

Unconfirmed

MINUTES OF A MEETING OF THE ENVIRONMENTAL MANAGEMENT COMMITTEE

Date: Wednesday 4 March 2009

Time: 9 a.m.

Venue: Council Chamber
Hawke's Bay Regional Council
159 Dalton Street
NAPIER

Present: E von Dadelszen – Chairman
M Black
A J Dick
T Gilbertson
N Kirton
E McGregor
M Mohi
L Remmerswaal
K Rose
C Scott

In Attendance: A Newman – Chief Executive
M Buchanan – Environmental Management Group Manager
L Hooper – Minute Secretary
E Lambert – Manager Policy
D Lew – Manager Regulation
G Sevicke-Jones – Manager Environmental Science
B Riley – Senior Planner
J Phillips – Land and Air Scientist
R Christie – Principle Scientist, Hydrology
S Harper – Groundwater Scientist
D Gordon – Principle Scientist, Groundwater

1. WELCOME/NOTICES/APOLOGIES

Chairman von Dadelszen welcomed everyone to the meeting. Apologies for early departure from the meeting were received from Mr Mohi, and from Mr Newman and Councillor Dick for a period of absence from the meeting from 11.30 am, and Councillor Rose from 10.00 am.

The Committee received notice from the Chairman, that the EECA presentation had been rescheduled at 10.30am.

Councillor Dick advised Councillors of the distribution of information for their consideration.

Mr Mohi informed the Committee that the newly appointed second representative to the Environmental Management Committee was Mr Charlie Lambert, pending Mr Lambert's confirmation of his acceptance.

Apologies were received from Councillor Gilbertson for lateness.

2. CONFLICT OF INTEREST DECLARATIONS

Mr Black advised his involvement with iwi authority appeals in relation to item 14 Proposed Regional Coastal Environment Plan and Plan Change 1 Appeals.

3. CONFIRMATION OF MINUTES OF MEETING HELD ON THURSDAY 13 NOVEMBER 2008

Moved: That the Minutes of the meeting held on Thursday 13 November 2008, a copy having been circulated prior to the meeting, be confirmed as a true and accurate record of the meeting.

**McGregor/Scott
CARRIED**

4. MATTERS ARISING FROM MINUTES OF MEETING HELD ON THURSDAY 13 NOVEMBER 2008

There were no matters arising.

5. ACTION ITEMS FROM ENVIRONMENTAL MANAGEMENT COMMITTEE MEETINGS

Moved: That the Action items from 13 November 2008 meeting be confirmed as completed.

**Rose/Scott
CARRIED**

6. CONSIDERATION OF GENERAL BUSINESS

(a) Dairy Farms

7. PROPOSED STORMWATER PLAN CHANGE

Ms Lambert spoke to the item, and responded to queries raised in relation to non-point source stormwater runoff, the status of the Hastings District Council reticulated urban stormwater systems, the mapping and definition of Sensitive Receiving Environments (SRE), best practice guidelines for the management of stormwater from roads, and the impacts and considerations around the NES for Sources of Human Drinking Water.

There was a suggestion that some 'consultation' with the TLAs, at a political level, be considered.

Moved: The Committee recommends that Council:

- 1.1. Agrees that the decisions to be made are significant under the criteria contained in Council's adopted policy on significance and that Council can exercise its discretion under Sections 79(1)(a) and 82(3) of the Local Government Act 2002 and make decisions on this issue without conferring directly with the community and persons likely to be affected by or to have an interest in the decision due to the nature and significance of the issue to be considered and decided and in any case, those people will have an opportunity to submit on the proposed plan following a decision by Council to publicly notify it.
- 1.2. Adopts, in principle and subject to the inclusion of the amendments made at the meeting, the provisions of Proposed Plan Change 3 and Variation 3 as the basis for further discussions with the Maori Committee and territorial authorities, with an updated draft document being provided to the March meeting of Council.

**Scott/Rose
CARRIED**

8. HEARINGS COMMITTEE DELEGATIONS, PROCESSES AND TERMS OF REFERENCE

Mr Lew and Ms Conland spoke to the item, and responded to queries raised in relation to the current Terms of Reference for the Hearings Committee, the types of issues that the Committee might consider, and the process of appointments to Hearings Panels.

Councillor Rose exited the meeting at 10.05am and re-joined the meeting at 10.15am.

