# Terms of reference for Tairāwhiti appointments

# Terms of Reference for the Ministerial Advisor on Recommendations on Gisborne District Council's Resource Management Act 1991 functions, powers and duties Purpose

- 1. The purpose of this appointment is to identify challenges, options, and recommended next steps (including for central government support) for Gisborne District Council's (GDC) Resource Management Act 1991 (RMA) response to the Ministerial Inquiry into Land Use in Tairāwhiti and Wairoa (the Inquiry).
- 2. The Advisor will make recommendations to the Minister for the Environment under RMA section 24A to progress a regulatory regime in Tairāwhiti that better manages the risks from erosion, sedimentation and woody debris and enables the transition to more sustainable land uses.
- 3. This assessment is being carried out in the context of the Inquiry's findings and recommendations which raised the need for resource management action to reduce risk in the immediate/near term and strengthen resilience in the longer term for Tairāwhiti.

### **Background**

- 4. In February 2023 the Cabinet Economic Development Committee (DEV) agreed to the formation of the Inquiry to make recommendations to improve land use outcomes in Tairāwhiti and Wairoa in the wake of the destruction resulting from severe weather events in early 2023.
- 5. The Inquiry reported back in May 2023<sup>5</sup> with a series of findings highlighting the urgent need for action to support the recovery of Tairāwhiti and Wairoa and to improve the governance practices and regulatory settings to build resilience and prevent future similar events.
- 6. The report highlighted the significant toll on communities and relationships (noting in particular that 53% of the population in Tairāwhiti identifies as Māori and the region has one of the highest concentrations of whenua Māori in the country), the loss of trust between key stakeholders in the region, and the need for review of the approach to managing forestry activities in particular.
- 7. Their recommendations, based on the consultation and analysis that was able to be undertaken within the two-month period for the Inquiry, include:
  - a. appointment of a Commissioner to exercise the RMA functions, powers and duties of GDC (R42)
  - b. review of existing and live resource consent conditions for forestry activities (R23, R25)
  - c. review of GDC's compliance, monitoring and enforcement (CME) practices (R26)
  - d. prioritising GDC's appointment of a regional planning committee and development of a regional spatial strategy once the Spatial Planning Bill comes into force (R43. R44)
  - e. development of a statutory vision for Tairāwhiti to guide policy and plan review (R47).
- 8. In light of these initial findings, the Minister for the Environment and the Minister of Forestry want more detailed advice on:
  - a. the challenges and opportunities for GDC in undertaking its RMA functions related to land management
  - b. recommendations to support those functions to be effectively fulfilled in the context of recovery, resilience and progress on matters identified in the Inquiry's report.

### Scope

- 9. The assessment will address the following:
  - a. challenges and options (including for central government support) for GDC's RMA response in exercising its powers, functions, and duties under sections 30 and 31 of the RMA with a focus on management of the risks from erosion, sedimentation and woody debris and enabling the transition to more sustainable land uses.
  - b. review of GDC's capacity and resources to develop and implement the Tairāwhiti Resource Management Plan (TRMP) review with a focus on management of the risks from erosion, sedimentation and woody debris and enabling the transition to more sustainable land uses. This should include:
    - i. review and assessment of existing policies, such as Tairāwhiti 2050, to determine whether they provide a sufficiently clear and robust strategic focus for the TRMP review, in the broader context of immediate recovery and improved resilience to future adverse weather events
    - ii. identification of any new policies or other documents or changes to existing policies or other documents that would better support the TRMP review process
    - iii. identification of any resourcing and relationship needs to support a robust TRMP review, including (in coordination with the Ministerial Advisor) local partnerships, engagement needs etc
    - iv. advice on the process and staging of the TRMP review including appropriate timeframes for implementing national direction relevant to the matters identified by the Inquiry and consideration of the implications of resource management reform, water services reform and any other significant legislative changes on that review
  - c. review of GDC's approach to compliance, monitoring and enforcement activities, in the context of land use rules and resource consents for activities that may contribute to erosion, sedimentation and woody debris, and whether these could be improved
  - d. review GDC's approach to consenting and reviewing forestry activities with a focus on the risks of clear-felling, risk mitigations, and whether these could be improved
  - readiness and capacity of hapū/iwi/Māori, relevant land-owners and managers, stakeholders and the wider community to engage in the resource management processes discussed above
  - f. recommended options for further work to ensure a fit for purpose planning regime in place for land management relevant to the recovery, hazards management and improved resilience for Tairāwhiti
  - g. any other relevant contextual matters.

