



NAPIER
CITY COUNCIL
Te Kaunihera o Ahuriri

Napier Civic Building
231 Hastings Street
t +64 6 835 7579
e info@napier.govt.nz
www.napier.govt.nz

EMERGENCY HEARINGS COMMITTEE (RESOURCE CONSENT HEARING)

Open Agenda

Meeting Date: Wednesday 20 April 2022

Time: 10.00am (Emergency Hearings Committee)

Venue: Via Teams Link

Committee Members **Chair:** Deputy Mayor Brosnan
Councillors Browne, Simpson, Tapine, Taylor and Mayor Wise
Māori Committee Representative (Vacant)

Officer Responsible Director City Strategy (Richard Munneke)
Director Programme Delivery (Jon Kingsford)

Administration Governance Team

Next Hearings Committee (Resource Consent Hearing)
Meeting to be confirmed

ORDER OF BUSINESS

Apologies

Nil

Conflicts of interest

Public forum

Nil

Announcements by the Chairperson including notification of minor matters not on the agenda

Note: re minor matters only - refer LGOIMA s46A(7A) and Standing Orders s9.13

A meeting may discuss an item that is not on the agenda only if it is a minor matter relating to the general business of the meeting and the Chairperson explains at the beginning of the public part of the meeting that the item will be discussed. However, the meeting may not make a resolution, decision or recommendation about the item, except to refer it to a subsequent meeting for further discussion.

Announcements by the management

Minor matters not on the agenda – discussion (if any)

Agenda items

1 Council Hearings Committee Appointment3

Public Excluded

Nil

AGENDA ITEMS

1. COUNCIL HEARINGS COMMITTEE APPOINTMENT

Type of Report:	Enter Significance of Report
Legal Reference:	Enter Legal Reference
Document ID:	1455585
Reporting Officer/s & Unit:	Luke Johnson, Team Leader Planning and Compliance

1.1 Purpose of Report

The purpose of this report is to acknowledge the recent processing of a Resource Consent Application which has been limited notified and is now subject to a formal hearing due to a submission being received and the submitter wishing to be heard.

Officer's Recommendation

The Hearings Committee (Resource Consent Hearing):

- Resolve to appoint the following elected members (to be determined at the meeting) to a hearings panel in accordance with Section 34A of the Resource Management Act 1991.
- The Hearing Committee delegate in accordance with Section 34A of the Resource Management Act the functions, powers and duties of the Council, in determining this matter, to the panel.

1.2 Background Summary

The subject site is described as Lot 4 on DDP317, more commonly known as 69 Hardinge Road, Ahuriri. The applicant (Kwok and Janine Cheng) propose the demolition of the existing dwelling and the erection of a new two story dwelling comprising four bedrooms, kitchen, dining and lounge areas, pool room and double garage. The application also proposes a pool and uncovered deck area to the rear of the site.

1.3 Reasons for Limited Notification

For the demolition of existing dwelling noted as a Group 3A heritage item in the Napier District Plan. Group 3A heritage items are noted as being all buildings within the Hardinge Road Character overlay.

For the construction of new dwelling that does not comply with all the permitted performance standards within the Hardinge Road Residential zone. The new build results in the following infringements adjacent to the western boundary:

Western Boundary:

- The building is located 0.380m from the western boundary, an infringement with standard 8.161(b) of 0.62m. The building is located with a maximum vertical infringement of 2m over full extent of the dwelling (18.92m).

Other infringements include:

Eastern Boundary:

- The building is located so the cladding is located 0.1m into the side yard, with the first-floor window located 0.7m from the eastern boundary, a maximum infringement of 0.3m. The building is located with a maximum vertical infringement of 1.5m over the full extent of the dwelling (15.20m).

Southern Boundary:

- The proposed pool is located adjacent to the southern boundary. The pool exceeds 25,000m³ in capacity and thus is a structure located within the side yard.

Northern Boundary:

- The proposed building is located with a maximum vertical infringement of 1.5m at the building apex.

Open Space:

- The proposal results in a shortfall in open space provided of 24.75m².

1.4 Parties related to the Application

Land Owner:

- Mr Kwok Sing Cheng and Mrs Janine Cheng

Applicant:

- Ms Pip Beachen (Intermediate Planner – Strategy)
- Mr Cameron Drury (Director – Strategy)

Processing Planner:

- Mrs Christina Joy Bunny (Consultant – Napier City Council)

Adjoining Land Owners:

- Mr Kevin Bruce Riddell (68 Hardinge Road)
- Mr Brian Dennis Lucas and Mrs Shirley Jane Lucas (70 Hardinge Road)
- Mr Robert Thomas Dallas (156 Waghorne Street)

1.5 Chairperson Recommendation

The Napier City Council Hearing's Committee Terms of Reference (attached) details Guidance Criteria for Delegations to and Appointment of Commissioners. Specifically that the assignment of commissioner be made having considered the recommendation by the Chairperson and the Director City Strategy. In this case, the Chairperson has indicated that herself and Councillor Nigel Simpson be appointed to sit on the panel to hear this matter.

