

CANTERBURY REGIONAL COUNCIL  
*Kaunihera Taiao ki Waitaha*

# AGENDA|2018

## **Regulation Hearing Committee**

Thursday, 2 August 2018

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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**

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## **1. Apologies**

## **2. Conflict of Interest**

## **3. Minutes**

### **3.1. Minutes from 21 June 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, 21 June 2018 at 8.30am

### **CONTENTS**

- 1.0 Apologies
- 2.0 Conflict of Interest
- 3.0 Minutes of Meeting – 7 June 2018
- 4.0 Matters Arising
- 5.0 Deputations and Petitions
- 6.0 Items for Discussion
  - 6.1 Appointment of Hearing Commissioner – ERP Group Limited
  - 6.2 Consent Decisions via Regional Hearing Committee
  - 6.3 Appointment of Hearing Commission – JA Parfitt
- 7.0 Extraordinary and Urgent Business
- 8.0 Next Meeting
- 9.0 Closure

### **PRESENT**

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

### **IN ATTENDANCE**

Catherine Schache (General Counsel), Virginia Loughnan (Consents Manager), Vivienne Ong (Committee Advisor)

#### **1. APOLOGIES**

There were no apologies.

#### **2. CONFLICT OF INTEREST**

No conflicts of interest were declared.

#### **3. MINUTES OF MEETING – 7 JUNE 2018**

**Resolved:**

**The Regulation Hearing Committee:**

**Confirms the amended minutes of the meeting held on 7 June 2018 as a true and correct record.**

Cr Cunningham / Cr Lambie  
**CARRIED**

#### **4. MATTERS ARISING**

There were no matters arising.

#### **5. DEPUTATIONS AND PETITIONS**

There were no deputations or petitions.

#### **6. ITEMS FOR DISCUSSION**

##### **6.1 Appointment of Hearing Commissioner – ERP Group Limited**

**Resolved:**

**That the Regulation Hearing Committee in regard to resource consent application CRC182795 to be held by ERP Group Limited:**

- 1. Appoint Kenneth Lawn as a Hearings Commissioner, under s34A of the Resource Management Act 1991; and**
- 2. Delegate 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 resource consent application.**

Cr Cunningham / Cr Lambie  
CARRIED

*Item 6.3 was taken at this time.*

##### **6.3 Appointment of Hearing Commissioner – JA Parfitt**

**Resolved:**

**That the Regulation Hearing Committee in regard to an objection to decision of resource consent CRC169979 held by Jennifer A Parfitt:**

- 1. Appoint Kenneth Lawn as a Hearings Commissioner under s34A of the Resource Management Act 1991; and**
- 2. Delegate 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.**

Cr Lambie / Cr Cunningham  
CARRIED

##### **6.2 Consent Decisions via Regulation Hearing Committee**

Catherine Schache spoke to the report and during discussion the following actions were raised:

- Need to confirm whether delegations are for both Publicly Notified and Limited Notified consents.



- General Counsel to prepare a paper recommending Councillors Scott and Cranwell join the Committee, as they are accredited with Making Good Decisions.
- General Counsel to draft letter for Chairperson thanking Alec Neill for his services, and ask his availability on a case by case basis.

**Resolved:**

**That the Regulation Hearing Committee:**

1. **Note that Council has previously delegated to the Committee the authority (amongst other things) to consider and decide resource consent applications under the Resource Management Act (RMA) that have been publicly notified but where there are no parties (submitters or applicant) to be heard; and**
2. **Resolve that, with immediate effect, it intends to consider and decide such resource consent applications itself, rather than appointing an independent hearing commissioner to make all such decisions;**
3. **Instruct staff to consider and to report back to the Committee on the steps necessary to implement this change.**

Cr Pham / Cr Lambie  
CARRIED

## **7. EXTRAORDINARY AND URGENT BUSINESS**

There was no extraordinary or urgent business.

