

**Mayor and Councillors
COUNCIL**

11 DECEMBER 2014

Meeting Status: **Public**

Purpose of Report: For decision

PDP HEARINGS PANEL - APPOINTMENT OF ELECTED AND IWI COMMISSIONERS

PURPOSE OF REPORT

- 1 The purpose of this report is to seek confirmation from the Council that the Proposed District Plan ('PDP') hearings panel will include an iwi commissioner and two elected commissioners. The report also recommends that staff seek registrations of interest for the position of iwi commissioner, and that the appointment of elected commissioners be left until closer to the commencement of the hearings.

BACKGROUND

- 2 At the 24 July 2014 meeting, Council endorsed the following recommendations:

That Council endorse the appointment of an independent chair for the Proposed District Plan Hearings Panel.

That Council endorse the appointment of a Proposed District Plan Hearings Panel comprising the following (maximum of five):

Option 1	Option 2
<i>Independent chairperson</i>	<i>Independent chairperson</i>
<i>Independent commissioner</i>	<i>Independent commissioner</i>
<i>2 elected commissioners</i>	<i>3 elected commissioners</i>
<i>1 iwi Commissioner</i>	

That staff canvas independent commissioner's availability and suitability for positions on the Proposed District Plan Hearings Panel following Councils decision on panel composition and present suitable candidates to Council for its consideration and appointment.

- 3 A separate report, in the public excluded section of this agenda, addresses the appointment of the independent chair, and an independent commissioner. This report deals only with the elected commissioners and the iwi commissioner.

CONSIDERATIONS

Issues

IWI COMMISSIONER

- 4 In its resolution of 24 July 2014, the Council left two options for the composition of the hearings panel. Both options include an independent chair and an independent commissioner, but differed in their composition of the remaining three panel members. Option 1 includes two elected commissioners and an iwi commissioner. Option 2 includes three elected commissioners and no iwi commissioner. Because it was not certain whether an iwi commissioner would be included, staff have not proceeded further with compiling a shortlist from which to seek registrations of interest for this key role.
- 5 It is recommended that the Council confirm the inclusion of an iwi commissioner on the hearings panel. The reasons for this recommendation are set out below:
 - The PDP covers issues of significance to iwi - in particular protection of waahi tapu and of natural values. It is therefore desirable that the hearings panel include a commissioner with proven expertise in matters of interest to iwi.
 - To support the Council's commitment to an on-going partnership with iwi.
 - To continue the involvement of iwi in the PDP process - an involvement which dates from the preparation stages of the PDP via the establishment of a Tāngata Whenua District Plan Review Working Party.
- 6 If the Council confirms the inclusion of an iwi commissioner, it will be appropriate for staff to create a shortlist of possible candidates and seek registrations of interest from those candidates for the Council's future consideration.

ELECTED COMMISSIONERS

- 7 On 18 September, Councillors who hold RMA accreditation were invited by the Mayor to register their interest in being a PDP hearings commissioner. Three Councillors registered their interest, but this was reduced to two with the death of Cr Lloyd. The following two Councillors have registered their interest:

- Cr Diane Ammundsen
- Cr Mike Cardiff.

Cr Gurunathan initially registered his interest, but subsequently withdrew due to a conflict of interest.

- 8 As requested, the councillors provided the following information:
 - Copy of accreditation certificate
 - Conflict of interest declaration

This information is appended in **Attachment 1**.

- 9 It is proposed that the appointment of elected commissioners be delayed until a minimum of 3 months before the start of the hearings. The reasons for this recommendation are set out below:
- As the timing of the hearings has not yet been finalised, it is not clear how the hearing dates will fit in with the 2016 Local Government elections. The PDP implementation plan identifies a critical decision point in March 2016 for 'go / no go decisions for commencement of hearings'. The plan also identifies July to December 2016 for the hearings and decisions phase, but then allows a time contingency for continuation into 2017. Having the hearings and decisions phase timetabled to occur either side of the October 2016 Local Government elections contains risks due to the use of elected councillors as commissioners. Those elected commissioners may decide not to stand again or may be unsuccessful in retaining their seats. To avoid this risk, the Council may decide to postpone the start of the hearings until after the elections. This is one of the key matters that will need to be considered carefully at the decision point identified for March 2016.
 - The appointment of an independent chair, which is recommended in a separate 'public excluded' report, means the chair will be able work with staff on advance planning on format and conduct of the hearings. The chair will perform this role without needing the early appointment of the whole panel.
 - Councillors can, in the interim, self-manage any conflicts of interest which could arise due to actual or apparent bias or predetermination of position and which may affect their eligibility for the roles of elected commissioners. Councillors who are interested in being considered for the elected commissioners role will however need to be careful to maintain their independence and not predetermine their position on matters raised in submissions.

Financial Considerations

- 10 It is estimated that the total number of hearing days for the PDP will be between 50 and 90 days. The number of hearing days may be less depending on the extent to which submissions can be resolved through agreed positions reached at prehearing meetings. Elected members remuneration for Plan hearings is determined by the Higher Salaries Commission and is currently set at \$150.00 per day (plus GST). Experienced independent commissioners generally charge between \$1000 and \$2000 per day (plus GST). Staff have not yet approached any potential iwi commissioners for their charge out rates.
- 11 The budget forecast for the completion of the PDP has allowed for these hearing costs. The hearings are currently scheduled for the second half of 2016. However it is noted that, as provided for in the PDP implementation plan, a final 'go / no go' decision about the date for commencing hearings will be made no later than March 2016, after prehearing meetings have been completed.

Legal Considerations

- 12 Recent amendments to the RMA now require all commissioners whether elected or independent to be accredited commissioners.

Delegation

- 13 Under clause 7.40 of Section B2 of the Governance Structure and Delegations Manual, the Council retains delegation for appointment of the PDP Hearings panel.

SIGNIFICANCE OF DECISION AND ENGAGEMENT

- 14 The Council's Significance and Engagement policy does not cover any engagement process that may be required under the Resource Management Act 1991. However submitters will be advised through the PDP update, and a press release, of any appointments to the hearings panel.

Consultation

- 15 No community consultation process is required about the matters included in this report.

Policy Implications

- 16 No policy implication exists for this appointment process.

Tāngata Whenua Considerations

- 17 The key Tāngata Whenua consideration is whether an iwi commissioner will be appointed to the hearings panel. This matter is of critical importance to Tāngata Whenua.

Publicity Considerations

- 18 If the Council endorses the appointment of an iwi commissioner, a press release will be prepared announcing this decision at a later date, and submitters advised through the PDP update.

RECOMMENDATIONS

- 19 That, in addition to an independent chair and an independent commissioner, the Council confirms that the Proposed District Plan hearings panel will include an iwi commissioner and two elected commissioners.
- 20 That the Council requests staff to develop a short list of potential iwi commissioners for the Proposed District Plan hearings panel, obtain registrations of interest, and make a recommendation for Council approval.
- 21 That the Council defers the appointment of the two elected commissioners to the Proposed District Plan hearings panel until a minimum of 3 months before the commencement of the hearings.

Report prepared by:

**Approved for
submission by:**

**Approved for
submission by:**

Darryl Lew
**Manager, Environmental
Planning**

Stephen McArthur
**Group Manager,
Strategy & Partnerships**

Sharon Foss
**Acting Group Manager,
Regulatory Services**

Attachment

Information provided by candidates for elected commissioner roles.