



Coastal Resources Limited Decision-making Committee Procedures

Application: Coastal Resources Limited application for marine dumping consent

Purpose

1. On 30 November 2017, the Environmental Protection Authority (“EPA”) Board appointed a Decision-making Committee (DMC) under clause 14 of Schedule 5 of the Crown Entities Act 2004 to hear and determine a marine dumping consent application from Coastal Resources Limited (CRL) in accordance with the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012. The EPA also appointed a chairperson of this DMC (“the Chairperson”).
2. This document sets out the arrangements for operation of this DMC, which are designed to reflect the principles of good governance, including being participatory, consensus oriented, accountable, transparent, responsive, effective and efficient, equitable and inclusive and follow the rule of law. These procedures are based on those set for the EPA Board by Schedule 5 of the Crown Entities Act 2004, with appropriate amendments.
3. These procedures govern any decisions made by this DMC relating to the EPA’s statutory functions.
4. A copy of the delegation of statutory powers and functions from the EPA Board to this DMC has been provided to each Member. A copy is attached at Appendix 1.

Chairperson

5. The Chairperson appointed by the EPA Board is Mark Farnsworth.

Acting chairperson

6. The Chairperson must appoint a member of the DMC as Acting Chairperson if the Chairperson is not available for any meeting.
7. The Acting Chairperson may exercise all of the functions and powers of the Chairperson in relation to a matter.

Meetings

Committee meetings (other than hearings)

8. A quorum for a DMC meeting will be more than half the membership (i.e. two members). However it is expected that all members will be present at all meetings.
9. The DMC will set its own meeting schedule. In addition any member may request a meeting by advising the Chairperson.
10. The DMC may hold meetings by teleconference or by video conference.

11. The DMC meetings (other than hearings or other public forums as decided by the DMC from time to time) will not be open to the public or media.

Voting at meetings

12. As far as possible, decision making will be by consensus. All members of the DMC have a vote. Where there is no clear majority the Chairperson has the casting vote.
13. A member present at a meeting of the DMC is presumed to have agreed to, and to have voted in favour of, a decision of the DMC unless he or she expressly dissents from or votes against the decision at the meeting.
14. Where a decision is made by a majority, with dissent from one member present, the reasons for their dissent may be included in the written record of that decision.

Meeting notes

15. Meeting notes will be kept by the EPA for all meetings (including teleconferences and video conferences). Meeting notes will be circulated with papers for the next available meeting. The notes will record:
 - the time and place of the meeting, and those present;
 - the reports and other documents referred to or tabled at the meeting;
 - any conflicts of interest that are declared at the meeting;
 - identification of the key matters discussed;
 - action points; and
 - all decisions of the DMC.
16. The meeting notes will not provide a comprehensive record of the various contributions to discussions at the meeting.

Decisions out of meeting

17. A decision signed or assented to in writing (whether sent by post, delivery, or electronic communication) by all available members is as valid and effectual as if it had been decided at a meeting of the DMC duly called and constituted. The term "available" in this context means a member who is not excluded from voting or taking part in a decision under s 66 of the Crown Entities Act 2004 by virtue of being interested in a matter.
18. The decision may consist of several documents containing the same decision; each signed or assented to in writing by one or more members.

Support to the DMC

19. The DMC will be supported by the EPA staff. Communications to the DMC from external parties will be via the EPA staff. The EPA staff will provide administration support and processing systems.

20. At the request of the DMC, the EPA staff will arrange tasks to be undertaken, or the provision of information, for the DMC. EPA staff will provide secretarial services to the DMC (such as preparation of agendas and meeting notes, and meeting arrangements) and will provide or procure any services the DMC requires using the EPA supply panel.
21. The DMC's media releases, other media dealings, and public notifications will be managed by the EPA, in consultation with the DMC.

Public dealings

22. The DMC will act collegially. Members should avoid engagement with interested parties or the media without a mandate from the DMC, especially about anything that may be construed as expressing an opinion on, or receiving representations on, issues the DMC will be considering.
23. The Chairperson will be the spokesperson for the DMC, unless the Chairperson or the DMC delegates that responsibility in any instance.

Statutory Delegations

24. The EPA Board agreed to the DMC delegating all the functions and powers delegated to that DMC to one or more members of that DMC (except the power to decide the application). The DMC may therefore delegate functions to be carried out on its behalf. Any such delegations will be recorded in writing. These functions may include deciding to waive or extend statutory timeframes, make an order protecting sensitive information, or give directions at or before a hearing. A copy of the Record of Appointment and Delegation and a list of key delegation powers is attached at Appendix 1.

