



KAWERAU DISTRICT COUNCIL

Te Kaunihera ā rohe o Kawerau

TAONGA O TE WHENUA - TREASURE OF THE LAND

**The Extraordinary Meeting of the
Kawerau District Council will be
held on Wednesday 4 December 2024
commencing at 9.00am**

A G E N D A

GUIDELINES FOR PUBLIC FORUM AT MEETINGS

1. A period of thirty minutes is set aside for a public forum at the start of each Ordinary Council or Standing Committee meeting, which is open to the public. This period may be extended on by a vote by members.
2. Speakers may address meetings on any subject. However, issues raised must not include those subject to legal consideration, or be issues, which are confidential, personal, or the subject of a formal hearing.
3. Each speaker during the public forum is permitted to speak for a maximum of three minutes. However, the Chairperson has the discretion to extend the speaking time.
4. Standing Orders are suspended for the duration of the public forum.
5. Council and Committees, at the conclusion of the public forum, may decide to take appropriate action on any of the issues raised.
6. With the permission of the Chairperson, members may ask questions of speakers during the period reserved for public forum. Questions by members are to be confined to obtaining information or clarification on matters raised by the speaker.

**The Extraordinary Meeting of the Kawerau District Council
will be held on Wednesday 4 December 2024
commencing at 9.00am**

A G E N D A

1 Karakia Timatanga | Opening Prayer

2 Apologies

3 Leave of Absence

4 Declarations of Conflict of Interest

Any member having a “conflict of interest” with an item on the Agenda should declare it, and when that item is being considered, abstain from any discussion or voting. The member may wish to remove themselves from the meeting while the item is being considered.

5 Meeting Notices

6 Nga Mihimihi | Acknowledgements

7 Public Forum

8 Appointment of Independent Commissioner for Resource Management Act 1991 Hearing (Group Manager, Regulatory and Planning Services) (301500)

Pgs. 1 – 10

Attached is a report from the Group Manager, Regulatory and Planning covering the Appointment of Independent Commissioner for Resource Management Act 1991 Hearing.

Recommendations

1. *That the report “Appointment of Independent Commissioner for Resource Management Act 1991 Hearing” be received.*
2. *That Council adopts Option 1, being that in accordance with Section 34A of the Resource Management Act 1991 Council appointments Gina Sweetman as the Independent Commissioner to make decisions under Section 95A-95E, 104, 104A-104D and 108 of the Resource Management Act 1991, in respect to resource consent LL-2024-9983-00 Expansion of vermicomposting activity – 296A Tarawera Drive – Ecocast, being heard by Kawerau District Council (in conjunction with Whakatane District Council) and the Bay of Plenty Regional Council for land recently transferred from Whakatane District Council.*

9 Exclusion of the Public

Recommendation

That the public is excluded from the following part of the proceedings of this meeting, namely:

1. **Solid Waste Cartage Tender**

The general subject of the matter to be considered while the public is excluded; the reason for passing this resolution in relation to the matter, and the specific grounds under Section 48(1) of the Local Government Information & Meetings Act 1987 for the passing of this resolution is as follows:

General Subject of the matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under section 48(1) for the passing of this resolution
1. Solid Waste Cartage Tender.	<i>Maintain the effective conduct of public affairs through the free and frank expression of opinions.</i>	<i>That the public conduct of 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 exists. Section 48 (1) (a) (i)</i>

This resolution is made in reliance on Section 48(1) (a) of the Local Government Official Information & Meetings Act 1987 and the particular interest or interests protected by Section 7 (2) (b) (i) of that Act.

10 Karakia Whakamutunga | Closing Prayer

M Godfery

Chief Executive Officer

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Meeting: Extraordinary Council

Meeting Date: 4 December 2024

Subject: **Appointment of Independent Commissioner for Resource Management Act 1991 Hearing**

File No: 301500

1 Purpose

The purpose of this report is to seek confirmation from Council on the appointment of an Independent Commissioner for the expansion of vermicomposting activity – 296A Tamarangi Drive - Ecocast.

2 Background

Ecocast made a resource consent application to the Bay of Plenty Regional Council and the Whakatāne District Council in May 2024, for the extension of their operation. At the time of the application, the land area in question was within Whakatāne District boundary (appendix 1).

The application has been processed by Whakatāne District Council as it was lodged on 1 May 2024. Whakatāne District Council made the decision to notify the resource consent application.

