

## 6.3 Appointment of Independent Commissioner – Cloud Ocean Water Limited

### Regulation Hearing Committee paper

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<b>Date of meeting</b>	15 November 2018
<b>Agenda item</b>	6.3
<b>Consents Manager</b>	Virginia Loughnan
<b>Author</b>	Tania Harris

#### Purpose

To appoint an Independent Commissioner to consider and decide the non-notification, limited notification or public notification of consent application CRC192153 lodged by Cloud Ocean Water Limited.

To appoint an Independent Commissioner to consider and decide the application CRC192153 should the application be non-notified.

To appoint an Independent Commissioner to chair a hearing panel to consider and decide application CRC192153 should the application be limited or publicly notified.

#### Recommendations

**1. That the Committee, in regard to resource application CRC192153 to be held by Cloud Ocean Water Limited:**

**(a) Appoints Richard Fowler QC as a Hearings Commissioner under s34A of the Resource Management Act 1991:**

- i. To consider and decide the non-notification, limited notification or public notification of that consent application;**
- ii. Following the decision referred to at (i), if that decision is not to notify that consent application, to consider and decide that consent application; and**
- iii. Following the decision referred to at (i), if that decision is to limited notify or to publicly notify that consent application, to be the Chair of a hearing panel to consider and decide that consent application, in conjunction with other Hearing Commissioners, to be appointed at a later date;**

**(b) Delegates to Richard Fowler QC pursuant to s34A(1) Resource Management Act 1991, the function, powers and duties required to: deal with any preliminary matters; consider, and, subject to the appointment of additional Hearing Commissioners provided at resolution set out 1(a)(iii) above, to decide the application.**

## Background

Cloud Ocean Water Limited have applied for consent under s127 of the Resource Management Act to change the conditions of consent CRC182183 and this application has been assigned consent number CRC192153.

CRC192153 is to change conditions to include a new bore to the consent and allow the taking of the same volume of water and for the same duration as authorised by consent CRC182183 from this new bore.

CRC182183 is subject to a Judicial Review proceeding currently before the Court relating to alleged issues with the processes undertaken and decisions previously made by Environment Canterbury staff.

Given the Judicial Review proceedings are still ongoing and not yet determined it is recommended that an Independent Commissioner be appointed to consider and determine the notification or otherwise of the application CRC192153.

This recommendation also includes the delegation for the Independent Commissioner to decide the application should the application be determined as non-notified and the same Independent Commissioner be appointed as the chairperson for a hearing panel to hear and determine the application should the application be limited or publicly notified.

## Proposed Commissioners

The proposed commissioner, Richard Fowler QC has satisfied Council staff he has the necessary expertise, including technical ability, RMA Accreditation certification (with Chair endorsement), availability and timeframe commitments to carry out the duties required.

## Legal compliance

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

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

## Attachments

Nil

<b>Peer reviewers</b>	Catherine Schache, Virginia Loughnan
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