



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

HEARINGS COMMITTEE (DISTRICT PLAN)

Open Agenda

Meeting Date: Thursday 18 July 2024

Time: 2.15pm

Venue: Chapman Room
Level 1, Chapman Pavilion
McLean Park
Latham Street
Napier

Committee Members **Chair:** Deputy Mayor Brosnan

Members: Councillors Browne (Deputy Chair), Simpson, Tareha, Taylor, and Mayor Wise

Officer Responsible Executive Director City Strategy (Rachael Bailey)

Administration Governance Team

Next Hearings Committee (District Plan Hearing) Meeting to be confirmed

Monday 4 November 2024

2022-2025 TERMS OF REFERENCE – HEARINGS COMMITTEE

<i>Chairperson</i>	<i>Deputy Mayor Annette Brosnan</i>
<i>Deputy Chairperson</i>	<i>Councillor Hayley Browne</i>
<i>Membership</i>	<i>Mayor and 5 Councillors</i>
<i>Quorum</i>	<i>3</i>
<i>Meeting frequency</i>	<i>As required</i>
<i>Officer Responsible</i>	<i>Executive Director City Strategy</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):

1. 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.
2. Hear and make decisions on challenges to decisions made under delegated authority where legislation allows.
3. Hear and decide Objections under the Dog Control Act.
4. Hear and decide matters regarding drainage and works on private land under the Local Government Act 2002.
5. 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:

1. The Council is the applicant.
2. The organisation (applicant) is one in which the Council has a significant and/or pecuniary interest.
3. The project (application) is one in which the Council has a significant and/or pecuniary interest.
4. A valid request has been made under the Resource Management Act 1991 for a Commissioner to hear and determine the matter.
5. 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.
6. 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.)
7. 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.

ORDER OF BUSINESS

Apologies

Nil

Conflicts of interest

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

Nil

Decisions from hearing committees

Nil

Public excluded5

RECOMMENDATION TO EXCLUDE THE PUBLIC

That the public be excluded from the following parts of the proceedings of this meeting, namely:

AGENDA ITEMS

1. Proposed District Plan Hearing Panel

The general subject of each matter to be considered while the public was excluded, the reasons for passing this resolution in relation to each matter, and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution were as follows:

General subject of each matter to be considered.	Reason for passing this resolution in relation to each matter.	Ground(s) under section 48(1) to the passing of this resolution.
1. Proposed District Plan Hearing Panel	7(2)(a) Protect the privacy of natural persons, including that of a deceased person	48(1)(a) That the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist: (i) Where the local authority is named or specified in Schedule 1 of this Act, under section 6 or 7 (except 7(2)(f)(i)) of the Local Government Official Information and Meetings Act 1987.