

Hearings Committee Terms of Reference

Adopted by Council resolution 30 June 2021

1. Pursuant to Section 34(1) of the Resource Management Act (RMA) the Hawke's Bay Regional Council delegates the following functions, powers and/or duties under the RMA¹:
 - 1.1. To hear and make decisions pursuant to sections 37, 37A, 39, 39AA, 40, 41, 41A, 41B, 41C, 41D, 42, 42A, 103B, 104, 104A, 104B, 104C, 104D, 104E, 105, 107, 108, 108AA, 108B, 109, 113, and 115 of the Resource Management Act on applications arising out of the Council's regulatory responsibilities on:
 - 1.1.1. notified applications where submissions have been made and submitters wish to be heard
 - 1.1.2. reviews of conditions (s.128) where consent holder and/or submitters wish to be heard
 - 1.1.3. notified applications where submissions have been made and where the Committee considers it necessary to hold a hearing
 - 1.1.4. objections to decisions made under delegated authority by staff, where the applicant wishes to be heard (s.357, s357A, s357AB, s357B, s357C, s357CA and s357D)
 - 1.1.5. where the staff recommendation is to decline any application for reasons other than inadequate information
 - 1.2. 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.
 - 1.3. 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.
 - 1.4. To hear and make decisions on lapsing of consents under Section 125 of the Act where Council Policy directs, or staff elect not to make a decision under delegated authority, or where a decision of an officer acting under delegated authority is subject to an objection.
 - 1.5. The appointment of Hearings Committee members or independent commissioners to a Hearing Panel to undertake the functions set out above in 1.1 to 1.4 pursuant to s 34A RMA and the appointment of the Chairperson of the Hearing Panel².
 - 1.6. 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 resource consent applications and to either generally or from time to time delegate to officers the authority to resolve and settle appeals and references through conferencing and formal mediation (s267 and s268A).
 - 1.7. To authorise the Hearings Committee Chairperson to hear and decide objections made under s.357, s357A or s357B in accordance with s357C and s 357D.

¹ NOTE: For the avoidance of doubt, the Hearings Committee is not delegated the functions, powers and duties to hear and make decisions on submissions made in relation to a proposed plan, policy statement, plan change or variation under the RMA. Such functions, powers and duties are delegated to a Panel of accredited RMA hearings commissioners appointed by the Council on an as needed basis, based on recommendations from the Regional Planning Committee.

² NOTE: While the Local Authorities (Members Interest) Act 1968 requires Councillors not to participate in decisions where they will receive a financial benefit there are exceptions to this rule which allow Councillors to participate in decisions including the appointment of themselves to a hearing panel. Refer to section 6(3)(c) of the Local Authorities (Members' Interests) Act 1968.

2. Pursuant to section 72 of the Biosecurity Act (BA) the Hawke’s Bay Regional Council delegates the following functions, powers and/or duties under the BA:
 - 2.1. 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.
 - 2.2. 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.

3. Pursuant to section 83 and Schedule 7 (clause 32) of the Local Government Act 2002 the Hawke’s Bay Regional Council may, on a case-by-case basis, delegate the following powers, duties and functions under the LGA:
 - 3.1. to hear submissions and to decide or make recommendations to the Council on a proposal that is subject to a special consultative procedure³.
 - 3.2. to further delegate the functions under 3.1 to another subordinate decision-making body, or to an officer of the Regional Council.

4. The Hawke’s Bay Regional Council delegates to the Hearings Committee Chairperson and Council Chairperson, the ability to appoint Hearings Committee members or Independent Commissioners to a Hearing Panel to undertake the functions set out above in 1 and 2 above and the appointment of the Chairperson of the Hearing Panel.

Members: Up to five elected “RMA Making Good Decisions” accredited Members of Council; being:

- Councillors Martin Williams, Rick Barker, Craig Foss, and Hinewai Ormsby

And up to four “RMA Making Good Decisions” accredited members of the Māori (MC) and/or Regional Planning Committee (RPC) as nominated by the Chair of those Committees; being:

- Tania Huata (RPC)
- Katarina Kawana (MC)
- Dr Roger Maaka (MC)
- Mike Mohi (RPC)

Hearing Panel Composition: The Hearing Panel sitting to make decisions relating to 1. and 2. above shall comprise any combination of:

- The Chairperson sitting alone
- Up to three members of the Hearings Committee
- Up to five accredited Commissioners
- If considered advisable in any particular case by the Chairman of the Hearings Committee, a member of the Council’s Māori Committee
- Also, when appropriate, the Chairperson of the Standing Committee when hearings directly relate to policy originating from that Committee.

The Hearing Panel Chairperson has a Casting vote.

³ NOTE: For the avoidance of doubt, it is not intended that the Hearings Committee will be delegated to hear or make decisions on Long Term Plan, Annual Plan or Transport Plan submissions received.

- Chair:** An "RMA Making Good Decisions" Accredited member of the Committee as elected by the Council being:
- Councillor Martin Williams
- Deputy Chair:** A member of the Committee as elected by the Council being:
- Councillor Rick Barker
- Meeting Frequency:** As is required
- Quorum:** The Chairman of the Hearings Committee plus one other member of the Hearings Committee or the Chairperson of the Regional Council
- Staff Executive:** Group Manager Policy & Regulation and/or Group Manager Asset Management
- Qualifications:** In accordance with s39B all persons appointed to a Hearing Panel to undertake the functions set out above in 1 and 2 shall be accredited.