Tasks that may be performed by the Chairperson

25. The following tasks do not involve the exercise of statutory functions, and can be exercised by the Chairperson on the DMC's behalf without the need for a formal delegation:
 - Approving a brief for any reports the DMC may want to commission.
 - Approving media releases.
 - Signing of minutes and directions issued by the DMC.

Conflicts of Interest

26. If any member has a conflict of interest in respect of any matter being considered by the DMC at any meeting, that member should disclose details of the interest in the interests register and to the Chairperson of the EPA Board in accordance with s 64 of the Crown Entities Act 2004.

Consequences of being interested in a matter (s 66 of the Crown Entities Act)

27. A member who has a conflict of interest in a matter:
- a. must not vote or take part in any discussion or decision of the DMC relating to the matter, or otherwise participate in any activity of the DMC that relates to the matter; and
 - b. must not sign any document relating to the entry into a transaction or the initiation of the matter; and
 - c. is to be disregarded for the purpose of forming a quorum for that part of a meeting of the DMC during which a discussion or decision relating to the matter occurs or is made.

Permission to act despite being interested (s 68 of the Crown Entities Act)

28. The Chairperson of the EPA Board may, by prior written notice to the DMC, permit one or more members, or members with a specified class of interest, to do anything otherwise prohibited by s 66 of the Crown Entities Act, if the Chairperson of the EPA Board is satisfied that it is in the public interest to do so.
29. The permission may state conditions that the member must comply with.
30. The permission will be recorded on the interests register along with any conditions that the member must comply with.
31. The permission may be amended or revoked in the same way as it may be given.

Approval

32. DMC procedures were approved by the DMC on 7 August 2018.



Mark Farnsworth
Chair CRL Decision-making Committee

Appendix 1- Coastal Resources Limited Decision-making
Committee Record of Appointment and Delegation and a list of key delegation
powers

Appendix 1 – Record of Appointment and Delegation

Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (“EEZ Act”)

This document is a record of an appointment and delegation made by unanimous resolutions of the Environmental Protection Authority (“EPA”) Board on 30 November 2017, and is signed by two EPA Board members who were present when the resolutions were made.

Appointment of Decision-making Committee

1. Under clause 14 of Schedule 5 of the Crown Entities Act 2004 (“CEA”) the EPA Board, by resolution, appointed the following persons to be a committee (“Decision-making Committee”) to exercise powers and functions under the EEZ Act related to the decision on the application for marine consent by Coastal Resources Limited (“CRL”).
 - a. Basil Morrison
 - b. Mark Farnsworth (Chair)
 - c. Gillian Wratt

Delegation

2. Under section 73 of the CEA, the EPA by resolution delegated to the CRL 2017 applications Decision-making Committee all of the functions and powers of the EPA related to the processing, hearing, and deciding of the CRL 2017 applications under the EEZ Act.
3. In accordance with section 74 of the CEA, the EPA consented to the Decision-making Committee delegating all of the functions and powers delegated to that Decision-making Committee, to one or more of the members of that Decision-making Committee, except for the power to decide the applications under section 62 of the EEZ Act.
4. Paragraph 2 of this delegation will come into effect on the date that written notice of the delegation is given to the members of the Decision-making Committee.
5. For the avoidance of doubt, all powers and functions conferred under this instrument of delegation apply both before and after the application is lodged.

Signed



Name: Kevin Thompson
Member



Name: Tim Lusk
Member

List of key delegation powers¹

EEZ Act provision	Summary of powers
Part 3	
s 54	To request an applicant to provide further information.
s 56	To commission a review or a report, or seek advice in relation to an application for marine consent.
s 57	To request mediation and meetings to resolve matters before decision.
s 62	To decide on applications for marine consents.
s 93	To decide the application ought to be processed and heard with an application for resource consent for the activity.
Schedule 3	To conduct a hearing on an application for a consent
1	To decide a time, date and place for the hearing, and to give notice of the hearing.
2 (2)	To establish a procedure for a hearing.
4 (2)	To limit the circumstances in which parties having the same interest in a matter may speak or call evidence in support.
5 (2)	To sign summons' to witnesses to appear at a hearing.
6	To decide whether the scale and significance warrants a hearing
7	To give directions to provide evidence within time limits.
8	To give directions before or at hearings.
Part 4	
s 102	To consider an objection against certain decision
s 103	To make a decision as to an objection against certain decisions
s 159	To waive compliance with timeframes

¹ This list is not exhaustive but is intended as an early overview for your information. EPA staff will also provide further advice around the powers delegated to staff and the DMC at the first DMC meeting (and on an ongoing basis as required).