

Internal Memo



TO: Charlotte Knight – Acting Director, Sustainable Futures

FROM: Awhina White, Resource Consents Manager

DATE: 28 September 2026

SUBJECT: RESOURCE CONSENT HEARING – GISBORNE DISTRICT COUNCIL – TE KARAKA STOP BANKS
– LR-2026-113441-00, & OTHERS – CASTING VOTE

1. Executive Summary

This memorandum supplements the appointment memorandum approved on 7 July 2026 for the Te Karaka Stop Banks resource consent hearing. The original memorandum appointed Cam Twigley as Chair, David Hill and Josh Wharehinga as the three-member Independent Hearings Panel.

Since that appointment, a late submission in opposition to the application was accepted on behalf of the Kewa/Katipa/Cookson whānau. The submission was lodged by Maraea Cookson, who is Commissioner Josh Wharehinga's mother. Commissioner Wharehinga disclosed the relationship to the Panel immediately upon becoming aware of the submission.

The relationship raised a potential conflict of interest and an issue concerning the appearance of bias. The matter was disclosed to hearing participants through Direction #4 dated 25 September 2026. Although the initial position was that the matter could potentially be managed through Commissioner Wharehinga not hearing the whānau submission or participating in deliberations specifically concerning it, Commissioner Wharehinga has subsequently recused himself from the Panel to protect the fairness and integrity of the hearing process.

As a consequence, the hearing panel is reduced from three commissioners to two: Chair Cam Twigley and Commissioner David Hill. The applicant has recommended that Council consider expressly providing the Chair with a casting vote in the event of an equality of votes.

To ensure the decision-making arrangements are clear and formally recorded as part of the terms of appointment, approval is sought to amend the original appointment so that the remaining two commissioners must first use reasonable endeavours to reach agreement by consensus. If consensus cannot be achieved, the Chair will have a casting vote.

2. Background

The 7 July 2026 memorandum approved a panel of three independent commissioners to hear and determine the application. The panel was selected to collectively provide planning, engineering and cultural expertise, with Cam Twigley appointed as Chair, David Hill bringing planning and engineering expertise, and Josh Wharehinga providing cultural experience.

The original appointment memorandum did not expressly address the process to be followed if the Panel was reduced to two members, including how an equality of votes would be resolved. Given the change in panel composition, it is appropriate to expressly record the decision-making arrangements for the remaining commissioners.

3. Considerations

The recusal means the Panel will proceed with two commissioners rather than the three originally appointed. The preferred approach remains for the commissioners to reach a collective decision through deliberation and consensus.

A casting vote is therefore proposed only as a contingency mechanism. The remaining commissioners should first use reasonable endeavours to reach agreement by consensus. Only if agreement cannot be reached and there is an equality of votes would the Chair exercise a casting vote.

Expressly recording the arrangement in the appointment documentation provides clarity for the commissioners and the parties and avoids reliance on assumed or customary practice. It also ensures the decision-making arrangements are settled before substantive deliberations occur.

4. Legal and Procedural

This memorandum is intended to supplement, rather than replace, the original 7 July 2026 appointment. It records the consequence of Commissioner Wharehinga's recusal and clarifies the terms on which the remaining two-member Panel will exercise the delegated hearing and decision-making functions.

The proposed casting vote provision does not alter the substantive statutory tests to be applied to the resource consent applications or diminish the obligation on both commissioners to independently consider the evidence and submissions.

The cultural expertise originally represented on the Panel by Commissioner Wharehinga has been addressed separately with the approach being approved by the Chief Executive. That approach includes the appointment of an independent cultural advisor, who will be made available to the Panel, without conferring any decision-making role.

5. Risks

Given that Gisborne District Council is both the applicant and consent authority, it is important that the hearing arrangements are transparent and that any procedural contingency is formally recorded before it is required.

Requiring reasonable endeavours to reach consensus before a casting vote may be exercised reinforces that the casting vote is a mechanism of last resort rather than the primary means of resolving differences between commissioners.

6. Recommendation

It is recommended that the Acting Director Sustainable Futures:

- approve this memorandum as a supplement to the commissioner appointment memorandum dated 7 July 2026;
- Confirm that the remaining commissioners are to use reasonable endeavours to reach agreement by consensus;
- Confirm that, if consensus cannot be achieved and there is an equality of votes, the Chair, Cam Twigley, has a casting vote in addition to his deliberative vote; and
- Confirm that all other terms of the original commissioner appointments remain unchanged.



Awhina White

Resource Consents Manager

28/09/26



Charlotte Knight

Acting Director – Sustainable Futures

28/09/26