

CANTERBURY REGIONAL COUNCIL
Kaunihera Taiao ki Waitaha

AGENDA|2018

REGULATION HEARING COMMITTEE

Thursday, 15 March 2018

.....

Time: 8.30am

Venue: Council Chamber,
200 Tuam Street, Christchurch



Regulation Hearing Committee

Membership

Chair

Peter Skelton

Members:

Councillors Lan Pham, Tom Lambie,
Elizabeth Cunningham

ENVIRONMENT CANTERBURY
REGULATION HEARING COMMITTEE

TABLE OF CONTENTS

1. Apologies	6
2. Conflict of Interest	6
3. Minutes	6
3.1. Minutes of Meeting held 01/03/2018.....	6
4. Matters Arising.....	10
5. Deputations and Petitions	11
6. Items for discussion.....	12
6.1. Revocation of Appointment.....	12
6.2. Appointment of Hearing Commissioners - Rangitata Diversion Race Management Limited	14
6.3. Appointment of Hearing Commissioners - Rangitata Diversion Race Management Limited	16
6.4. Appointment of Hearing Commissioner - Fernwood Dairies Limited	18
7. Extraordinary and Urgent Business	20
8. Next Meeting - to be confirmed	20
9. Closure	20

1. Apologies

2. Conflict of Interest

3. Minutes

3.1. Minutes of Meeting held 01/03/2018

Refer to attachment on following page.

REGULATION HEARING COMMITTEE

Minutes of the meeting held in the Council Chamber,
200 Tuam Street, Christchurch, on
Thursday, 1 March 2018 at 8.33 am

CONTENTS

- 1.0 APOLOGIES
- 2.0 CONFLICTS OF INTEREST
- 3.0 MINUTES OF PREVIOUS MEETING – 1 February 2018
- 4.0 MATTERS ARISING FROM PREVIOUS MINUTES
- 5.0 DEPUTATIONS AND PETITIONS
- 6.0 DECISION ITEMS
 - 6.1 **Appointment of Hearing Commissioners - Road Metals Company Limited**
 - 6.2 **Appointment of Hearing Commissioners – Rangitata Diversion Race Management Limited.**
 - 6.3 **Appointment of Decision Makers – Clemence Drilling Contractors Limited.**
- 7.0 EXTRA-ORDINARY AND URGENT BUSINESS
- 8.0 NEXT MEETING
- 9.0 CLOSURE

PRESENT

Councillors Peter Skelton (Chairperson), Elizabeth Cunningham, Tom Lambie and Lan Pham

OFFICERS PRESENT

Virginia Loughnan, Consents Planning Manager; Louise McDonald (Senior Committee Advisor)

1. APOLOGIES

There were no apologies.

2. CONFLICTS OF INTEREST

No conflicts of interest were declared.

3. MINUTES OF PREVIOUS MEETING – 7 DECEMBER 2017

Resolved:

That the Committee confirms as a true and correct record the minutes of the meeting held on 1 February 2018.

Cr Lambie / Cr Pham
CARRIED

4. MATTERS ARISING

There were no matters arising

5. DEPUTATIONS AND PETITIONS

There were no deputations or petitions.

6. DECISION ITEMS

6.1 Appointment of Hearing Commissioners - Road Metals Company Limited.

Cr Skelton advised that, due to the issues involved in these applications, consideration had been given to appointing a third Hearings Commissioner. But as both nominated commissioners were very experienced it was recommended that a third commissioner was not necessary.

Resolved:

That the Regulation Hearing Committee, in regard to resource consents applications CRC181274, CRC181273, CRC183137 and CRC183420 to be held by Road Metals Company Limited.:

- (a) Appoints Sarah Dawson as a Hearings Commissioner, and member and Chair, for the Hearing Panel under s34A of the Resource Management Act 1991; and***
- (b) Appoints John Iseli as a Hearings Commissioner, and member for the Hearing Panel under s34A of the Resource Management Act 1991; and***
- (c) Delegates to Sarah Dawson and John Iseli pursuant to s34A (1) Resource Management Act 1991, the function, powers and duties required to: deal with any preliminary matters; consider; and decide the resource consent applications, and in the event of an inequality of votes provides Sarah Dawson with a casting vote.***

Cr Pham / Cr Cunningham
CARRIED

It was agreed that this hearing and decision process would provide a good opportunity for a new Ngāi Tahu hearing commissioner. Any costs incurred by the observer will not be passed on to the applicant.

