



MINUTES OF A MEETING OF THE ENVIRONMENTAL MANAGEMENT COMMITTEE

- Date:** Wednesday 12 May 2010
- Time:** 9.00 a.m.
- Venue:** Council Chamber
Hawke's Bay Regional Council
159 Dalton Street
NAPIER
- Present:** E von Dadelszen – Chairman
M Black
A J Dick
N Kirton
E McGregor
P Paku
L Remmerswaal
K Rose
C Scott
F Wilson
- In Attendance:** A Newman – Chief Executive
D Lew – Group Manager Resource Management
Dr A Uytendaal – Senior Scientist/Team Leader, Water Quality &
Ecology
B Stansfield – Freshwater Scientist
B Riley – Senior Planner
G Ide – Team Leader Policy
L Hooper – Minute Secretary

1. WELCOME/NOTICES/APOLOGIES

Chairman von Dadelszen sought and was granted agreement to hear the agenda items out of order.

Chairman von Dadelszen welcomed everyone to the meeting and noted apologies from Councillor Gilbertson. In addition, Councillor Kirton apologised for his absence from morning tea time, and Councillor Dick for his late arrival.

**Scott/McGregor
CARRIED**

2. CONFLICT OF INTEREST DECLARATIONS

There were no conflict of interest declarations.

3. CONFIRMATION OF MINUTES OF MEETING HELD ON WEDNESDAY 10 MARCH 2010

Moved: That the Minutes of the meeting held on Wednesday 10 March 2010, a copy having been circulated prior to the meeting, be confirmed as a true and accurate record of the meeting.

**Rose/Scott
CARRIED**

4. MATTERS ARISING FROM MINUTES OF MEETING HELD ON WEDNESDAY 10 MARCH 2010

Item 9 Future of HB Environmental Awards – recommendation 2.2 was “The HB Chamber of Commerce Business Awards include ‘sustainable business’ and ‘product/service’ categories. Council will sponsor an appropriate category award (for an annual investment of \$4,000) subject to suitable conditions being agreed with the Chamber of Commerce and reported to Council for consideration”, and Councillors queried whether negotiations had been successful in that regard. Mr Newman responded that negotiations had been held, a ‘business innovation’ award had been proposed, and that a paper would be brought to Council for consideration.

5. ACTION ITEMS FROM ENVIRONMENTAL MANAGEMENT COMMITTEE MEETINGS

Moved: That the Committee confirms there are no Action items outstanding from previous Environmental Management Committee meetings.

**Scott/McGregor
CARRIED**

6. CONSIDERATION OF GENERAL BUSINESS

- a) United Nations International Year of Biodiversity
- b) Schedule IV mining in Hawke’s Bay

12. STREAM ECOLOGICAL VALUATIONS FOR THE KARAMU STREAM CATCHMENT

Mr Lew introduced Dr Adam Uytendaal, who has recently joined Council as the Senior Scientist and Team Leader, Water Quality and Ecology.

Mr Brett Stansfield presented an overview of the Stream Ecological Valuation work undertaken in the Karamu catchment over the last year or so, how the valuation was carried out and what the results meant. The SEV is a tool used in assessing how best to ‘restore’ streams’ ecological health as well as policy framework development. Further SEV sampling work is scheduled to be carried out in the Karamu catchment in support of the Te Karamu restoration project.

Recommendation

Moved: That the Committee receives the report titled "*Stream Ecological Valuations for the Karamu Stream Catchment*".

McGregor/Remmerswaal
CARRIED

7. HEARING DECISION WRITING AND S.357 OBJECTION DECISIONS

Ms Berkett provided an explanation of the independent commissioner's decision on the Ngaruroro cost objections, the implications of that decision and options for Council to consider for dealing with those implications for future hearing related consent processing charges.

There was discussion about the process of deciding whether or not to use an external consultant or commissioner as a 'decision writer' and the actual and reasonable costs recoverable from the applicant for the decision writing process. Issues for consideration in making the decision to use an external decision writer, as opposed to a Council staff member, include staff workloads and whether the application 'occasioned' the use of an external person.

Documenting the decision process and the requirements of the decision writer were suggested, to provide a clear and 'transparent' process.

Recommendations

Moved: The Committee recommends that Council:

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.
2. Delegates to the Hearing Committee Chair, authority under s.34A of the Resource Management Act 1991 to appoint a suitable decision writer on a case by case basis.
3. Adopts the 'Decision Writer Assessment Form' as reviewed and updated annually, to be used to formally document the decision to appoint a decision writer for any publicly or limited notified hearing or s.357 hearing.
4. Instructs staff to prepare a staff submission on the 2010/11 draft annual plan to include the words:
 - 4.1 the cost of the decision writer to attend the hearing and deliberations, and the decision writing time. Where the decision writer is an independent commissioner sitting as a panel member, the commissioner's time to attend the hearing and deliberations will be charged at actual cost. However, the additional cost of using an independent consultant to write the decision will not be charged to the applicant. That is, the cost of the decision writing time will be charged to the applicant at the same rate as if a Council consent officer were undertaking the work.
 - 4.2 Where the decision writer is an external consultant not sitting as a panel member any additional cost of the consultant's time to attend the hearing and deliberations, and to write the decision will not be charged to the applicant. That is, the consultant's time will be charged to the applicant at

the same rate as if a Council senior consent officer were undertaking the work.”