# Methodology

- 10. The appointee will:
  - a. within three weeks of the initial appointment, confirm an initial project plan with the Ministerial Advisor for the MILU Response, and relevant agencies, after engaging with hapū/iwi/PSGEs, GDC and any other relevant stakeholders
  - b. spend the time needed with GDC to inform Councillors of the scope of review and approach, and then undertake discussions with council staff with a focus on Senior Leadership, managers and technical staff for consents, plans, and CME
  - c. seek the views of relevant hapū/iwi/Post-Settlement Governance Entities (PSGEs) and GDC, including engagement with Te Arawhiti where appropriate or beneficial.
  - d. seek the views of any stakeholders the appointee deems necessary, including Māori land owners (working with the Ministerial Advisor for the MILU response in Tairāwhiti/Gisborne District to coordinate engagements wherever possible);
  - e. review the terms of reference for the independent review of CME activities proposed by GDC and advise the Minister for the Environment on whether further

- review is required. Review the report once complete and consider if any matters should be highlighted to the Minister for the Environment.
- f. undertake a technical assessment of drafts of the TRMP and any related policy or planning documents to understand the adequacy of the existing and proposed regulatory framework for forestry and other land use activities in Tairāwhiti that create risk from erosion, sedimentation and/or debris.
- g. consider the implications of resource management reform and water services reform on the staging and scope of the TRMP review
- h. spend the time needed with the Ministerial Advisor for the MILU Response to understand how relationships with tangata whenua and stakeholders contribute to GDC's fulfilment of its RMA functions
- consider the demands on resourcing of hapū/iwi/PSGEs, GDC and other stakeholders of the wider recovery effort and consider the extent to which previous engagement, research and processes can be drawn on to reduce repetitious requests.
- j. undertake any additional research and analysis required to complete their reports
- k. provide reports in a sufficient level of detail for the Minister to consider whether or not specific recommendations to GDC on the exercise or performance of its functions, powers or duties under section 24A(b) of the RMA or if further appointments under section 25 of the RMA are required.
- I. circulate draft reports for comment by the Ministry for the Environment, the Ministry for Primary Industries and, to the extent relevant and appropriate, other parties.
- m. finalise and present their reports to the Minister for the Environment

### **Terms**

- 12. The appointment will be from 18 September 2023 until 18 June 2024 with an option to extend if required.
- 13. The appointee will provide at least two progress reports (or more frequently as appropriate), one by 15 December 2023 and a final report presented to the Minister for the Environment no later than 17 May 2024. The agreed project plan can include a timeline for initial findings allocated to each report.
- 14. The Ministry for the Environment (MfE) and the Ministry for Primary Industries (MPI) will provide technical and administrative support to the appointee as required and agreed.

### Remuneration and costs

- 15. Remuneration is in accordance with the fee schedule for the appointment.
- 16. MfE and MPI will reimburse incidental expenses associated with the appointments in accordance with the contractual schedule.

# Terms of Reference for the Ministerial Advisor for the Ministerial Inquiry into Land Use response in Tairāwhiti/Gisborne District

# Purpose of the appointment

- 1. The purpose of this appointment is to advise the Minister for the Environment and the Minister of Forestry on opportunities to facilitate and support a cohesive, integrated and effective approach in Tairāwhiti/Gisborne District to the Government response to the recommendations in the Ministerial Inquiry into Land Use's report. This includes:
  - a. working with Gisborne District Council (GDC), hapū/iwi/PSGEs, Māori landowners, and other stakeholders to identify and facilitate implementation of new ways of working and partnerships to support recovery, resilience and progress on matters identified in the Inquiry's report
  - b. assisting GDC and hapū/iwi/PSGEs with navigating and accessing data, technical advice, and support from government where appropriate
  - c. facilitating potential non-statutory interventions and hapū/iwi/PSGEs- or industry-led approaches as appropriate
  - d. assessing the progress of the woody debris clean-up and providing recommendations on the need for further remediation work.