Cr Cunningham undertook to check with Ngāi Tahu regarding funding of the costs for a Ngāi Tahu observer.

6.2 Appointment of Hearing Commissioners – Rangitata Diversion Race Management Limited

Cr Skelton advised that one of the nominated appointees, Richard Allibone, has raised that he may have a conflict of interest in this application. It was agreed to defer the appointment of the panel until this has been resolved.

It was requested that a copy of the conflict of interest protocols be circulated to the Committee.

6.3 Appointment of Hearing Commissioners Clemence Drilling Contractors Ltd

Resolved:

That the Regulation Hearing Committee in regard to resource consent application CRC174554 to be held by Clemence Drilling Contractors Limited.

- (a) *Appoints David Caldwell as a Hearings Commissioner under s34A of the Resource Management Act 1991; and***
- (b) *Delegates to David Caldwell pursuant to s34A(1) Resource Management Act 1991, the function, powers and duties required to: deal with any preliminary matters; hear and decide the application.***

Cr Lambie / Cr Pham
CARRIED

7. EXTRAORDINARY AND URGENT BUSINESS

There was no extraordinary or urgent business.

8. NEXT MEETING

To be confirmed

CLOSURE

Chairperson Skelton declared the meeting closed at 8.50am

CONFIRMED

DATE: _____

CHAIRPERSON: _____

4. Matters Arising

5. Deputations and Petitions

6. Items for discussion

6.1. Revocation of Appointment

Regulation Hearing Committee paper

Date of meeting	Thursday 15th March 2018
Agenda item	6.1
Consents Manager	Virginia Loughnan
Author	Alison Cooper

Purpose

1. To revoke the appointment of a Hearing Commissioner to hear and decide resource consent applications CRC170651, CRC170652, CRC170653, CRC170654, CRC170655, CRC170656, CRC170657, CRC170658, CRC170659, CRC170660, CRC170661, and CRC170662

Recommendations

That the Regulation Hearing Committee:

1. **Revokes the appointment of Richard Allibone as a Hearings Commissioner, and member of the Hearing Panel under s34A of the Resource Management Act 1991 to hear and decide resource consent applications CRC170651, CRC170652, CRC170653, CRC170654, CRC170655, CRC170656, CRC170657, CRC170658, CRC170659, CRC170660, CRC170661, and CRC170662 to be held by Rangitata Diversion Race Management Limited.**

Background

2. Mr Allibone was appointed as a Hearing Commissioner and member of the Hearing Panel on 2 February 2017 to hear and decide the publicly notified resource consent applications CRC170651, CRC170652, CRC170653, CRC170654, CRC170655, CRC170656, CRC170657, CRC170658, CRC170659, CRC170660, CRC170661, and CRC170662 to be held by Rangitata Diversion Race Management Limited.
3. The hearing has been delayed until April 2018, to enable the applicant to investigate an alternate fish screen. New applications in regard to the fish screen have been made, publicly notified, and will be heard with the original applications.
4. Mr Allibone has subsequently advised of a potential conflict of interest that has arisen in regard to a submitter.
5. It is considered that Mr Allibone does have a conflict of interest, and that his appointment should be revoked.

6. As the hearing has yet to commence a hearing commissioner can be appointed to the Hearing Panel to replace Mr Allibone.

Legal compliance

7. S34A of the Resource Management Act 1991 allows Council to delegate functions to Hearing Commissioners appointed by the Canterbury Regional Council.
8. The Regulation Hearing Committee appoints Hearing Commissioners in relation to consent authority matters under the Resource Management Act 1991.

