

IN THE MATTER OF

The Resource Management Act 1991,

AND

IN THE MATTER OF

Application RM 220003 by Paoanui Point Ltd to
the Central Hawke's Bay District Council

MINUTE NO. 1 / TE PĀNUI TUATAHI OF THE HEARING PANEL

Dated: 9 June 2023

Greetings Tēnā tātou katoa,

This Minute contains information and a direction relating to the Application RM 220003 lodged by Paoanui Point Ltd on 22 December 2021.

The Application is to subdivide the property at 25 Punawaitai Road, Pourerere Beach (being Lot 1 DP 571994 & Lot 7 DP 571994; Lot 22 DP 571994 & Lot 2 DP 564721) into:

- 48 allotments suitable for residential development plus balance lot
- 3 lots for shared open space
- 1 lot for stormwater detention and treatment
- 2 lots for shared access

Panel and Powers

The Central Hawke's Bay District Council has under the provisions of the Resource Management Act 1991 (RMA) appointed a Hearing Panel of independent commissioners to hear submissions and make a decision on this application for a resource consent. The Panel comprises Commissioners Liz Lambert, Grey Wilson and Eileen von Dadelszen (Chairperson)

The Hearing Panel's function is to consider the application, the submissions, the Council's section 42 A Report and to make a decision. The Panel's delegation also includes addressing any procedural issues.

Protection of Sensitive Information

- On 17 March 2022, the Council requested the Applicant to provide additional information under section 92(1) of the RMA to assist in understanding and evaluating the application. One request was to provide a Cultural Values Assessment.
- The applicant commissioned Kairakau Lands Trust to prepare a Cultural Impact Assessment of the cultural values and effects of the application. This Assessment has now been provided to the Council.
- However, the Assessment contains some information which is not in the public domain and which is culturally sensitive and contains cultural intellectual property. The applicant's solicitors have pointed out that the document was prepared on the basis that it will not be distributed and has asked the Hearing Panel to make an order under section 42(1)(a) of the Act.

- This section of the Act empowers us (as delegates of the Council for the purposes of hearing this application), to make an order where we are satisfied that this is necessary “to avoid serious offence to tikanga Maori or avoid the disclosure of the location of waahi tapu:....and in the circumstances of the particular case, the importance of avoiding such an offence, disclosure [or prejudice] outweighs the public interest in making that information available.”
- We consider that the potential for offence or disclosure in this instance likely outweighs the public interest in making the information available noting the specific request from the authors of the Cultural Impact Assessment that the report not be distributed without prior consent. Our intention therefore is to issue an order pursuant to section 42(2)(b) of the RMA, prohibiting the circulation and publication of the Cultural Impact Assessment by the Kairakau Lands Trust dated 10 December 2022, **with the exception of the section entitled: “Conclusion and Recommendations” on pages 63 and 64 of the document.** We believe those two pages include information which will be useful to all parties involved in the hearing of this application and would not cause serious offence to tikanga Maori or disclose waahi tapu. We note the high level of alignment between the CIA conclusions and recommendations with those set out in the Archaeological Assessment of Effects by Heritage Services Hawke’s Bay dated 15 September 2022, which would not be subject to any order under section 42 of the Act (ie it will be circulated to parties and be available on the Council’s website for viewing).
- It is also our intention to provide the authors of the CIA with the opportunity to present evidence and/or submissions to us, the Panel, with no other parties present, should they wish to do so.
- However before issuing any order, we invite the Applicant to confirm that this order would be acceptable to the authors of the CIA, Kairakau Lands Trust. We would appreciate a response from the Applicant before 5pm on Tuesday 13 June 2023.

Hei kona ra,

Eileen von Dadelszen on behalf of the Panel