

Appointment of Commissioner - Resource Consent Preserve Piha Limited

File No.: CP2011/01634

Executive Summary

Preserve Piha Limited has lodged an application pursuant to s127 of the Resource Management Act 1991 to vary conditions of resource consent (ref. LUC 2007-252) to operate a café at 20 Seaview Road, Piha ("the Piha Café"). The proposed changes relate to building alterations, car park re-surfacing, consumption of alcohol and the operation of an ice cream cart. The application is considered a discretionary activity.

The Hearings Committee is responsible for deciding who the most appropriate decision maker is for those resource consents of a significant or contentious nature. The current café has a contentious consenting history and interest is likely to be continued with this application. It is recommended that the Hearings Committee appoints the decision maker and that this be an independent commissioner. The commissioner shall determine whether the matter should proceed or not with notice and if not determine the application.

Recommendations

- a) That the report be received.
- b) That the Hearings Committee appoints an independent commissioner to review the planner's s95 RMA recommendation report and determine notification.
- c) That if the independent commissioner appointed under recommendation b) finds that the application can proceed without notification, the Hearings Committee appoint the same independent commissioner to proceed to determine the application.

Background

The original resource consent application for the Piha Café (refer LUC-2007-252) was jointly notified with an associated application for a wastewater discharge permit (ref:33789). The proposal attracted a significant number of submissions and media attention due to the potential amenity effects of a commercial activity on the unique coastal character of Piha (including effects associated with noise, odour, privacy, traffic generation and parking). Another contentious issue was the potential adverse effects on the water quality of Piha Lagoon.

The Hearings panel granted resource consent in February 2008 on the basis that adverse effects would be adequately mitigated and the proposal was consistent with the policies and objectives of the District Plan, Part 11 of the RMA and the policy direction of the Auckland Regional Policy Statement and the New Zealand Coastal Policy Statement. An appeal of this decision to the Environment Court in 2009 was largely dismissed and the resource consent was issued with an amended set of conditions.

The current proposal seeks to undertake changes to the approved resource consent through a Section 127 RMA application to vary Conditions 1, 8, 12 and 16 of LUC-2007-252. The proposed changes relate to building alterations, car park re-surfacing, operation of an ice cream cart and the consumption of alcohol. The potential future sale of liquor was a prominent issue amongst submitters as part of the processing of original consent, and the current application is thus considered to be contentious.

Hearings Committee Policy

Within the framework of the Hearings Committee's Terms of Reference from the Governing Body, the Hearings Committee at its meeting on Tuesday 21 December 2010 adopted a hearings policy. In particular, section 4.2 refers to "Allocation of decision making responsibility between elected members, independent commissioners and staff". This includes procedural decisions such as whether or not to notify in addition to substantive decision making.

Section 4.2.2 states that in deciding who is the most appropriate decision maker, the Hearings Committee will take into account recommendations from staff, the significance of a particular matter and whether it is contentious.

Due to the potentially contentious nature of the application, it is recommended that the Hearings Committee in accordance with its policy appoint an independent commissioner to review the planner's s95 RMA recommendation report and determine whether the application should be processed on a non-notified, limited notified or publicly notified basis.

Consultation

The matter of the appointment of commissioners requires no consultation beyond the requirement to report the matter to the Hearings Committee.

Financial and Resourcing Implications

The cost of commissioners is met by the applicant.

Attachments

There are no attachments for this report.

Signatories

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