Peer reviewers	Virginia Loughnan
-----------------------	-------------------

6.2. Appointment of Hearing Commissioners - Rangitata Diversion Race Management Limited

Regulation Hearing Committee paper

Date of meeting	Thursday 15th March 2018
Agenda item	6.2
Consents Manager	Virginia Loughnan
Author	Alison Cooper

Purpose

1. To appoint a Hearing Commissioner to hear and decide resource consent applications CRC170651, CRC170652, CRC170653, CRC170654, CRC170655, CRC170656, CRC170657, CRC170658, CRC170659, CRC170660, CRC170661, and CRC170662 to be held by Rangitata Diversion Race Management Limited

Recommendations

That the Regulation Hearing Committee in regard to resource consent applications CRC170651, CRC170652, CRC170653, CRC170654, CRC170655, CRC170656, CRC170657, CRC170658, CRC170659, CRC170660, CRC170661, and CRC170662 to be held by Rangitata Diversion Race Management Limited:

1. **Appoints Greg Burrell as a Hearings Commissioner, and member of the Hearing Panel under s34A of the Resource Management Act 1991; and**
2. **Delegates to Greg Burrell pursuant to s34A(1) Resource Management Act 1991, the function, powers and duties required to: deal with any preliminary matters; hear; and decide the resource consent applications.**

Background

2. A vacancy has occurred in the Hearing Panel to hear and decide resource consent applications CRC170651, CRC170652, CRC170653, CRC170654, CRC170655, CRC170656, CRC170657, CRC170658, CRC170659, CRC170660, CRC170661, and CRC170662 to be held by Rangitata Diversion Race Management Limited.
3. Rangitata Diversion Race Management Ltd have applied for or a suite of resource consents to construct, maintain and operate a large water storage facility (which could store up to 53 million cubic metres) on the eastern side of the Rangitata River near Klondyke.

4. A panel of three hearing commissioners was originally appointed to hear and decide the applications because of the number of submitters; and complexity and technical aspect of the applications. The hearing will be held jointly with Ashburton District Council.
5. It is proposed that an appointment be made to continue with a hearing panel of three. The hearing has yet to commence.
6. There is no change to the other members of the panel.

Proposed Commissioners

7. Greg Burrell has satisfied Council staff he has the necessary criteria, including technical ability, RMA Accreditation certification, availability and timeframe commitments to carry out the duties required as a Hearing Panel member.

Legal compliance

8. S34A of the Resource Management Act 1991 allows Council to delegate functions to Hearing Commissioners appointed by the Canterbury Regional Council.
9. The Regulation Hearing Committee appoints Hearing Commissioners in relation to consent authority matters under the Resource Management Act 1991.

Peer reviewers	Virginia Loughnan
-----------------------	-------------------

6.3. Appointment of Hearing Commissioners - Rangitata Diversion Race Management Limited

Regulation Hearing Committee paper

Date of meeting	Thursday 15th March 2018
Agenda item	6.3
Consents Manager	Virginia Loughnan
Author	Alison Cooper

Purpose

1. To appoint Hearing Commissioners to hear and decide resource consent applications CRC182535, CRC182536, CRC182537, CRC182538, CRC182539, CRC182540, CRC182541, CRC182542, CRC182630 and CRC182631 to be held by Rangitata Diversion Race Management Limited.

Recommendations

2. That the Regulation Hearing Committee in regard to resource consent applications CRC182535, CRC182536, CRC182537, CRC182538, CRC182539, CRC182540, CRC182541, CRC182542, CRC182630 and CRC182631 to be held by Rangitata Diversion Race Management Limited:
 1. Appoints Paul Rogers as a Hearings Commissioner, and member and Chair of the Hearing Panel under s34A of the Resource Management Act 1991; and
 2. Appoints Yvette Couch-Lewis as a Hearings Commissioner, and member of the Hearing Panel under s34A of the Resource Management Act 1991; and
 3. Appoints Greg Burrell as a Hearings Commissioner, and member of the Hearing Panel under s34A of the Resource Management Act 1991; and
 4. Delegates to Paul Rogers, Yvette Couch-Lewis and Greg Burrell pursuant to s34A(1) Resource Management Act 1991, the function, powers and duties required to: deal with any preliminary matters; hear; and decide resource consent applications.