### **Background**

- 2. In February 2023 the Cabinet Economic Development Committee (DEV) agreed to the formation of the Inquiry to make recommendations to improve land use outcomes in Tairāwhiti and Wairoa in the wake of the destruction resulting from severe weather events in early 2023.
- The Inquiry reported back in May 2023<sup>6</sup> with a series of findings highlighting the urgent need for action to support the recovery of Tairāwhiti and Wairoa and to improve the governance practices and regulatory settings to build resilience and prevent future similar events.
- 4. The report highlighted the significant toll on communities and relationships (noting in particular that 53% of the population in Tairāwhiti identifies as Māori and the region has one of the highest concentrations of whenua Māori in the country), the loss of trust between key stakeholders in the region, and the need for review of the approach to managing forestry activities in particular.
- 5. The recommendation to create a woody debris taskforce was made prior to the Government's announcement of a \$10.15 million package to support councils and whenua Māori owners to remove woody debris from catchment systems. The fund is now operationalised, which will enable the Ministerial adviser to report on progress, and assess what further remediation actions may be required.
- 6. In light of these findings, the Minister for the Environment and the Minister of Forestry want to ensure GDC have assistance to improve ways of working and partnerships to support recovery, resilience and progress on matters identified in the Inquiry's report.

### Scope of the appointment

- 7. The focus of this appointment is to support reducing risk and strengthening resilience in Tairāwhiti by:
  - a. facilitating positive ways of working between GDC, hapū/iwi/PSGEs and other relevant stakeholders on matters relating to the environment in Tairāwhiti, the immediate recovery, and improved resilience to future events looking ahead to the transition to the new resource management system.
  - b. supporting GDC to establish agreements with hapū/iwi/PSGEs, industry and other relevant stakeholders to partner on addressing resource management challenges
  - c. considering and advising on any resourcing gaps for enabling sustainable partnerships with hapū and iwi in Tairāwhiti.

- d. connecting GDC, hapū/iwi/PSGEs, industry and other stakeholders as appropriate with available advice and expertise in government to support the immediate recovery and improved resilience to future events.
- e. facilitating discussions with industry, hapū/iwi/PSGEs and other stakeholders on and providing advice to the Ministers on other potential actions including interventions, initiatives or extensions to support immediate recovery and improved resilience to future events or to encourage positive behaviour change by land users.
- f. reviewing progress and identifying suitable next steps on the woody debris clean-up including:
  - i. lessons learned from the initial clean-up (including voluntary actions)
  - ii. catchment and spatial analysis by GDC and MPI on priority catchments and how much woody debris is still left in the system
  - iii. funding required to remove remaining material down to an acceptable level of
  - iv. priority areas for clean-up and risks posed by woody debris
- g. advising on the potential for a regional level technical advisory group to provide input to GDC on regulatory and voluntary action to improve forestry practices.
- 8. Any other relevant contextual matters.

# Methodology

- 9. To deliver on the purpose of this appointment, the Appointee will undertake the following tasks during the Term:
  - a. within three weeks of the initial appointment, confirm an initial project plan with the Ministerial Advisor on Recommendations on Gisborne District Council's Resource Management Act 1991 (RMA) functions, powers and duties and relevant agencies after engaging with hapū/iwi/PSGEs, GDC and any other relevant stakeholders
  - b. build effective working relationships with hapū/iwi/PSGEs, GDC, industry and any stakeholders as deemed necessary and seek their advice on issues that impact them and that are relevant to the immediate recovery or longer-term resilience
  - c. assess and report to the Minister for the Environment and the Minister of Forestry on the current state of partnering on recovery-related activities, particularly where these are resourced by government or are recommended in the Inquiry's report
  - d. input into the assessment of GDC's RMA functions as requested.
  - e. undertake any additional research and analysis required to complete their reports
  - f. consider the demands on resourcing of hapū/iwi/PSGEs, GDC and other stakeholders of the wider recovery effort and consider the extent to which previous engagement, research and processes can be drawn on to reduce repetitious requests.
  - g. coordinate the timing of reporting with the RMA assessment
  - h. circulate draft reports for comment by the Ministry for the Environment, the Ministry for Primary Industries and, to the extent relevant and appropriate, other parties
  - i. finalise and present their reports to the Minister for the Environment and the Minister of Forestry.

#### **Terms**

- 10. The appointment will be from 5 September 2023 until 5 June 2024 with an option to extend if required.
- 11. The appointee(s) will provide at least two progress reports (or more frequently as appropriate), one by 15 December 2023 and a final report presented to the Minister for the Environment and the Minister of Forestry no later than 17 May 2024. The agreed project plan can include a timeline for initial findings allocated to each report.
- 12. The Ministry for the Environment (MfE) and the Ministry for Primary Industries (MPI) will provide technical and administrative support to the appointee on an as required basis.

# Remuneration and costs

- 13. Remuneration is in accordance with the fee schedule for the appointment.14. MfE and MPI will reimburse incidental expenses associated with the appointments in accordance with the contractual schedule.