

## 16. APPOINTMENTS OF COUNCIL HEARINGS PANEL AND COUNCILLOR RESOURCE MANAGEMENT ACT (RMA) TRAINING



<b>General Manager responsible:</b>	General Manager Regulation and Democracy Services, DDI 941-8462
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### PURPOSE OF REPORT

1. The purpose of this report is to provide a basis for discussion by the Committee to make a recommendation to the Council regarding the reappointment of the Council's Hearing Panel for the 2010/13 term of the Council and the Resource Management Act (RMA) training provided by the Council to elected members. These two matters were informally discussed by Councillors in late 2010.

### STAFF RECOMMENDATION

It is recommended that the Committee:

- (a) Make a recommendation to the Council regarding the reappointment of the Council's Hearing Panel.
- (b) Recommend to the Council the delegated powers to be provided to the Hearings Panel.

### BACKGROUND

2. The Council's Hearing Panel is a Committee of the Council which has been appointed by the Council for many years.
3. When appointing the Panel the Council has previously stated that all 54 elected members are appointed members of the Panel, and the Council also resolved that that the Panel is to have a minimum of three, a maximum of four and maybe two Community Board members. On occasions a Panel has also operated with two elected members and a Commissioner.
4. The general role for the Panel is to carry out hearings on behalf of the Council where they may be required under a particular statute. These hearings tend to be of a quasi judicial nature so that the Panel is invariably a requirement to hold a public hearing. The rules of natural justice apply in that the Panel is to make a decision based on the information put before it and there may also be a right of appeal to a Court with some Panel decisions, such as resource consents. The Panels also have powers resembling the Court, for example the power to summon witnesses and require that evidence is held on oath. So the process of Panel hearings is different from normal Committee or Council Meetings.
5. The Resource Management Act requires a majority of Panel members dealing with a notified application, a private plan change or a notice of requirement and the Chair must be accredited.
6. Other than these RMA hearings no form of accreditation is required for other types of hearings. The Memorandum of Understanding that the Banks Peninsula District Council and Christchurch City Council signed in 2005 provided that two suitably qualified Banks Peninsula ward elected members where feasible to be included as members on a Panel involving the Banks Peninsula. At the time that was signed it was recognition of the need for elected members from the former Christchurch City Council to gain an understanding of Bank Peninsula planning issues.
7. Other than for RMA hearings there are no fees payable to panel members for these hearings. For RMA hearings there is a fee of \$85 per hearing panel hour payable to the Chair for certain RMA matters, and \$68 per hearing panel hour payable to the other panel members.

8. Below is a table showing the types of hearings that the Council Hearings Panel conducted for the year 1 July 2009 to 30 June 2010.

<b>ACT</b>	<b>TOTAL</b>
RMA	111 *1
Sale of Liquor Act 1989	7
Fencing of Swimming Pools Act 1987	23
Dong Control Act 1996 and Amendment Act 2003	6
Local Government Act 1974	19
Reserves Act 1977	8
Litter Act 1979	0
Building Act 2004	0
Health Act 2004	0
Health (Registration of Premises) Regulations 1966	0
Housing Improvement Regulations 1947	0

*\*1 RMA total includes 16 reconvened hearings/meetings. There were an additional 20 RMA hearings set down during the year which were 'postponed until further notice' for a variety of reasons.*

9. For the last six years the Council Secretary has been delegated by the Council the power to appoint members to panels considering non RMA matters and the Planning Administration Manager or Resource Consent Manager has been delegated the power to appoint members to the Panels considering all RMA issues. Appointments to Panels are made by staff under these delegated powers based on criteria such as no conflict of interest, generally avoiding hearings in the wards where the application is based (except for Banks Peninsula), availability, accreditation (if required), experience verses inexperience and the complexity of the application. In addition by law only Councillors can be appointed to panels considering issues regarding fencing of swimming pools and by practice only Councillors are appointed to Plan Change Hearings.
10. It is also important to note that within the Council's structure there are other bodies that make decisions involving matters which are related to matters that may come before a Hearings Panel. The Council has appointed these Subcommittees and delegated powers to them. They are:

**(a) District Plan Appeals Subcommittee**

This Subcommittee is authorised by the Council to approve consent orders regarding any appeal on the Christchurch City Plan and the Banks Peninsula District Plan. This Subcommittee was reappointed by the Council in December 2010.

**(b) Resource Management Officer Subcommittee**

The members of this Subcommittee are two Senior Planners and they are delegated the power by the Council to make decisions on non notified resource consents which do not require a hearing and they also have delegated power to make decisions on the form of notification of a resource consent. This subcommittee deals with approximately 2000-2500 applications each year.

**(c) Sale of Liquor Officer Subcommittee**

This subcommittee has four officer members and makes decision on applications for special licences which are in accordance with the criteria of the Council's Alcohol policy, and to make decisions on temporary authorities for liquor licences where there are no objections.

11. Through past experience there are a number of types of resource consent applications which, although technically fall within the delegated powers of the Resource Manager Officer Subcommittee, officers refer the applications as a matter of course to a Council Hearings Panel of elected members.
12. Those resource management matters which are referred to a Panel can include:
  - Any application which is potentially controversial, which is for an unusual development or which has generated an unusual degree of public interest.
  - Any large scale development, e.g. an extension to a major suburban shopping centre, the establishment of or extension of a retirement village in a Living Zone.
  - subdivision applications which anticipate urban development which do not meet PC1 or Area Plan requirements or staging or are in advance of plan changes required to the City Plan where the recommendation is other than public notification.
  - Elderly persons housing development where the units exceed 100 square metres.
  - Sale of Liquor hours.
  - Child Care Centers.
  - Probation Centers.
  - Any application arising out of the Canterbury Earthquake involving demolition of a listed heritage building
  - Any development within the Central City Zone which is over-height by more than one metre.
  - Rural Density non-compliance where recommendation is other than public notified.
  - Rural subdivisions of more than 3 lots of residential subdivisions of more than 10 lots are not subject to the non-notified clause in the City Plan.
13. The Resource Management Act now requires a discount to be provided by the Council on the fees charged for resource consents which go over the statutory timeframe in the Resource Management Act. In general terms the discount is one per cent discount for every working day the application is over the timeframe up to 50 per cent and the discount is mandatory. Because of an Order in Council arising out of the Canterbury earthquake this discount policy does not apply in Christchurch City until 1 July 2011. The Hearing Panels will be bound by this discount policy requirement in terms of the conduct of the hearing and the delivery of the decision itself.
14. Regarding the requirement in the Resource Management Act for elected members to be accredited, that training is organised nationally through the University of Auckland at the Council's cost. To date such training has been available on request to any elected member.
15. From the workshop late last year it appears that the following matters could be for further discussion by the Committee in terms of the operation of the hearing panel and these include:
  - Consistency of decision making.
  - Accountability of the decision making.
  - The powers to be delegated.
  - Membership of the Panel.
  - Who appoints members to a Panel?
  - Availability.
  - Training.
  - Governance oversight of Panel decisions by the Council.
  - Criteria for who attends RMA training.