Background

3. Rangitata Diversion Race Management Limited have applied for a second suite of resource consents relating to the construction, maintenance and operation of a large water storage facility (which could store up to 53 million cubic metres) on the eastern side of the Rangitata River near Klondyke.

4. This suite of applications relates to a proposal for the construction, use and maintenance of a replacement fish screen associated with the operation of the Rangitata diversion race, the discharge of water and sediment to the Rangitata River associated with emergency discharge from the proposed water storage pond; and the use of water into the RDR canal, and amendment to an existing consent to remove the requirement for the existing Bio Acoustic fish fence.
5. The applications have been publicly notified along with an application to Ashburton District Council. Submissions closed 19 February 2018. 46 submissions were received. 29 submitters wish to be heard. Submitters were generally supportive of the replacement fish screen applications.
6. It is proposed that all the resource consent applications – those relating to the replacement fish screen, and those for the construction, maintenance and operation of the storage facility – be heard together at the joint hearing for the construction, maintenance and operation of the facility.

Proposed Commissioners

7. Hearing Commissioners Paul Rogers and Yvette Couch-Lewis were appointed on the 2nd February 2017, to hear and decide the publicly notified resource consent applications CRC170651, CRC170652, CRC170653, CRC170654, CRC170655, CRC170656, CRC170657, CRC170658, CRC170659, CRC170660, CRC170651 and CRC170662
8. It is recommended that Paul Rogers, Yvette Couch-Lewis, and Greg Burrell also be appointed to hear and decide this second suite of resource consent applications as they are related to the initial applications, and be heard together at the joint hearing.

Legal compliance

9. S34A of the Resource Management Act 1991 allows Council to delegate functions to Hearing Commissioners appointed by the Canterbury Regional Council.
10. The Regulation Hearing Committee appoints Hearing Commissioners in relation to consent authority matters under the Resource Management Act 1991.

Peer reviewers	Virginia Loughnan
-----------------------	-------------------

6.4. Appointment of Hearing Commissioner - Fernwood Dairies Limited

Regulation Hearing Committee paper

Date of meeting	Thursday 15th March 2018
Agenda item	6.4
Consents Manager	Virginia Loughnan
Author	Alison Cooper

Purpose

1. To appoint a Hearing Commissioner to hear and decide an objection to decision for resource consent CRC held by Fernwood Dairies Limited.

Recommendations

That the Regulation Hearing Committee, in regard to an objection to decision of resource consent CRC153146 held by Fernwood Dairies Limited:

1. **Appoints Kenneth Lawn as a Hearings Commissioner, and member of the Hearing Panel under s34A of the Resource Management Act 1991; and**
2. **Delegates to Kenneth Lawn pursuant to s34A(1) Resource Management Act 1991, the function, powers and duties required to: deal with any preliminary matters; hear; and decide the objection to decision.**

Background

2. Fernwood Dairies Limited has objected to the conditions of the decision of resource consent CRC153146 held by Fernwood Dairies Limited, and requests a hearing before an independent hearing commissioner.

Proposed Commissioner

3. Kenneth Lawn has satisfied Council staff he has the necessary criteria, including technical ability, RMA Accreditation certification, availability and timeframe commitments to carry out the duties required to hear the objection to decision.

Legal compliance

4. S34A of the Resource Management Act 1991 allows Council to delegate functions to Hearing Commissioners appointed by the Canterbury Regional Council.

5. The Regulation Hearing Committee appoints Hearing Commissioners in relation to consent authority matters under the Resource Management Act 1991.

Peer reviewers	Virginia Loughnan
-----------------------	-------------------

7. Extraordinary and Urgent Business

8. Next Meeting - to be confirmed

9. Closure