1.4 Attachments

- 1 Hearings Committee Terms of Reference (Doc Id 1456122) [↓](#)

HEARINGS

<i>Chairperson</i>	<i>Deputy Mayor Annette Brosnan</i>
<i>Deputy Chairperson</i>	<i>Councillor Graeme Taylor</i>
<i>Membership</i>	<i>Her Worship the Mayor Kirsten Wise</i>
	<i>Councillor Apiata Tapine</i>
	<i>Councillor Nigel Simpson</i>
	<i>Councillor Hayley Browne</i>
	<i>Representative of Ngā Mānukanuka o te Iwi (Māori Committee) (to be appointed)</i>
<i>Quorum</i>	<i>3</i>
<i>Meeting frequency</i>	<i>As required</i>
<i>Officer in Charge</i>	<i>Director City Strategy and Director Programme Delivery</i>

Role

To conduct fair and effective Hearings and make determinations on a range of the Council's quasi-judicial functions under legislation (and other matters as referred to the Committee), and to make decisions on the appointment of Commissioners (both elected members and Independent Commissioners) to hear and determine Applications under the Resource Management Act 1991.

Delegations

The Hearings Committee is granted responsibility and full delegated authority of the Council to make final decisions of Council in line with its mandate and in accordance with legislative requirements. The Committee may decide to refer a matter to Council accompanied by recommendations where it deems the significance of the decision or its implications warrant it.

The Hearings Committee will hear and make determination on statutory and or regulatory matters under relevant legislation unless otherwise delegated by statute or Council, including (but without limitation):

- District Plan
 - Hear and make determination on submissions and objections to the Napier City District Plan Review and any changes or variations proposed to that Plan.
 - The Committee may decide to refer the matter to Council accompanied by recommendations, in a situation where:
 - the District Plan will be significantly altered as a result of submissions,
 - any decision on the District Plan will have a significant impact outside the District Plan on other Council policies, particularly rating levels or fees and charges, and
 - the Council will need to consider making a variation or change to the District Plan.

- Tenders
 - Consider and decide tenders for the supply of goods and services to the Council, where tenders exceed the Chief Executive's delegated authority or are of a scale and significance to be of interest to Council as identified in the notes section of these TOR.
- Hear and make decisions on challenges to decisions made under delegated authority where legislation allows.
- Hear and decide Objections under the Dog Control Act.
- Hear and decide matters regarding drainage and works on private land under the Local Government Act 2002.
- Hear and decide matters under the Resource Management Act, specifically:
 - Hear and determine notified resource consent applications where a hearing is required;
 - Hear and decide any objections against certain decisions under s357 of the Act;
 - Make decisions on the appointment of Commissioners (both Elected Members and Independent Commissioners) to hear and determine applications for Resource Consent in accordance with the guidance criteria in these terms of reference;
 - Make recommendations as to where commissioner costs may fall at the time of appointment, having considered s36 of the Act.

GUIDANCE CRITERIA FOR DELEGATIONS TO AND APPOINTMENT OF COMMISSIONERS

Each member of the Hearings Committee that is responsible for Resource Management Act 1991 matters shall, if that member is accredited under this Act, be deemed for the purposes of this delegation to be a Hearings Commissioner.

Guidance for appointment of Commissioners

1. The Hearing Committee may appoint one or more Hearings Commissioners, or elected members, to a hearings panel, and may delegate in accordance with section 34A of this Act the functions, powers and duties of the Council, in determining any matter, to that individual or panel.
2. The assignment shall be made having considered the relevant legislative guidance in section 34A of The Act.
3. The assignment shall be made having considered the General Criteria for Appointment of independent Hearings Commissioner(s) below.
4. The assignment shall be made having considered the recommendation by the Chairperson and the Director City Strategy or her/his nominee, in particular the skillset required to hear and decide the specific hearing issue(s).

5. The Hearings Committee shall meet to hear the appointment recommendations, decide and appoint commissioners. The committee will formalise the delegation of powers and functions under the Act in a formal decision of the committee at this time.
6. When appointing consideration should be given to any elected members experience and competency in relation to the hearing matter and may choose to pair an elected member with an independent commissioner to build skills and experience.

General Criteria for Appointment of independent Hearings Commissioner(s)

One or more independent Hearings Commissioners shall be recommended to consider any matter or to exercise the functions, powers and duties of the Council under the Resource Management Act 1991 in accordance with section 34A of this Act, when one or more of the following applies:

- a) The Council is the applicant.
- b) The organisation (applicant) is one in which the Council has a significant and/or pecuniary interest.
- c) The project (application) is one in which the Council has a significant and/or pecuniary interest.
- d) A valid request has been made under the Resource Management Act 1991 for a Commissioner to hear and determine the matter.
- e) In the view of either the Council or the Chairperson or Deputy Chairperson of the Hearings Committee the subject of the hearing is highly political and elected members' objectivity in hearing or determining the matter would be compromised due to previous political and community debate.
- f) In the view of either the Council or the Chairperson or Deputy Chairperson of the Hearings Committee, the highly complex and technical nature of the issues to be addressed in the hearing requires specific expertise. (Care is needed in this regard, as technical issues should always be discussed at the hearing in a manner that is understandable to the layperson.)
- g) In the view of either the Council or the Chairperson or Deputy Chairperson of the Hearings Committee, the Hearings Committee has insufficient resources and/or time to hear the matter in a timely manner.

Note. Work must be identified in a Long Term Plan [LTP] (or an Annual Plan [AP] update to the LTP) in order to be considered for progress at any given time.

Typically the Hearings Committee will consider tenders for works included in the LTP or an AP that are above the financial delegation to the Chief Executive.

However, there may be instances where a tender may be brought to the Committee for consideration even when the monetary value is within the existing CE delegation.

For example, this would take place where specifically requested by resolution of Council or where the work relates to a bespoke project of significant interest to Council.