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Report to Environment Committee
from Nigel Corry, Account Manager, Consents Management

Review of Commissioner Appointments

1. Purpose

To enable the Committee to consider a method for the future selection of individuals to act as hearings commissioners.

2. Background

Currently, the authority to hear and decide all resource consent applications has been delegated by the Wellington Regional Council to the Environment Committee. The Environment Committee has, in turn, delegated these responsibilities to any duly appointed hearing committee or independent hearing commissioners.

Rather than the full Environment Committee appointing new commissioners for every hearing, the Committee selected a list of approved hearing commissioners. These approved commissioners have delegated authority from the Environment Committee and may thus sit on any hearings panel to which they are appointed.

Currently, the system for nominating people to be included on the Wellington Regional Council approved commissioners' list is not clearly defined. There has been no systematic update of the approved commissioners' list over the past three years, resulting in a comparatively small pool of commissioners available for use. In some circumstances, this has led to difficulties in making appointments due to availability issues, particularly if two hearings are running concurrently. In addition, there is no formally specified criteria on which an applicant is assessed if applying to act as a hearings commissioner.

It is worth noting that, in part, the list of approved commissioners was not revised as the recent RMA Amendment Bill proposed a list of nationally registered commissioners which would have negated the need to develop a regional approach.

However, given the demise of this component of the Amendment Bill, and our current ad hoc approach, it is now appropriate to fully review our procedures for the nomination of commissioners.

3. A Recommended Model for the Wellington Regional Council

In developing a new approach for commissioner appointments, the systems in place at other regional councils have been assessed.

Of the procedures used by other Councils, the approach of Environment Canterbury appears to be the most transparent and rigorous. Environment Canterbury operates an approved list of commissioners similar to ours. The major difference is that Environment Canterbury selects its independent commissioners through a systematic and transparent process.

Every three years Environment Canterbury advertises for prospective commissioners. Applicants are assessed using a set of relevant criteria. Those who meet the criteria may then be appointed to the approved list. Once appointed, the Hearing Secretary evaluates commissioners' performance after each hearing.

Environment Canterbury officers consider that this approach has proved extremely successful. A similar approach should prove to be effective in Wellington.

4. A Process for Developing a New Approved List of Commissioners

1. The WRC advertises for applications from potential commissioners. The level of information required should include information such as qualifications, experience, and the names of at least three referees. The applicant should also state their charge out rate, and include a short statement on why they wish to be considered as a Wellington Regional Council commissioner.
2. Once an application has been received, the applicant will be assessed using a pre-determined set of criteria. Those who meet the criteria may then be duly delegated authority to act as hearings commissioners by the Environment Committee and added to the existing register of delegated commissioners. Actual appointments of individual commissioners for specific hearings would continue as at present.

3. Should there be an oversupply of suitably qualified people to act as hearings commissioners the Council will select those commissioners who are best qualified and most available.
4. The list will be completely reviewed every three years, with information held on file checked annually in order to keep contact details and other administrative requirements up to date.
5. Approved commissioners may resign from the list at any time by advising the Council in writing.
6. The Maori hearings commissioners who were recently appointed to the approved list will be retained. Others on the approved list will be invited to submit an updated CV and application. We anticipate that most (if not all) will be re-appointed.

Implicit in this approach is the understanding that if an applicant fits the criteria, they may then be delegated authority to act as a commissioner, and go on the Wellington Regional Council commissioner list. However, ultimate responsibility in confirming appointments to individual hearings would still rest with the Chairperson of the Environment Committee, and the Divisional Manager, Environment. In this way, while a person may be on the commissioners' list, it is clear that there is no guarantee that they will in fact be selected to sit on any hearing committee.

5 Criteria for Selection of Commissioners

It is critical to the success of this approach that a thorough set of criteria for the initial appointment of commissioners is developed. Applicants who are unsuccessful must be able to be clearly informed of why they were not appointed. Transparency of the process at this stage will ensure that the public have faith in the appointment process of commissioners, and applicants have an understanding of what is required to act in this role.

The criteria will be developed in the lead up to advertising for applications. However, the critical factors determining appointments will be environmental knowledge, impartiality, technical skill, knowledge of the Act, availability, and other relevant experience.

6. Communications

No further public communication is necessary for this report.

7. Recommendation

That the Committee receives the report and endorses the approach outlined above for the future selection of individuals to act as commissioners.

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