Whakatāne District Council received two submissions in opposition to the application from Health New Zealand and Ngāti Tūwharetoa Settlement Trust. Whakatāne has made a recommendation to refuse the resource consent.

The land subject to the resource consent has since been transferred to Kawerau District Council on 1 September 2024, as part of the Local Government Reorganisation (Whakatāne District to Kawerau District) boundary change.

Subject to the Local Government Reorganisation (Whakatāne District to Kawerau District) Implementation Order 2024, the Whakatāne District Plan rules continue to apply on the land areas that came within Kawerau District boundary from 1 September 2024.

Whakatāne District Council and Bay of Plenty Regional Council set and prepared for a joint hearing to be heard on Tuesday 10 December 2024.

On 22 September 2024, Whakatāne had appointed Gina Sweetman following their required process to appoint an Independent Commissioner from an accredited pool.

Whakatāne District Council and Regional Council have appointed Gina Sweetman as the Independent Commissioner for the hearing. Gina Sweetman is a MfE accredited Independent Commissioner with a Chairman's Certificate and is certified and experienced with resource management act hearings. She has a wide range of

planning experience and has worked in local government, central government and private practice. She has a strong knowledge in all aspects of the Resource Management Act.

Kawerau District Council were notified of the appointment on 31 October 2024, requesting Kawerau District Council to confirm the appointment.

Under the Local Government Reorganisation (Whakatāne District to Kawerau District) Implementation Order 2024, the legal authority to make the delegation passed from Whakatāne District Council to Kawerau District Council on 1 September 2024. Legal advice has been received in regards to this matter to confirm the delegation sits with Kawerau District Council to appoint the Commissioner for the joint hearing with Bay of Plenty Regional Council.

Decisions made on the Ecocast resource consent prior to 1 September remain valid.

Kawerau District Council now need to consider the options available. To take no further steps at this stage, will result in any decision made being invalid and open to judicial review.

To avoid any later judicial review of the decisions made, Council is recommended to endorse the appointment of Gina Sweetman. Gina Sweetman has the qualifications and experience to undertake the role and works across the country. Attached is her Bio for your information (Appendix 2).

3 Options

Kawerau District Council has two options available:

Option 1 – Delegate the decision making power to Ms Sweetman under s34A of the Resource Management Act 1991. (Preferred Option)

The appointment of an Independent Commissioner is the standard process used by Kawerau District Council when a resource consent progresses to a hearing.

This will enable the resource consent hearing for Bay of Plenty Regional Council and now Kawerau District Council to progress on the current timeline and meet statutory timeframes.

Gina Sweetman is highly qualified and experienced as an Independent Commissioner.

This will ensure the process is procedurally sound.

Option 2 - To consider delegating the entire decision to Whakatāne District Council under s33 of the Resource Management Act 1991 and undertake a special consultative process based on this consideration. (This option is not recommended)

This option would require Council to undertake a special consultative process prior to making a decision to delegate the authority to Whakatāne District Council. As a result, this will create delays in the statutory processing timeframes and will result in having to delay the hearing dates until next year.

Delegating the decision making to Whakatāne will likely result in Ms Sweetman being re-appointed as the Independent Commissioner. The outcome is likely to be the same as delegating the authority to Ms Sweetman, with additional delays.

4 Policy and Plan Consideration

The resource consent application must be decided on the Whakatāne District Plan until our District Plan incorporates the new land parcels which came into Kawerau District on 1 September 2024.

5 Financial Considerations

The proposal has no financial considerations for Council when endorsing the recommendation.

6 Risks

While the resource consent is being processed by Whakatāne District Council, under Whakatāne District Plan rules, the land is now located in Kawerau District. Where Council do not delegate the decision making power to Gina Sweetman as the Independent Commissioner, this could delay proceedings or if the Hearing was to go ahead without Council's delegation, the decision would be invalid and will open itself up for a judicial review.

7 RECOMMENDATIONS

1. That the report "Appointment of Independent Commissioner for Resource Management Act 1991 Hearing" be received.
2. That Council adopts Option 1, being that in accordance with Section 34A of the Resource Management Act 1991 Council appoints Gina Sweetman as the Independent Commissioner to make decisions under Section 95A-95E, 104, 104A-104D and 108 of the Resource Management Act 1991, in respect to resource consent LL-2024-9983-00 Expansion of vermicomposting activity – 296A Tarawera Drive – Ecocast, being heard by Kawerau District Council (in conjunction with Whakatāne District Council) and the Bay of Plenty Regional Council for land recently transferred from Whakatāne District Council.