## **8. NEXT MEETING**

To be confirmed.

## **9. CLOSURE**

The Chairperson declared the meeting closed at 8.59am

**CONFIRMED**

**Date:** \_\_\_\_\_

**Chairperson:** \_\_\_\_\_

## **4. Matters Arising**

## **5. Deputations and Petitions**

## 6. Items for discussion

### 6.1. Appointment of Hearing Commissioner - Objection to Decision

#### Regulation Hearing Committee paper

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<b>Date of meeting</b>	Thursday 2nd August 2018
<b>Agenda item</b>	6.1
<b>Consents Manager</b>	Dr Philip Burge (Acting Consents Manager)
<b>Author</b>	Alison Cooper

#### Purpose

1. To appoint a Hearing Commissioner to hear and decide an objection to decision on resource consents CRC051766, CRC040988, CRC040989 and CRC071825 held by Mr Nathaniel Small

#### Recommendations

**That the Regulation Hearing Committee in regard to an objection to decision of resource consents CRC051766, CRC040988, CRC040989 and CRC071825 held by Mr Nathaniel Small:**

1. **Appoints Cindy Robinson as a Hearings Commissioner under s34A of the Resource Management Act 1991; and**
2. **Delegates to Cindy Robinson 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. Mr Small has objected to the decision to decline an extension to the lapse period of 19 July 2017. The consents were granted in July 2010 with a lapse date of 19 July 2015. A two year extension to the lapse date was granted.
3. This is a second request for an extension.
4. The consents are to take and use water surface water from a storage dam; dam water; divert surface water from a stream to a storage dam; and excavate and disturb the bed of a stream to place a dam to impound water at Gormans Road, Hakataramea Valley.

## Proposed Commissioners

5. Cindy Robinson has satisfied Council staff she has the necessary criteria, including technical ability, RMA Accreditation certification, availability and timeframe commitments to carry out the duties required.

## Legal compliance

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

Peer reviewers	Philip Burge
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## 6.2. Revocation of Appointment of Hearing Commissioners

### Regulation Hearing Committee paper

<b>Date of meeting</b>	Thursday 2nd August 2018
<b>Agenda item</b>	6.2
<b>Consents Manager</b>	Dr Philip Burge (Acting Consents Manager)
<b>Author</b>	Alison Cooper

### Purpose

1. To revoke the appointment of Hearing Commissioners to hear and decide resource consent application CRC160056 to be held by Christchurch City Council.

### Recommendations

**That the Regulation Hearing Committee in regard to resource consent application CRC160056 to be held by Christchurch City Council revokes the appointment of:**

1. **Ken Gimblett as a Hearings Commissioner, and member and Chair of the Hearing Panel under s34A of the Resource Management Act 1991; and**
2. **Hugh Thorpe as a Hearings Commissioner, and member of the Hearing Panel under s34A of the Resource Management Act 1991; and**
3. **Raewyn Solomon as a Hearings Commissioner, and member of the Hearing Panel under s34A of the Resource Management Act 1991; and**

### Background

2. The Hearing Panel were appointed on 26 May 2016 to hear the resource consent application CRC160056 to be held by Christchurch City Council.
3. The Christchurch City Council had applied for a comprehensive stormwater network discharge consent, that is to discharge water and contaminants to land and water from the existing and future reticulated stormwater network within Christchurch City and the settlements of Banks Peninsula.
4. The hearing of the application has been delayed until this year as the applicant undertook further work in response to a request for additional information.
5. The additional information has now been supplied resulting in additional sites being included which has changed the scale, intensity and character of the proposed discharges from the network and effects arising from the discharges.

6. A new application will be required as a result of the change of scope; as well as amending the technical requirements of a hearing panel.
7. It is recommended the appointments be revoked.