Moved: The Committee recommends that Council:

- 1.1 Agrees that the decisions to be made are not significant under the criteria contained in Council's adopted policy on significance and that Council can exercise its discretion under Sections 79(1)(a) and 82(3) of the Local Government Act 2002 and make decisions on this issue without conferring directly with the community and persons likely to be affected by or to have an interest in the decision due to the nature and significance of the issue to be considered and decided.
- 1.2 Adopts the amendments of the Terms of Reference for the Hearings Committee to read as follows (*changes are either hi-lighted, struck through, or underlined*).

HEARINGS COMMITTEE

TERMS OF REFERENCE

To exercise the following delegations

1. *To consider and recommend to Council processes, policies and guidelines to ensure effective management of resource consent and plan development processes.*
2. *Pursuant to Section 34(1) of the Resource Management Act (RMA) the Hawke's Bay Regional Council delegate the following functions, powers and/or duties under the RMA:*
 - i) *To hear and make recommendations on submissions received on any statutory documents prepared by Council which have been subject to a formal submission process under the Resource Management Act 1991.*
 - ii) *To hear and make decisions on applications arising out of the Council's regulatory responsibilities as follows:*

- ~~• non-complying activities that have been publicly notified;~~
 - notified applications where submissions have been made and submitters wish to be heard;
 - reviews of conditions (s.128) where consent holder and/or submitters wish to be heard
 - notified applications where submissions have been made and where the Committee considers it necessary to hold a hearing;
 - objections to decisions made under delegated authority by staff, where they wish to be heard (s.357);
 - where the staff recommendation is to decline any application for reasons other than inadequate information;
- iii) To determine other related discretionary process matters that may be associated with a hearing such as waivers of time, as appropriate under the Resource Management Act 1991.
- iv) To hear and make decisions on objections against costs under Section 36(6) of the Act and objections to the levying of Financial Contributions under Section 108 of the Act.
- ~~v) To authorise the resolution and settlement of appeals and references on applications through formal hearings or mediation before the Environment Court and to either generally or from time to time delegate to officers the authority to resolve and settle appeals and references on applications through formal mediation before the Environment Court~~
- vi) To hear and make decisions on lapsing of consents under Section 125 of the Act where a decision of an officer acting under delegated authority is subject to an objection.
3. Pursuant to section 82 of the Biosecurity Act (BA) the Hawke's Bay Regional Council delegate the following functions, powers and/or duties under the BA:
- i) To hear and make decisions on submissions received on any statutory documents prepared by Council which have been subject to a formal submission process under the Biosecurity Act.
- ii) To authorise the resolution and settlement of appeals and references through formal hearings or mediation before the Environment Court or any other judicial body which relate to the preparation of any statutory documents prepared under the Biosecurity Act by the Council and to either generally or from time to time delegate to officers the authority to resolve and settle appeals and references through formal mediation.
4. The Hawke's Bay Regional Council delegate to the Hearings Committee Chairman, the appointment of Hearings Committee members to a Hearing Panel to undertake the functions set out above in 2(ii), 2(iii), 2(iv) and 2(vi) and the appointment of the Chair of the Hearing Panel.

MEMBERS:

Four elected and accredited Members of Council; and up to three members of the Maori Committee, nominated by the Chair of the Maori Committee.

~~However in the interim period until the required number of accredited members are available, the Committee sitting to make decisions relating to 1(ii), 1(v) and 1(vi)~~

above shall comprise:

- ~~Up to three accredited members of the Council~~
- ~~One accredited Commissioner~~
- ~~If considered advisable in any particular case by the Chairman of the Committee, a Member of the Council's Maori Committee.~~

**HEARING PANEL
COMPOSITION:**

*The Hearing Panel sitting to make decisions relating to 2(ii), 2(iii), 2(iv) and 2(vi) above shall comprise **any combination of:***

- *Up to three accredited members of the **Hearings Committee***
- *Up to three accredited Commissioners*
- *If considered advisable in any particular case by the Chairman of the Committee, an accredited member of the Council's Maori Committee.*

Also when appropriate, the Chair of the Standing Committee when hearings directly relate to policy originating from that Committee.

The Hearing Panel Chair has a Casting vote.

