



**Far North
District Council**



Te Kaunihera o Tai Tokerau ki te Raki

AGENDA

Supplementary Reports Ordinary Council Meeting

Thursday, 23 September 2021

Time: 10.00 am

Location: Held virtually via Microsoft TEAMS

Membership:

Mayor John Carter - Chairperson
Cr Ann Court
Cr David Clendon
Cr Dave Collard
Cr Felicity Foy
Cr Mate Radich
Cr Rachel Smith
Cr Kelly Stratford
Cr Moko Tepania
Cr John Vujcich

Te Paeroa Mahi / Order of Business

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6 REPORTS

6.9 NOMINATION OF ELECTED MEMBERS TO THE RANGITANE MARITIME DEVELOPMENT AND OTAWERE WATER STORAGE RESERVOIR HEARINGS PANELS

File Number: A3396644

Author: Caroline Wilson, Manager - District Administration

Authoriser: William J Taylor MBE, General Manager - Corporate Services

TAKE PŪRONGO / PURPOSE OF THE REPORT

To formalise an appointment on behalf of the Far North District Council for the Otawere Water Storage Reservoir Consenting Panel and Rangitane Maritime Development under the COVID-19 Recovery (Fast-track Consenting) Act 2020.

WHAKARĀPOOTO MATUA / EXECUTIVE SUMMARY

- Council has been given an early indication that we will be asked to provide a local authority nominee for each of the above panels;
- Council has three eligible Elected Members being those accredited under section 39A of the Resource Management Act as certified Hearings Commissioners under the Making Good Decisions Programme;
- Council may also put forward the name of an Independent Hearings Commissioner – the panel of which has already been approved by Council;
- The three Elected Members are Deputy Mayor Court and Councillors Stratford and Clendon;
- This request came to light after this agenda went to print, and with timelines being very tight (a mid October commencement date), this decision cannot be deferred to the next meeting on the 4th November;
- The decision on final appointees to each panel rests with the Presiding Judge.

TŪTOHUNGA / RECOMMENDATION

That Council nominate:

- a) Councillor David Clendon as the Elected Member nominee for the Otawere Water Storage Reservoir Fast Track Consenting Project Panel; and
- b) One Independent Hearings Commissioner as nominee for the Rangitane Maritime Development Fast Track Consenting Project Panel.

1) TĀHUHU KŌRERO / BACKGROUND

Council has been approached by the Environmental Protection Authority (EPA) with an early intent to formally request nominations for suitably accredited hearings commissioners to each of the above panels. Every panel must include one person nominated by the relevant local authorities. Correspondence from the EPA can be found in Attachments 1 and 2.

In order to be prepared for what is a very tight timeframe associated with these hearings, a decision now ensures we are ready to put forward our nominees when they are formally requested.

Council has three suitably qualified Elected Member representatives. There is also the option to appoint one of our approved independent hearings commissioners should no Elected Members be available to be part of a panel.

Whilst Council may put forward their preferred nominee, the ultimate decision on appointees is made by the Presiding Judge.

2) MATAPAKI ME NGĀ KŌWHIRINGA / DISCUSSION AND OPTIONS

Deputy Mayor Ann Court, and Councillors Kelly Stratford and David Clendon were asked to confirm whether they wished to be nominated and to which specific panel. Both panels will be running concurrently, and mostly virtually.

Councillor Clendon has expressed an interest in the Otawere Water Storage Reservoir.

Deputy Mayor Court and Councillor Stratford did not wish to be nominated given their existing high workloads.

Because we do not have Elected Member availability for both panels, we will nominate a suitably experienced independent hearings commissioner from Council's approved panel as the FNDC nominee for the Rangitane Maritime Development.

Take Tūtohunga / Reason for the recommendation

Appoint Councillor Clendon and an independent hearings commissioner as nominees for the Otawere Water Storage Reservoir and the Rangitane Maritime Development Hearings Panels.

3) PĀNGA PŪTEA ME NGĀ WĀHANGA TAHUA / FINANCIAL IMPLICATIONS AND BUDGETARY PROVISION

There are no financial implications as a result of this report.

ĀPITIHINGA / ATTACHMENTS

1. **FTC42_Letter_of_Engagement_FNDC - Rangitane Maritime Development - A3396900**  [↓](#)
2. **FTC43_Letter_of_Engagement_FNDC - Otawere Water Storage Reservoir - A3396901**  [↓](#)

Hōtaka Take Ōkawa / Compliance Schedule:

Full consideration has been given to the provisions of the Local Government Act 2002 S77 in relation to decision making, in particular:

1. A Local authority must, in the course of the decision-making process,
 - a) Seek to identify all reasonably practicable options for the achievement of the objective of a decision; and
 - b) Assess the options in terms of their advantages and disadvantages; and
 - c) If any of the options identified under paragraph (a) involves a significant decision in relation to land or a body of water, take into account the relationship of Māori and their culture and traditions with their ancestral land, water sites, waahi tapu, valued flora and fauna and other taonga.
2. This section is subject to Section 79 - Compliance with procedures in relation to decisions.