## **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.

<b>Peer reviewers</b>	Tania Harris
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## 6.3. Update on logistics for RHC hearings

### Regulation Hearing Committee paper

<b>Date of meeting</b>	Thursday 2nd August 2018
<b>Agenda item</b>	6.3
<b>Consents Manager</b>	Philip Burge
<b>Author</b>	Catherine Schache

### Purpose

1. To update the Committee on the proposed process for it to decide notified consent applications in relation to which there are no submissions (from submitters or the applicant) to be heard (“Non-heard Decisions”).

### Recommendations

**That the Regulation Hearing Committee:**

1. **Notes the proposed process.**

### Background

1. At its meeting on 21 June 2018, the Committee asked for confirmation of whether it held the delegation to undertake Non-heard Decisions for only publicly notified hearings, or for both publicly and limited notified hearings.
2. The Committee also directed staff to consider and to report back to the Committee on the steps necessary to undertake such Non-heard Decisions.
3. This paper:
  - a. Confirms that the Committee has delegation to undertake Non-heard Decisions for both publicly and limited notified hearings;
  - b. Identifies the three possible scenarios that might lead to there being no submissions on a notified consent application; and
  - c. Outlines the proposed process and timeframes for bringing Non-heard Decisions to the Committee for decision.

### Extent of Committee delegation

4. The Council has previously delegated to the Committee (amongst other matters):

*“...the authority to decide resource consent applications to which submissions were received and where there are no requests to be heard or any requests to be heard have been withdrawn”*



5. The delegation does not distinguish between those decisions that have been publicly notified and those that have been limited notified. Accordingly, staff's view is that the Committee does hold the appropriate delegation from the Council to consider and decide all Non-heard Decisions, regardless of whether they have been fully publicly notified or only limited notified.

## **Possible scenarios**

6. Broadly speaking, there are three scenarios in which consent applications that have been notified might become Non-Heard Decisions and come before the Committee. The processing timeframes under the Resource Management Act 1991 ("RMA") vary for each of these three scenarios, hence the differentiation. The three scenarios are:
  - a. Where, after the application has been notified and the period for submissions has closed, there have been no submissions received or no submitters wishing to be heard;
  - b. Where the application has been limited notified, with some submissions received, but before the application comes to a hearing Council is advised that no submitters wish to be heard; or
  - c. Where the application has been publicly notified, with some submissions received, but before the application comes to a hearing Council is advised that no submitters wish to be heard.
7. As previously noted, it is not unusual for any one of these three scenarios to arise – and they typically do so three or four times in any year. Usually this is because, after a submitter has made a submission to the Council, there are meetings between the submitter and the consent applicant which result in the consent applicant making changes to its application or proposing consent conditions which address a submitter's concerns.
8. These three scenarios; the applicable timeframes under the RMA; and staff's proposal for whether these applications would be decided by the Committee are set out in Table 1. The yellow boxes in Table 1 indicate the last date on which a matter could become a Non-heard Decision and be referred to the Committee for a decision. These dates are proposed because:
  - a. They leave sufficient time (15 working days) for the Committee members to familiarise themselves with the issues to be decided;
  - b. They also leave sufficient time for an RHC hearing to be scheduled in committee members' diaries and for it to be notified as required by the Local Government Official Information & Meetings Act ("LGOIMA");
  - c. Occur prior to the date on which any appointed Hearing Commissioner(s) would have received the Council officer's s42A report, with a recommended decision on the consent application; and a copy of the application, AEE, submissions and any further information (and therefore prior to any

substantial consideration of the issues being undertaken by the Commissioner(s)); and

- d. Occur prior to the date on which the consent applicant, any submitters and any Hearing Commissioner(s) would have been notified of the hearing date.
9. A proposed process indicating the additional steps that would be followed for all of these Non-heard Decisions (regardless of the scenario under which they came before the Committee) is set out in Table 2.

## **Legal compliance**

10. As noted above, this proposal is consistent with Council's previous delegations and meets the requirements of the RMA.