CHAIRMAN:

Cr Christine Scott

DEPUTY CHAIRMAN:

A member of the Committee as elected by the Council being: Cr E McGregor

MEETING FREQUENCY:

As is required

STAFF EXECUTIVE:

Group Manager Environmental Management

QUALIFICATIONS:

*Except as indicated above, (relating to the Chair of a Standing Committee ~~or the Member of the Council's Maori Committee during the interim period~~), all Members of the **Panel** must be accredited pursuant to section 39B of the Resource Management Act 1991.*

- 1.3 Adopts an amendment to the Standing Orders for the Hearings Committee to read:
 - 1.3.1 a quorum of one for hearing panels.
- 1.4 Agrees to the revision of internal processes in relation to the following as noted:
 - 1.4.1 Section 357 cost objection hearings
 - Hearing Panel to accept a summary report from staff in relation to s357 objections to cost
 - Hearing Panel Chairs write their own decisions based upon an agreed decision template.
 - Appoint s357 cost objection hearing panels comprising panel members that did not hear the original notified consent applications.
- 1.5 In relation to resource consent decision documents, change Council's Consents Manual to read:

*After the decision has been confirmed by the Hearing Panel, either at the meeting or remotely, the decision and consent document are to be signed by all members of the Hearing Panel; and
If, after the deliberation process, the Hearing Panel cannot reach a consensus, the majority agreement will prevail. Members of the panel who dissent may record their dissent in the published recommendation or decision.*

- 1.6 Deposit charges for resource consent applications
 - 1.6.1 increase of the deposit for notified resource consent applications from \$800 + GST to \$5000 + GST
 - 1.6.2 accept one deposit fee of \$800 + GST for multiple non-notified consent applications for a single activity, and \$5000 + GST for multiple notified consent applications for a single activity.

**Scott/Rose
CARRIED**

The meeting adjourned for morning tea at 10.25am and reconvened at 10.40am.

10. HEALTHY HOMES INITIATIVES EECA PRESENTATION

Mr Newman and Ms Lambert introduced this item by way of a presentation illustrating opportunities for Council, through advocacy to Central Government and funding initiatives for implementation of the NES, the Energy Efficiency and Conservation Authority (EECA), and the Healthy Homes Coalition to work together toward healthier homes and communities in the region.

Mr Robert Linterman, Project Manager Household Fund, presented an overview of EECA and its role in delivering energy efficiency and energy conservation initiatives for the government, and the different funding programmes it participates in.

Councillor Dick and Mr Newman exited the meeting at 11.25am.

Moved:

- 1.1 That the Committee receives the presentation.
- 1.2 That the Committee requests that staff prepare a paper for Council to explore options for facilitating a 'whole of house' approach to improving the energy efficiency and clean heat initiatives of the housing stock in Hawke's Bay.

**von Dadelszen/Gilbertson
CARRIED 8:1**

9. AIR PLAN SUBMISSION

Councillors queried whether members of the Hearings Committee who would be considering submissions on the Plan Change during the Hearing should or would like to declare an interest in this item in order to remove any actual or perceived 'conflicts of interest'.

Councillors Scott, Remmerswaal, McGregor, Mr Mohi and Mr Black stated that they wished to declare an interest.

It was agreed to leave this item on the table until such time as Councillor Dick returned to the meeting, in the interest of ensuring a quorum of the Committee would be maintained.

12. STATUTORY ADVOCACY MATTERS – 1 NOVEMBER 2008 – 31 JANUARY 2009

Ms Lambert provided an overview of applications considered by staff between 1 November 2008 and 31 January 2009.

**Rose/Kirton
CARRIED**

15. GENERAL BUSINESS

A councillor was approached by members of the dairy industry, interested in participating in a field day type of activity where they would be able to express their points of view in relation to Council's regulation of industry farming practices and the enforcement of conditions of resource consents.

The meeting adjourned for lunch at 12.15pm and reconvened at 1.05pm.

Mr Mohi's absence was noted, along with the return of Mr Newman and Councillor Dick to the meeting.

9. AIR PLAN SUBMISSION

Councillors Scott, Remmerswaal, McGregor, and Mr Black declared an interest in this item, and did not take part in the discussion, nor vote on this item.

Ms Lambert introduced Ms Riley, who covered the key points and relief being sought through a submission to Proposed Plan Change 2 and Variation 2 with assistance from Mr Phillips, Council's air quality scientist.