He Take Ōkawa / Compliance Requirement	Aromatawai Kaimahi / Staff Assessment
State the level of significance (high or low) of the issue or proposal as determined by the Council's Significance and Engagement Policy	Low significance.
State the relevant Council policies (external or internal), legislation, and/or community outcomes (as stated in the LTP) that relate to this decision.	The Resource Management Act requires Councils to assist the EPA with any such hearings either through information dissemination and have one local authority representative on Hearings Panels.
State whether this issue or proposal has a District wide relevance and, if not, the ways in which the appropriate Community Board's views have been sought.	District wide relevance.
State the possible implications for Māori and how Māori have been provided with an opportunity to contribute to decision making if this decision is significant and relates to land and/or any body of water. State the possible implications and how this report aligns with Te Tiriti o Waitangi / The Treaty of Waitangi.	This is a governance appointee to a hearings panel and as such as no particular implication for Māori. Implications would have been understood as part of the original project that led to this point.
Identify persons likely to be affected by or have an interest in the matter, and how you have given consideration to their views or preferences (for example – youth, the aged and those with disabilities).	None – this report relates only to nominations to hearings panels.
State the financial implications and where budgetary provisions have been made to support this decision.	There are no specific financial implications
Chief Financial Officer review.	The Chief Financial Officer has reviewed this report



File ref: FTC000042

15 September 2021

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Manager – Environmental Services
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Tēnā koe

Letter of Engagement in relation to Rangitane Maritime Development (Fast-track Consenting Project)

Background

Under the COVID-19 Recovery (Fast-track Consenting) Act 2020 (the Act), the EPA is responsible for providing advice and secretariat support to the Panel Convener and the Expert Consenting Panel (the Panel) who will be appointed to determine the Rangitane Maritime Development application.

Clause 7 of Schedule 6 of the Act enables information sharing between the EPA and the relevant local authority in respect of a listed or referred project. The EPA can request information at any time before or after it receives a consent application or notice of requirement. The local authority may recover from the EPA the actual and reasonable costs incurred in providing any requested assistance as set out in clause 7(5) of Schedule 6 of the Act. Council-controlled organisations as defined in section 6 of the Local Government Act 2002 are separate entities and are unable to cost recover under the local authority cost recovery provisions.

Clause 11(2) of Schedule 5 of the Act requires that any relevant local authority must assist the Panel by providing advice within the knowledge of the local authority, if requested. This includes requesting further information from the local authority under clause 25 of Schedule 6 of the Act. The local authority may recover from the EPA the actual and reasonable costs incurred in providing any requested assistance as set out in clause 14(3) of Schedule 5 of the Act.

We wish to establish a relationship with the Far North District Council that will facilitate an exchange of information with the EPA and further information or advice to support the Panel. The timeframes in the Act are tight, requiring very quick turnaround of any requests. The Panel also does not have the statutory power to pause the processing of this application.

Types of requests that may be made

The types of requests that we anticipate may be directed to the Council may include:

1. Providing technical advisers if appointed by the Panel
2. Assisting the panel, if requested, to provide advice including providing reports if commissioned by the Panel under clause 25 of Schedule 6 of the Act.
3. Providing the EPA with information if requested, including:
 - a) assistance in identifying potential owners or occupiers of the project site, and land adjacent to the site, from the Council rating database.
 - b) identification of relevant iwi authorities and any hapū that the Council considers have an interest in the site at which the activity is to occur.
 - c) any planning documents that are recognised by the iwi authority and lodged with the local authority that apply to the site.
4. Any request will be in the form of a formal written request and, where appropriate, will include a scope, timeframes and expectations around engagement in the consenting process (e.g. hearings, assisting the panel).

Cost Recovery

The EPA has a responsibility to recover actual and reasonable costs from applicants as outlined in clause 13 of Schedule 5 of the Act. In particular, clause 13(4) of Schedule 5 of the Act sets out the criteria for recovering costs as it applies to local authorities.

Any work incurred by the Council that is cost recoverable should be billed monthly to the EPA. Attached is an EPA standard invoice form that should be submitted with any invoice from the Council. We can set up a separate exchange of documents through our respective Finance Departments for arranging payment to the Council.

Invitation to comment on the application and draft conditions

The Panel must invite written comments from all those listed in clause 17(4) or (6) of Schedule 6 of the Act, including relevant local authorities. This is a general request for comment and not a request for advice or information.

The Act requires the Panel to provide copies of the draft conditions to, and invite comments on the draft conditions from, every person or group who provided a response when invited for comment.

Please note, there is no provision in the Act that allows the local authority or any other responder to cost recover for providing written comments on the application or draft conditions.

Panel member nomination

Panels must include one person nominated by the relevant local authorities. The Panel Convener will be writing to you seeking a nomination in relation to the Rangitane Maritime Development.

In the meantime, we encourage Far North District Council to start thinking about the person who they would like to nominate to be included on the Panel. When formally asked to provide a nomination, you will also be asked to provide a short bio and CV of your nominee as well as identifying whether or not the person is accredited under section 39A of the Resource Management Act as a Certified Hearings Commissioner under the Making Good Decisions programme.

Primary Contact

We understand that the point of contact at the Council will be Rochelle Deane, Manager – Environmental Services.

If you have any questions or wish to know more about the project, please contact Alex Erceg, Project Lead by email at rangitane.fasttrack@epa.govt.nz, or by phone on 027 293 6728.

Nāku noā, na



Alex Erceg

Senior Advisor

Project Leader – Rangitane Maritime Development



File ref: FTC000043

15 September 2021

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Background

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