

**Gisborne District Council: LU-2023-112074-00; DL-2023-112075-00; LR-2023-112076-00; LL-2023-112077-00;
LV-2023-112078-00**

Bay of Plenty Regional Council: RM23-0508-AP

Ōpōtiki District Council: RC2024-04

Te Ara Tipuna (Stage 1) – Minute 1 & Directions of Hearing Commissioners

Introduction

1. The Te Ara Tipuna Charitable Trust has applied to the Gisborne District Council, Bay of Plenty Regional Council, and Ōpōtiki District Council (collectively the **Councils**), for resource consents to construct, operate and maintain a pathway for pedestrians, to be known as Te Ara Tipuna (Stage 1), from Gisborne around the coast to Ōpōtiki.
2. The Councils have appointed the following as Independent Hearing Commissioners to hear and determine the resource consent applications:
 - (a) Vanessa Hamm (Chair)¹
 - (b) Elva Conroy²
 - (c) David McMahon³
3. The resource consent applications are currently open for public notification, with submissions closing on 7 February 2025.
4. The purpose of this Minute 1 & Directions is to provide some early directions on the provision of information, before formal steps are taken to set the matter down for a hearing.
5. We also provide some preliminary indications regarding hearing logistics.

Commissioners

6. The period for making submissions has not yet closed. Nevertheless, at this point no Hearing Commissioners have identified any actual or perceived conflict of interest in hearing this matter as a result of submissions received. This will be reviewed again after the close of submissions.
7. Over the last year, Ms. Conroy has delivered Iwi Management Plan training through the Bay of Plenty Regional Council to enhance cultural capacity within Iwi and hapū, including Te Whakatōhea. She is confident that no actual or potential conflicts of interest arise from this work.

¹ Vanessa Hamm is a partner at Holland Beckett Law in Tauranga. She has practiced as a specialist resource management and local government lawyer for over 25 years.

² Elva Conroy (Tapuika, Tuhourangi, Ngati Whakaue, Ngati Raukawa, Ngāi Tahu ki Arowhenua) has over 20 years' experience in resource management, strategic planning, policy analysis, and community engagement.

³ David McMahon is an experienced Resource Management Act practitioner with 30 years' experience in urban and environmental planning, representing both public and private interests. His specialty is in planning process, including environmental effects assessment, policy analysis and statutory interpretation.

8. If any party should be concerned about conflict of interest for any of the Hearing Commissioners, those concerns should be provided in writing to the Hearing Advisor no later than **5pm on the 14 February 2025**. The Hearing Commissioners will consider any matters raised on their receipt and will provide the parties of any associated determinations in a minute.

Further information before making directions as to hearing

9. We have today received a Memorandum of Counsel on behalf of the Consent Authorities' Reporting Team dated 24 January 2025 which advises that as a result of the management plan approach taken by the application, the experts (both internal and external) approached by the reporting planner to provide comment on the application have consistently responded to the effect that they are unable to provide any meaningful comment on the effects of the application because detailed effects assessments have not been provided with the AEE due to the approach taken by the application, which proposes that such assessment would occur following more detailed ground truthing and site specific assessment during the detailed design stage (i.e. post consent being granted). It follows that the reporting planner is not currently in a position to make an overall recommendation in relation to the application.
10. This raises some questions about the utility of proceeding to a hearing on the information currently before the Councils.
11. Accordingly, we make the following directions:
- (a) The reporting planner for the Councils is to provide by **5pm on 31 January 2025** detail as to the information which is needed in order to meaningfully comment on the application. Our expectation is that this will be articulated at a sufficient level of detail (and by topic) for the applicant and the Hearing Commissioners to understand what further information is considered necessary to make a recommendation.
 - (b) The applicant, by **5pm on 14 February 2025** is to either provide the further information, or indicate whether:
 - (i) It will be provided in evidence produced before the hearing; and/or
 - (ii) It does not intend to provide the information.
12. We also direct the applicant to provide the following information to the Councils by **5pm on 14 February 2025**:
- (a) An assessment of the application against the objectives and policies of the Bay of Plenty Regional Policy Statement;
 - (b) Identification of relevant iwi and/or hapū management plans, and an assessment of the application against those.
13. With respect to the proposed conditions in the application, we observe that these are high level and will require significant work. The Hearing Commissioners understand that the reporting planner and the applicant are working collaboratively, and we expect that this will include a robust condition set for the relevant resource consents required. Whilst the use of management plans may be appropriate (provided the conditions state a clear objective for the management plan, and the clear content which is to be certified by the relevant consent authority) they are not an acceptable mechanism for deferring effects assessments. We provide this indication now so that the parties are live to the issues which may arise at a subsequent hearing.
14. Once the Hearing Commissioners have received the information set out at paragraph 11 above, we will review whether there is sufficient information available to confirm hearing arrangements.

15. The Hearings Commissioners are available to attend a Teams meeting with Counsel for the Councils and the Applicant should this be of assistance.

Preliminary indications as to hearing arrangements

16. We make no directions at this stage about a hearing.
17. If there is sufficient information to proceed to a hearing, then the hearing is likely to be scheduled for the week of 17 March 2025. This will mean that the following dates will apply:
- (a) A section 42A report from the Councils will be due by 24 February 2025;
 - (b) The applicants' evidence will be due by 3 March 2025; and
 - (c) Submitters' evidence will be due by 10 March 2025.
18. We will determine hearing venue in due course, taking into account efficiency matters, and distribution of submitters wishing to be heard.
19. We will make further detailed directions about the hearing when it is scheduled.

Correspondence

20. Participants must not attempt to correspond with or contact the Hearing Commissioners directly. All correspondence relating to the Hearing must be addressed to the Hearing Advisor, Mac Burgess:

Mac Burgess
Contract Consents and Hearing Advisor
Te Kaunihera o Te Tairāwhiti - Gisborne District Council
E: Mac.Burgess@gdc.govt.nz | P: +64 6 867 2049, 0800 653 800



Vanessa Hamm

Independent Hearing Commissioner, Chair

24 January 2025