subject to confirming her position regarding conflicts of interest after submissions have been received.

Recommendations

31. Subject to consultation with James Jefferson, Group Manager Regulatory Services, Council officers recommend you endorse (by signing the delegation approvals on the following page) council officers' recommendations to appoint:

- a. John Maasen as Chair
- b. Rauru Kirikiri as a panel member
- c. Jane Black as a panel member



Jason Holland
DISTRICT PLANNING MANAGER

John Maasen
I appoint John Maasen as an independent hearings commissioner and chair of the independent hearings panel for Proposed Plan Change 2 to the Operative Kapiti Coast District Plan.
<p>Delegation Approved</p> <p>Gwynn Compton Chairperson, Strategy and Operations Committee</p> <p>Date: 14/09/2022</p>

Rauru (Rau) Kirikiri
I appoint Rauru Kirikiri as an independent hearings commissioner and member of the independent hearings panel for Proposed Plan Change 2 to the Operative Kapiti Coast District Plan.
<p>Delegation Approved</p> <p>Gwynn Compton Chairperson, Strategy and Operations Committee</p> <p>Date: 14/09/2022</p>

Jane Black
I appoint Jane Black as an independent hearings commissioner and member of the independent hearings panel for Proposed Plan Change 2 to the Operative Kapiti Coast District Plan.
<p>Delegation Approved</p> <p>Gwynn Compton Chairperson, Strategy and Operations Committee</p> <p>Date: 14/09/2022</p>

ATTACHMENT 1: CV, JOHN MAASEN

ATTACHMENT 2: CV, RAURU (RAU) KIRIKIRI

ATTACHMENT 3: CV, JANE BLACK