## **Attachments**

Nil

<b>Peer reviewers</b>	Alison Cooper, Phil Burge
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**TABLE 1: TIMELINE FOR NON-HEARD DECISIONS**

<b>Working days</b>	<b>Action</b>	<b>Public or limited notification: no submissions received or no submitters wishing to be heard after submission period closes</b>	<b>Limited notification: submitters withdraw before hearing</b>	<b>Public notification: submitters withdraw before hearing</b>
	Decision to notify			
<b>20 working days (s97)</b>	Submission period	No submissions received OR no submitters wish to be heard	Some submissions received	Some submissions received
<b>Submission period closes</b>		RHC notified		
<b>Approx. 10-15 working days later</b>			Hearing Commissioner appointed	Hearing Commissioner appointed
			Submitters withdraw prior to s42A report being provided RHC notified	
<b>30 days after submission period closes</b>			S42A report and notice of hearing (15 working days prior to hearing (s103B(2)))	
<b>45 days after submission period closes (s103A(2))</b>			Decision must be made	
				Submitters withdraw prior to s42A report being provided RHC notified
<b>60 days after submission period closes</b>				S42A report and notice of hearing (15 working days prior to hearing (s103B(2)))
<b>75 days after submission period closes (s103A(1))</b>				Decision must be made

## **TABLE 2: PROCESS FOR NON-HEARD DECISIONS**

### **Immediately/for all consent applications**

Add extra paragraph to letter of appointment for Hearing Commissioners, to advise them of possibility of appointment being cancelled if no submitters wish to be heard, but with assurance that time worked to date will be paid.

Prepare paper for Council meeting to appoint to RHC other Councillors with *Making Good Decisions* certification

### **For Non-heard Decisions**

As soon it is apparent that a matter will be a Non-heard Decision:

- Notify RHC members and confirm availability & quorum to decide matter;
- Send to RHC members the consent application, s42A report and any further information provided by applicant (including under s92);
- Advise consent applicant;
- Set date for RHC meeting and give LGOIMA notice of meeting date, time and location;
- Advise appointed Hearing Commissioner (if any).

### **At RHC meeting**

- Revoke Hearing Commissioner's appointment at next meeting;
- Provide run sheet for meeting with a skeleton of matters to be considered;
- Ensure s42A report writer attends meeting;
- Take minutes at meeting, which will form the consent decision.

## 6.4. Appointment of Hearing Commissioner - Hurunui District Council

### Regulation Hearing Committee paper

<b>Date of meeting</b>	Thursday 2nd August 2018
<b>Agenda item</b>	6.4
<b>Consents Manager</b>	Dr Philip Burge (Acting Consents Manager)
<b>Author</b>	Alison Cooper

### Purpose

1. To appoint Hearing Commissioners to hear and decide resource consent application CRC175709 to be held by Hurunui District Council

### Recommendations

**That the Regulation Hearing Committee in regard to resource consent application CRC175709 to be held by Hurunui District Council:**

1. **Appoints Emma Christmas as a Hearings Commissioner under s34A of the Resource Management Act 1991; and**
2. **Delegates to Emma Christmas 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 application.**

### Background

2. Hurunui District Council has applied to take groundwater for community drinking water supply near Racecourse Road, Amberley. It is proposed to take the water from an existing consented bore, and a proposed bore at a combined annual volume up to 681,374 cubic metres.
3. The water will be used for the Amberley district reticulated public supply.
4. The application was publicly notified. Three submissions were received. One was in support. Two parties opposed the proposal and wish to be heard.
5. The application is within the Waipara Groundwater Allocation Zone.

### Proposed Commissioners

6. Emma Christmas has satisfied Council staff she has the necessary criteria, including technical ability, RMA Accreditation certification, availability and timeframe commitments to carry out the duties required as a Hearing Commissioner.

## 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.

<b>Peer reviewers</b>	Phil Burge
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**7. Extraordinary and Urgent Business**

**8. Next Meeting - to be confirmed**

**9. Closure**