5. Adopts a policy requiring panel members for s.357(B) hearings to fully justify, in writing, their decision to remit any additional charges, with reference to the relevant sections of the RMA, Council policies and case law.
6. Requires Council staff to include, in the scope of the short form contract provided to an independent commissioner before a s.357(B) hearing, the words:
 - 6.1 “A full justification is required, in writing, of any decision to remit any additional charges, with reference to the relevant sections of the RMA, Council policies and case law”.

**Kirton/Rose
CARRIED**

The meeting adjourned for morning tea at 10.30am and reconvened at 10.50am, with Councillor Kirton no longer in attendance.

8. RIVERMOUTH HAZARD AREAS INCORPORATED INTO PROPOSED REGIONAL COASTAL ENVIRONMENT PLAN

Ms Riley outlined options for Council to address a perceived deficiency in the process followed for decisions Council has made on submissions to the Proposed Regional Coastal Environment Plan (RCEP) in relation to the manner in which the RCEP's Coastal Hazard Zone 1 (CHZ1) was amended by Decisions to include 'rivermouth hazard areas' identified by hazard assessments undertaken on Council's behalf by Tonkin and Taylor Limited.

The option recommended by staff involves preparation of a Variation to the RCEP, concurrently removing and reintroducing the rivermouth hazard areas as part of CZH1. This would ensure a participatory process involving potentially affected landowners.

Recommendations

Moved: The Committee recommends that Council:

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.
2. Agrees, in principle, that a Variation be prepared and publicly notified in which the Proposed Regional Coastal Environment Plan would be varied to concurrently remove and reintroduce rivermouth hazard areas as part of Coastal Hazard Zone 1.
3. Instructs staff to prepare a draft Variation and present the draft Variation for consideration at the Environmental Management Committee meeting on 14 July 2010.

**Scott/Rose
CARRIED**

9. PLAN CHANGE 2 AND VARIATION 2: AIR QUALITY – OVERVIEW AND RESOLUTION OF APPEALS

Three appeals of the Plan Change 2 and Variation 2 decisions have been received. They are from Napier City Council, Solid Energy and Hort NZ, and copies of the appeals were distributed to the Councillors present.

Recommendations

Moved: The Committee recommends that Council:

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 submissions 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.
2. Agrees that the Hearing Committee be reconvened to determine Council's initial position and direction setting in relation to matters raised by appeals lodged against Plan Change 2 to the Regional Resource Management Plan and Variation 2 to the Proposed Regional Coastal Environment Plan.
3. Agrees that Mr Morry Black, appointee to the Hearings Committee, be remunerated at a rate of \$68 per hour, plus mileage at \$0.70 per kilometre, for time spent preparing for and attending a meeting of the Hearings Committee to consider the appeals to the Air Quality Plan changes.

**Rose/Wilson
CARRIED**

11. STATUTORY ADVOCACY

Mr Ide responded to queries in relation to the updated report on statutory advocacy matters currently being dealt with by Policy staff.

Recommendations

Moved: That the Committee receives the updated report "Statutory Advocacy Matters".

**Remmerswaal/Wilson
CARRIED**

10. PORAITI VALLEY GROUNDWATER

Mr Lew and Mr Barrett updated the Committee on a public meeting that was held with landowners in the Poraiti Valley, to discuss the status of the groundwater resource in the area.

Recommendations

Moved: That the Committee receives the report "Poraiti Valley Groundwater".

**Dick/Wilson
CARRIED**

13. GENERAL BUSINESS

- a) United Nations International Year of Biodiversity
2010 is the United Nations International Year of Biodiversity and it was suggested that Council look at ways to incorporate this into its biodiversity activities coming up, such as the planting days in June.

- b) Schedule IV mining in Hawke's Bay
Submissions on the Government's proposal to mine some Schedule IV land close on 26 May 2010.

14. CONFIRMATION OF PUBLIC EXCLUDED MINUTES OF MEETING HELD ON WEDNESDAY 10 MARCH 2010

Recommendation

Moved:

- 1. That the Committee exclude the public from this section of the meeting being Agenda Item 14 - Confirmation of Public Excluded Minutes of Meeting held on 10 March 2010, with the general subject of the item 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 as follows:

GENERAL SUBJECT OF THE ITEM TO BE CONSIDERED	REASON FOR PASSING THIS RESOLUTION	GROUNDS UNDER SECTION 48(1) FOR THE PASSING OF THE RESOLUTION
Public Excluded Minutes of Meeting held 10 March 2010; Hazardous Activities on Industrial Land Issues 1 & 2	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.	The Council is specified, in the First Schedule to this Act, as a body to which the Act applies.

**McGregor/Rose
CARRIED**

The meeting moved into Public Excluded Session at 11.34pm

- Moved:** That the Public Excluded Minutes of the meeting held on Wednesday 10 March 2010, a copy having been circulated prior to the meeting, be confirmed as a true and accurate record of the meeting.

**Scott/Wilson
CARRIED**

- Moved:** That the Committee move out of Public Excluded.

**McGregor/Scott
CARRIED**

The meeting moved out of Public Excluded Session at 11.38pm

Closure:

There being no further business the Chairman declared the meeting closed at 11.40am.

Signed as a true and correct record.

DATE:

CHAIRMAN: