

## Addition to Chief Executive Report – 19 December 2023

### 1. Appointment of a Commissioner as required by section 100A of the Resource Management Act 1991

#### Introduction

The applicant of a land use consent (limited notified) has requested that the hearing be conducted by an independent commissioner. Under Section 100A(4) of the Resource Management Act 1991 Council (the Act) is therefore required to appoint such a person.

#### Background

**Applicant:** Tabitha Mathison (WSP) on behalf of Natalie and Michael Lamb  
**Site address:** 214 Otaihape Valley Road, Taihape

**Description of Application:** Industrial activity Rural Living Zone

Rangitikei District Council has received an application for retrospective resource consent to authorise an existing car restoration business operating 214 Otaihape Valley Road, Taihape, Central Auto Refinishers Ltd and to expand the business to provide vehicle spray painting services. The application was limited notified to one party, who made a submission in opposition and requested to be heard at a hearing in support of their submission.

Section 100A of the Act requires that the Council must appoint one or more independent hearing Commissioner(s) who are not members of the Council to hear and decide a notified resource consent application where requested by an applicant or submitter. In this instance, the applicant has requested that the Council appoint a Commissioner to hear and decide the application.

Section 100A of the Act states:

*100A Hearing by commissioner if requested by applicant or submitter*

- (1) This section applies in relation to an application for a resource consent if—
  - (a) the application is notified; and*
  - (b) in accordance with section 100, a hearing of the application is to be held.**
- (2) The applicant, or a person who makes a submission on the application, may request in writing that a local authority delegate its functions, powers, and duties required to hear and decide the application in accordance with subsection (4).*
- (3) The request must be made no later than 5 working days after the closing date for submissions on the application.*
- (4) If the local authority receives a request under subsection (2), it must delegate, under section 34A(1), its functions, powers, and duties required to hear and decide the application to 1 or more hearings commissioners who are not members of the local authority.*

Council is therefore required to appoint a commissioner.

**Discussion**

Council staff have contacted Rob van Voorthuysen who is an experienced commissioner and who has indicated he is available. Mr van Voorthuysen has the required experience to ensure a robust decision is issued on behalf of Council.

**Financial Implications**

The costs of the commissioner, as well as other costs, including the preparation of the planner's report, will be borne by the applicant, in accordance with Section 36 of the Act.

**Delegation**

The delegation provides for the Commissioner, Rob van Voorthuysen, to consider the following matters under the Act:

- To require additional fees to be paid over and above any prescribed fees, in order to enable the Council to recover its actual and reasonable costs of processing an application under sections 36 (3) and (5)
- To waive or extend any time limits under sections 37 and 37AA
- To make decisions in relation to persons who may be heard at hearings under section 40
- To determine whether a hearing in respect of a resource consent application is necessary under section 100
- To issue an amended resource consent under s133A
- To consider and make a decision on any resource consent application, including hearing the application if required under sections 104 and 104A-104D
- To impose conditions on resource consents under section 108 and in relation to section 128.

**Recommendation**

That Council appoints Rob van Voorthuysen as an independent commissioner for the resource consent at 214 Otaihape Valley Road, Taihape.

AND

That Rob van Voorthuysen be delegated all powers, duties and functions under the Resource Management Act 1991 to consider, hear and decide the resource consent application for the resource consent at 214 Otaihape Valley Road, Taihape.