Michaela Glaspey

Group Manager Regulatory and Compliance





Gina Sweetman

Sweetman Planning Services

Bachelor of Planning, Auckland University, 1993
 Masters of Planning (First Class Honours), Auckland University, 2006
 MNZPI, Distinguished Services Award 2014

I have a wide range of management, planning and policy experience, having worked for over twenty-five years in local government, central government and private practice. I have a strong knowledge of all aspects of Resource Management Act (RMA), and wider natural resources planning in New Zealand, with particular strengths in policy analysis and advice, statutory planning, Māori planning issues training and implementing best RMA practice into everyday practice. Through my work with central government, I have significant experience with policy development and government processes. I have provided expert evidence to both council hearings, the Environment Court and have been involved in central government committee processes. I am also an accredited and experienced RMA Hearings Commissioner (Chair endorsement), one of 20 appointed Development Contribution Commissioners nationwide, independent chairperson and facilitator. I am also a recipient of the NZPI Distinguished Service Award.

Areas of particular expertise:

- ✓ Accredited Hearings Commissioner (Chair endorsement)
- ✓ Development Contributions Commissioner
- ✓ Facilitator
- ✓ Expert witness
- ✓ Policy and plan development and review
- ✓ Development and financial contributions policy and implementation
- ✓ Central and local government processes, including budgeting, reporting, staff development, policy development and advice, development, implementation, evaluation and audits
- ✓ Team and project management and leadership
- ✓ Consent processing and reviews
- ✓ Māori planning issues
- ✓ Best practice, training and guidance
- ✓ RMA, Treaty, Takutai Moana, aquaculture, freshwater and climate change

Professional Affiliations and Responsibilities:

Member New Zealand Planning Institute
 Member Resource Management Law Association
 Chair Certification, Making Good Decisions
 Development Contributions Commissioner

Work History:

2010 -	Sweetman Planning Services
2009 – 2010	Manager, Resource Management Practice and Policy, Ministry for the Environment
2007 – 2009	Director, Sweetman Planning Services Ltd
2007	Senior Planner, Beca Planning
2003 – 2007	Senior Adviser (RMA Implementation), Ministry for the Environment
2000 – 2003	Senior Specialist Planner, Auckland City Council
1999 – 2000	Senior Planning Consultant, Barker and Associates Ltd, Auckland
1995 – 1999	Planner and Team Coordinator Resource Consents, Auckland City Council
1994 – 1995	Assistant Planner and Planner Consents, North Shore City Council
1993 – 1994	Assistant Planner, Waikato District Council, North Shore City and Manukau City Councils

Relevant Experience*Independent Commissioner/Facilitation*

- Hearings Panel Member for Plan Change 6 to Auckland Unitary Plan - new suburb, Auckland Council
- Hearings Panel Member for proposed Bunnings out of zone, Queenstown Lakes District Council
- Rezone Plan Change, Hutt City Council (sole commissioner)
- Residential development under the Housing Accords and Special Housing Area Act, Wellington City (sole commissioner)
- Hearings Panel Member for s128 review of the Te Rere Hau windfarm, Palmerston North [current]
- Hearings Panel Member for Proposed Plan Change 10 to the Bay of Plenty Regional Plan – setting nutrient limits for Lake Rotorua, Bay of Plenty Regional Council
- Hearings Panel Member for new commercial windfarm, South Taranaki District Council
- Hearings Panel Member for Omaha Wastewater Treatment Plant re consenting and expansion, Auckland Council
- Hearings Panel Member for the Proposed Regional Policy Statement for the Canterbury Region, with Judge David Sheppard and Edward Ellison.
- Whitby Rest Home extension resource consent, Porirua City
- Section 357 cost objection, Wellington City (sole commissioner)
- Non-notified recommendation to decline, Wellington City (sole commissioner)
- New bar/restaurant/tavern in a residential area, resource consent, Wellington City (sole commissioner)
- Garage extension resource consent, Kapiti Coast (sole commissioner)
- New Quarry, Kapiti Coast (chair of hearings panel)
- Notable Trees Plan Change, Upper Hutt City
- Medium Density Plan Change, Upper Hutt City
- Rezone Plan Change, Upper Hutt City (sole commissioner)
- New public road, Upper Hutt (sole commissioner)
- Residential subdivision and development (chair of hearings panel); Porirua City Council and Greater Wellington Regional Council
- Renewal of consent for discharge to air from an abattoir and rendering plant (chair of hearings panel); Greater Wellington Regional Council
- Facilitator, pre-hearing meeting for a KiwiRail 181(1) application
- Facilitator, pre-hearing meetings for Greater Wellington Regional, Porirua and Hutt City Councils for a new quarry operation

- Facilitator for Transmission Gully Implementation, on behalf of Greater Wellington Regional, Kapiti Coast District and Wellington, Porirua and Upper Hutt City Councils
- Independent Chairperson, Project Mill Creek Community Liaison Group (May 2012 – June 2015)
- Involved in the development, delivery and review of the Making Good Decisions Programme.

Māori Planning Issues

- Provision of on-going policy advice to Te Puni Kōkiri
- Development and facilitation of a two-day workshop “Understanding Te Ao Māori” for Local Government New Zealand
- Development and delivery of “Planning for Māori Values” training for NZPI
- Development and delivery of training to Ngāi Tahu runanga on “How to make effective RMA submissions”
- Development of Māori Values Guidelines for the New Zealand Wind Energy Association
- Drafting the “Guidance on Council Engagement with Tangata Whenua for RMA processes – A Ngāi Tahu Case Study” guidance note, updating the “Facilitating Consultation with Tangata Whenua” guidance note, peer review of the Māori Values Supplement for the Making Good Decisions Programme and peer review and editing of numerous other related guidance material.
- Independent review of a Regional Council’s resource consent process in terms of legislative and best practice compliance for iwi consultation and engagement
- Delivery of RMA101 training to Iwi
- Organising and facilitating the Māori Planning hui for the New Zealand Planning Institute Conference 2011 and 2012
- Developing and delivering of Preparing for the Making Good Decisions Programme training to Iwi
- Establishment of the Guardians Establishment Committee for the Waikato River and its secretariat and ongoing liaison through the development of the Vision and Strategy
- Working with the Iwi Advisers and Technicians on the New Start for Freshwater Programme
- Drafting a series of guidance pamphlets on the 2004 Aquaculture amendments to the Resource Management Act which were used as a basis of a series of hui.

Treaty settlements

- Author of guidance material on the Foreshore and Seabed Act for the Ministry for the Environment and Ministry of Justice
- Policy input into Foreshore and Seabed negotiations
- Policy input into the Waikato River negotiations, settlement and implementation
- Establishment of the Guardians Establishment Committee for the Waikato River and its secretariat and ongoing liaison through the development of the Vision and Strategy
- Policy input into other negotiations

Central Government Policy Development and Review

- Provision of policy input into:
 - 2005, 2009, 2012, 2013, 2015 and 2017 amendments to the RMA
 - Manager responsible for the delivery of the Resource Management Amendment Act 2009 (policy development, Cabinet approvals, departmental report, select committee)
 - Housing affordability
 - Development Contributions
 - Marine Protected Areas
 - Exclusive Economic Zone Legislation and Regulations
 - Local government reforms
 - Marine and Coastal Areas Act

- Climate change policy – mitigation and adaptation
- Aquaculture Act 2004 implementation and review
- Local Government Auckland Amendment Act 2004
- Project Manager, Sustainable Water Programme of Action (Managing the Cross-Department agreement and Cabinet approval and notification of the NPSFM in particular)
- National Policy Statements for Freshwater Management and Renewable Electricity Generation, including s32
- Proposed National Policy Statements for Indigenous Biodiversity and Flood Management, including s32
- National Environmental Standards on Air Quality and Drinking Water and other proposed national environmental standards
- Regulation for Water Measuring Devices
- RMA Phase 2 (Manager)
- Numerous Treaty Settlements (on RMA and local government matters)
- Foreshore and Seabed Negotiations
- Building Act review
- Unit Titles review
- Co-author of discussion document and s32 on a Proposed National Environmental Standard on Sea Level Rise (unpublished)
- Author of “Public Access under Section 6(d) of the RMA” for the Walking Access Commission 2012 (updated in 2013 and 2015)
- Author of policy position papers on Māori rights and interests in freshwater and opportunities for renewable electricity generation for Māori communities

Council Policy Development and Review

- Development Contribution Policy Review, Kapiti Coast District Council [current]
- District Plan Review Technical Advice and Integration, Porirua City Council [current]
- RPS, Regional and District Plan Review Technical Advice and Integration, Nelson City Council [current]
- Technical input into and review of SNA, landscapes and features, residential reviews; Hutt City Council [current]
- Overall Plan integration, and chapter lead, Infrastructure, Services and Resources and Financial Contributions, Kapiti Coast District Council
- Expert Environment Court Witness and reporting officer for Upper Hutt City Council for Private Plan Change 36 (Environment Court dismissed the appeal in favour of the Council)
- Expert Environment Court Witness for Fish and Game for the Horizons One Plan, on Freshwater (successful)
- Expert Environment Court Witness for the Environmental Defence Society for the Waikato Regional Policy Statement (indigenous biodiversity, landscape, freshwater, infrastructure) (successful)
- Scoping, research, consultation and development of Proposed Plan Changes 7 (Windfarms), 10 (Suburban Zone: Residential Infill Amenity Management) and 11 (Earthworks) to the Porirua City District Plan
- Reporting officer on Private Plan Change (Rezoning) for Hutt City Council (successful)
- Development of a spatial plan for the Hongoeka Community and Marae, Porirua
- Scoping, research, consultation and development of a proposed plan change on network utilities and renewable electricity generation to the Hutt City and Upper Hutt District Plans – as a joint project (no appeals)
- Scoping, research, consultation and development of a proposed plan change on network utilities to the Porirua City District Plan (now operative with appeal resolved without any Court involvement)

- Scoping, research, consultation, development and reporting officer for Plan Change 69 (Contaminated Land) to the Wellington City District Plan (MfE submitted in support)
- Input into development and financial contributions policy for Auckland City Council
- Input into numerous plan changes to the Auckland City District Plan
- Policy research for the Waikato District Plan

Consent Processing

- Lead planner for the Kenepuru redevelopment (800+ lots in a brownfield environment) [current]
- Lead planner for new Summerset retirement village in Lower Hutt [current]
- Preparing evidence and attendance at mediations in preparation for the Environment Court. Applications have included major subdivisions involving iwi issues, contaminated land and multi-million mixed use developments.
- Processing of many complex resource consent applications (such as contaminated site redevelopment, multi-million mixed use developments, major subdivisions, water takes and discharges, historic heritage)
- Peer review of complex consents for various local authorities
- Involvement in applications involving objections to development and financial contributions payable
- Auditing of “off the rail” consents

General guidance

- Drafting, editing, updating and final approval of numerous guidance notes on the Quality Planning Website, including renewable electricity generation, climate change, coastal development, air quality,
- Former member of the Quality Planning Advisory Panel
- Drafting, editing, updating and final approval of numerous guidance documents for the public and business, in particular significant involvement in the Everyday Guide for the RMA series
- Involvement in the drafting and development of the Making Good Decisions Programme, in particular, the Māori Values Supplement
- Developed process and practice manuals for councils

Targetted Assistance and Consent Processing Reviews

- Independent review of a Regional Council’s resource consent process in terms of legislative and best practice compliance for iwi consultation and engagement
- Undertaking reviews of councils against statutory requirements and best practice
- Identifying areas for process and practice improvement

Training

- Delivery of training on plan development and drafting directly to Councils
- Development and delivery of plan drafting, development and review training for NZPI (three different modules)
- Development and delivery of “Planning for Māori Values” training for NZPI
- Delivery of “Who’s afraid of the RMA” for SOLGM
- Delivery of RMA Hearings Administrator and RMA Plan Technician training for SOLGM
- Developed and delivered training on RMA plan review process for SOLGM
- Developed, delivered and facilitated numerous quality nationwide training workshops for RMA practitioners, decision-makers and administrators
- Facilitated Making Good Decisions Programme update workshops
- Former member of the Making Good Decisions Advisory Panel

- Presented at workshops for the New Zealand Institute of Surveyors, the Talk Environment Roadshow, the Ministry for the Environment's Professional Bodies forum, at the New Zealand Planning Institute conference, and to University programmes.

Management

- Manager, Resource Management Practice and Resource Management Reform, Ministry for the Environment
- Acting Manager positions, Ministry for the Environment and Ministry of Agriculture and Forestry
- Acting Project Manager, Sustainable Water Programme of Action, Ministry for the Environment
- Acting Manager Resource Consents and Principal Planner, Auckland City Council