Moved: The Committee recommends that Council:

- 1.1 Agrees that the decision to be made is not significant under the criteria contained in Council's adopted policy on significance and that Council can make decisions on this issue as the Minister has conferred directly with the community and persons likely to be affected by or to have an interest in the decision due to the nature and significance of the issue to be considered and decided.
- 1.2 Lodges the submission on Proposed Plan Change 2 to the Regional Resource Management Plan and to Variation 2 to the Proposed Regional Coastal Environment Plan, including any amendments made at the 25 March Council meeting.

**Rose/Dick
CARRIED 4:0
Councillor Gilbertson Abstained**

11. RAINFALL, RIVER AND GROUNDWATER STATUS – SUMMER 2008/09

Mr Sevicke-Jones introduced Dougall Gordon, Principle Scientist Groundwater; Simon Harper, Groundwater Scientist; and Rob Christie, Principle Scientist Hydrology and distributed graphics depicting the information that was to be presented, as it appears on Council's website. Mr Christie presented information pertaining to recorded rainfall and river levels measured over the 2008/2009 summer. Mr Harper presented the groundwater level information.

Moved:

- 1.1 That the Committee receives the report titled "*Rainfall, River and Groundwater Status – Summer 2008/09*".

**Rose/Dick
CARRIED**

13. **BALLANCE FARM ENVIRONMENT AWARDS**

Mr Perley gave some background information about the awards, which are run by the New Zealand Farm Environment Awards Trust and raise the profile of good farming practices and good farmers.

It was queried whether, with the range of awards already available to the farming sector, it was advisable to become involved in yet another awards programme that may duplicate others already established. There was further discussion about whether taking money out of the Regional Landcare Scheme would mean that less work would be undertaken under that scheme, and whether a surplus was available to be spent, or whether there was funding available elsewhere.

The specific details of where the money (25k) would be spent and how much others were contributing to the awards were queried, as well as how this award would complement and increase the profile of what this Council does. Further, it was queried whether it would be better to spend the money enhancing Council's own HB Environmental Awards to raise their profile.

Moved:

The Committee recommends that:

- 1.1 Staff prepare a paper for presentation at the 27 May 2009 Council meeting, which addresses the questions raised and provides an organisation-wide, holistic analysis of the issues discussed.

**McGregor/Dick
CARRIED**

14. **PROPOSED REGIONAL COASTAL ENVIRONMENT PLAN AND PLAN CHANGE 1 APPEALS**

Mr Buchanan spoke to this item, and advised that Council would seek court appointed mediation on outstanding appeals that remained unresolved at the end of April.

Moved:

- 1.1 That the Committee receives the report titled '*Proposed Regional Coastal Environment Plan and Plan Change 1 Appeals*'.

**Rose/Kirton
CARRIED**

16. **CONFIRMATION OF PUBLIC EXCLUDED MINUTES OF MEETING HELD ON THURSDAY 13 NOVEMBER 2008**

Moved:

- 1.1 That the Committee excludes the public from this section of the meeting being Agenda Item 15 – **Confirmation of Public Excluded Minutes of Meeting held on Thursday 13 November 2008** with the general subject of the items to be considered while the public is excluded. The reasons for passing the resolution and the specific grounds under Section 48 (1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution being:

**GENERAL SUBJECT
OF THE ITEM TO BE
CONSIDERED**

**Public excluded
minutes of meeting
13 November 2008**

REASONS FOR PASSING THIS RESOLUTION

7(2)(b)(ii) That the public conduct of this agenda item would be likely to result in the disclosure of information where the withholding of that information is necessary to protect information which otherwise would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information.

**FOUNDATIONS UNDER
SECTION 48(1) FOR
THE PASSING OF THIS
RESOLUTION**

The Council is specified, in the First Schedule to this Act, as a body to which the Act applies.

**Rose/Kirton
CARRIED**

The Committee moved into Public Excluded Session at 2.52pm

16. CONFIRMATION OF PUBLIC EXCLUDED MINUTES OF MEETING HELD ON THURSDAY 13 NOVEMBER 2008

Moved:

- 1.1 That the Public Excluded Minutes of the meeting held on Thursday 13 November 2008, a copy having been circulated prior to the meeting, be confirmed as a true and accurate record of the meeting.

**Scott/Rose
CARRIED**

The Committee moved out of Public Excluded Session at 2.54pm

**Rose/Scott
CARRIED**

Closure:

There being no further business the Chairman declared the meeting closed at 2.55pm.

Signed as a true and correct record.

DATE:

CHAIRMAN: