

CANTERBURY REGIONAL COUNCIL
Kaunihera Taiao ki Waitaha

AGENDA|2019

Regulation Hearing Committee

Thursday, 10 October 2019

.....

Time: 9.00am

Venue: Council Chamber,
200 Tuam Street, Christchurch



Regulation Hearing Committee

Membership

Chair

Cr Peter Skelton

Members:

Cr Claire McKay
Cr Elizabeth Cunningham
Cr Lan Pham
Cr Peter Scott
Cr Tom Lambie

ENVIRONMENT CANTERBURY
REGULATION HEARING COMMITTEE

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- 1. Apologies**
- 2. Conflict of Interest**
- 3. Deputations and Petitions**

4. Minutes

4.1. Minutes from 5 September 2019

Refer to attachment on following page.

REGULATION HEARING COMMITTEE

Minutes of the meeting held in the
Council Chamber, 200 Tuam Street, Christchurch, on
Thursday, 5 September 2019 at 8.00am

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- 7.0 Extraordinary and Urgent Business
- 8.0 Other Business
- 9.0 Next Meeting
- 10.0 Closure

PRESENT

Councillors Peter Skelton (Chair), Elizabeth Cunningham, Lan Pham, Claire McKay and Peter Scott

IN ATTENDANCE

Virginia Loughnan (Consents Planning Manager), Simon Woodlock (Consents Planner) and Alison Cooper (Consents Hearings Officer)

1. APOLOGIES

Councillor Tom Lambie

2. CONFLICT OF INTEREST

No conflicts of interest were declared.

3. MINUTES OF MEETING – 15 AUGUST 2019

Resolved:

The Regulation Hearing Committee:

Confirms the minutes of the meeting held on 15 August 2019, as a true and correct record.

Cr Cunningham / Cr Scott

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 – N J Small

Resolved:

That the Regulation Hearing Committee in regard to an objection to a decision on resource consents CRC040988, CRC040989, CRC051766 and CRC071825 held by N J 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.**

Cr Pham /Cr Cunningham
CARRIED

6.2 Resource Consent Application for Consideration – CRC192885

Councillor Skelton asked Simon Woodlock, Consents Planner, to read through the Supplementary s42A report tabled at the meeting.

Mr Woodlock noted that the supplementary report was to provide logic to the recommendation in the main report. Paragraphs one to 35 of the supplementary report replace paragraphs 167 to 193 of the main report.

He noted that the supplementary report amended the order of assessment of sections 104D, 104B, 104A and Part 2 of the Resource Management Act 1991. The amendment was made in consideration of the Court of Appeal decision in *R J Davidson Family Trust v Marlborough District Council*.

Councillor Skelton advised the structure of reporting in regard to Part 2 sections should start with: section 6 – (Matters of National Importance); section 7 – (Other Matters); section 8 – (Principles of the Treaty of Waitangi); then followed by section 5 – purpose of the RMA.

At the invitation of the Chairperson, Councillor Scott lead the discussion on item 6.2

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Councillor Scott considered the report was comprehensive for the activity. He highlighted that the application was to move from a shallow water take to a deeper take and use of water. There were no other changes proposed to the rate of take or volume of water from that already consented.

He noted that the affected bore of the notified party was one of eight bores on the property and asked if the affected bore could be used. Mr Woodlock advised that the bore was consented to be used in a current consent and it could be activated and used in the future without requiring additional consent.

Councillor Scott asked if the water from the affected bore could be 'parked'. Mr Woodlock said he could not assess if the water could be 'parked' as it was part of an active consent. He said that swapping shallow water for deep water is generally a simple process, but some applications would be notified because approval from affected bore owners is not given.

Councillor McKay requested clarification as paragraphs 26(b) and 27 of the s42A report were contradictory. Mr Woodlock advised that paragraph 26(b) was incorrect and should be deleted from the report.

Councillor Scott said the conditions proposed were appropriate for the type of activity.

Councillor McKay asked for clarification that where written approvals to new applications had been received from all affected parties, would it have been notified, and as a non-complying activity. It was confirmed that the applications would not have been notified.

She noted the inclusion of the Te Whakatau Kaupapa, the Ngāi Tahu Resource Management Strategy for the Canterbury Region to be considered as part of the legal and planning matters.

Councillor Cunningham referenced paragraph 10 of the s42A report and asked if the Ashburton consents review affected this application. It was noted that as the current consent is active it would be included in the review process. She also asked about the surrender of resource consent CRC020255.1, and it was confirmed it would need to be surrendered before the applicant could commence taking water as part of this consent.

Councillor Pham referred to paragraph 175 of the s42A report and asked about the advice received from Aoraki Environmental Consultancy. It was noted the advice outlined in paragraph 118 was a policy assessment table provided by Aoraki Environmental Consultancy. It was further noted the return of water to rivers was considered in light of the plans.

Councillor Skelton, in referring to page 4 and paragraph 20(c) of the s42A report, asked if reference to the Natural Resources Regional Plan (NRRP) should be removed as that plan had been taken over by the Land and Water Regional Plan.

Mr Woodlock advised that paragraph 20(c) should be removed from the s42A report.

Councillor Skelton asked why the parties listed in paragraph 34 of the s42A report were notified. Mr Woodlock said those parties were notified as interested parties in respect of the application when it was first lodged.

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Councillor Skelton queried why the practice of notifying interested parties is undertaken when it was not a statutory requirement?

It was recommended the policy to notify interested parties of consent applications be reviewed by the incoming Council.

Councillor Skelton enquired why an advice note was offered in Condition 11, and why the condition was used at all in a water permit. Mr Woodlock explained the condition purpose was to stop any backflow of contaminants should a consent holder use the system for effluent or fertiliser. Councillor Skelton then asked if they could do so without a discharge consent. Virginia Loughnan advised that they could do so if they had a discharge consent, and that by adding this condition on a water permit now, a change of conditions to do so in the future is avoided.

Councillor Skelton also asked why the three-year lapse term was proposed in condition 14. Mr Woodlock confirmed the policy in the Land and Water Regional Plan was for a three-year lapse period for water permits in over-allocated zones. He noted the policy also specified a duration of 15 years, which was the proposed duration for this application.

Resolved:

That the Regulation Hearing Committee acting pursuant to a delegation of the Council dated 25 August 2016:

- 1. Having considered all relevant provisions of the Resource Management Act 1991; and**
- 2. for the reasons set out in the Section 42A report as amended by deleting paragraphs 20(c) and 26(b) during consideration; and the Supplementary Section 42A report, which are adopted;**

Grants consent to application CRC192885 for a water permit to take and use groundwater at 1052 Valetta Westerfield Road, Ashburton for a period of 15 years

Subject to the conditions attached as Appendix 1.

Cr Scott /Cr Cunningham
CARRIED

Councillor Cunningham thanked Councillor Scott for his review of the consent application.

7. EXTRAORDINARY AND URGENT BUSINESS

There was no extraordinary or urgent business.

8. OTHER BUSINESS

Alison Cooper, Consents Hearings Officer summarised the notifications and hearings that had been undertaken over the past five years.

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9. NEXT MEETING - To be advised

10. CLOSURE - The Chairperson declared the meeting closed at 8.55 am

CONFIRMED

Date:

Chairperson:

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Appendix 1

Application: CRC192885 – A Water Permit to Take and Use Groundwater for

Applicant: Messrs A J & M J Sim

Duration: 15 Years

1	Water may be taken only from bore BX20/0054, 300 millimetres diameter and 162 metres deep, at map reference NZTM2000 1483177mE, 5154788mN.
2	Water may be taken at a rate not exceeding 22 litres per second, and a volume not exceeding 204,976 cubic metres between 1 July and the following 30 June.
3	Water shall only be used for irrigation of the area of land shown on attached plan CRC192885, which forms part of this consent.
4	The depth at which water is drawn into the bore shall not be less than 147 metres below ground level.
5	The consent holder shall, before the first exercise of this consent, install an easily accessible straight pipe(s), with no fittings or obstructions that may create turbulent flow conditions, of a length at least 15 times the diameter of the pipe, as part of the pump outlet plumbing or within the mainline distribution system.
6	<p>The consent holder shall before the first exercise of this consent:</p> <ul style="list-style-type: none">a.<ul style="list-style-type: none">i. install a water meter(s) that has an international accreditation or equivalent New Zealand calibration endorsement, and has pulse output, suitable for use with an electronic recording device, which will measure the rate and the volume of water taken to within an accuracy of plus or minus five percent as part of the pump outlet plumbing, or within the mainline distribution system, at a location(s) that will ensure the total take of water is measured; andii. install a tamper-proof electronic recording device such as a data logger(s) that shall time stamp a pulse from the flow meter at least once every 60 minutes and have the capacity to hold at least one season's data of water taken as specified in clauses (b)(i) and (b)(ii), or which is telemetered, as specified in clause (b)(iii).b. The recording device(s) shall:<ul style="list-style-type: none">i. be set to wrap the data from the measuring device(s) such that the oldest data will be automatically overwritten by the newest data (i.e. cyclic recording); andii. store the entire season's data in each 12 month period from 1 July to 30 June in the following year, which the consent holder shall then download and store in a commonly used format and provide to the Canterbury Regional Council upon

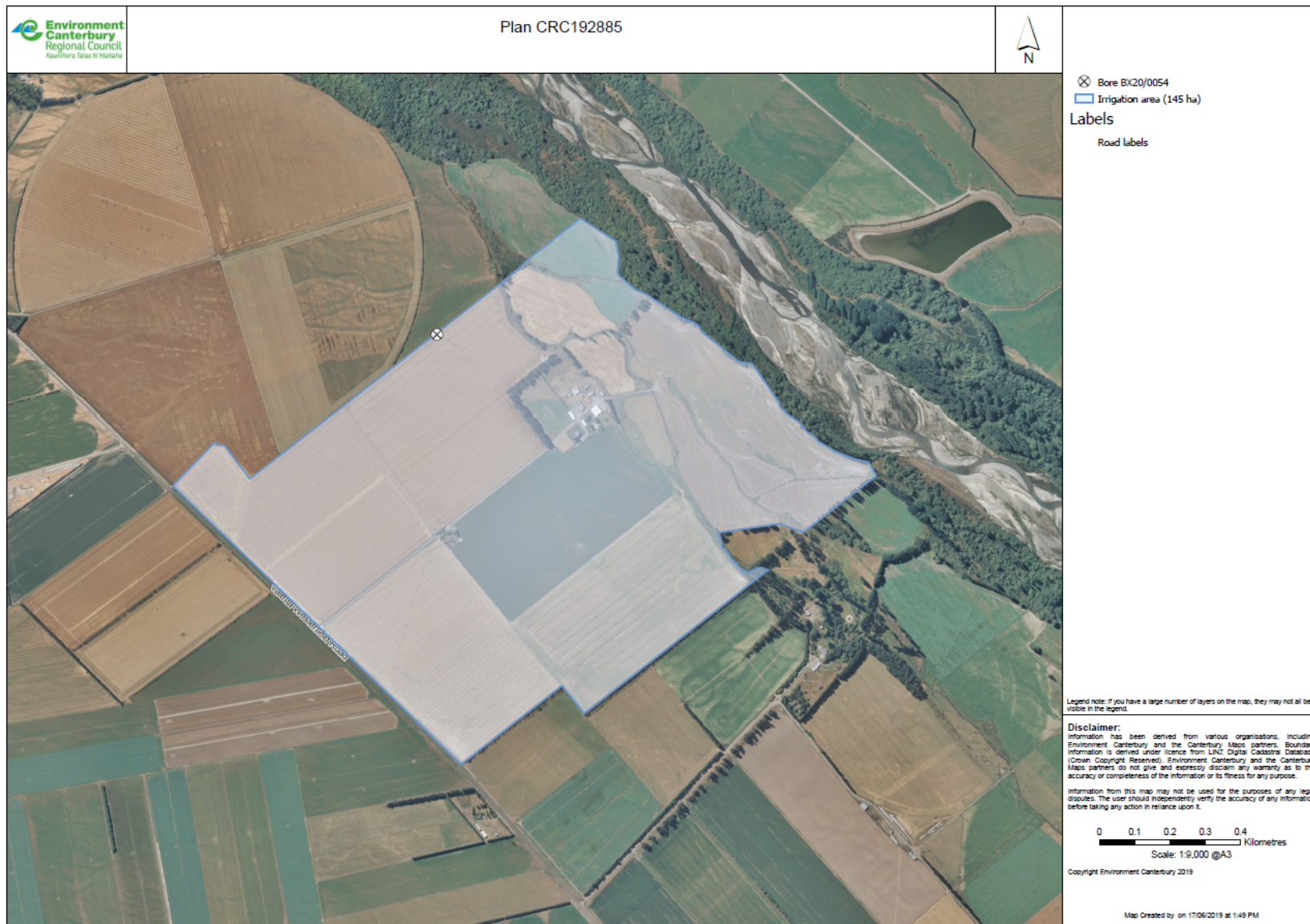
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	<p>request in a form and to a standard specified in writing by the Canterbury Regional Council; or</p> <p>iii. shall be connected to a telemetry system which collects and stores all of the data continuously with an independent network provider who will make that data available in a commonly used format at all times to the Canterbury Regional Council and the consent holder. No data in the recording device(s) shall be deliberately changed or deleted.</p> <p>c. The water meter and recording device(s) shall be accessible to the Canterbury Regional Council at all times for inspection and/or data retrieval.</p> <p>d. The water meter and recording device(s) shall be installed and maintained throughout the duration of the consent in accordance with the manufacturer's instructions.</p> <p>e. All practicable measures shall be taken to ensure that the water meter and recording device(s) are fully functional at all times.</p>
7	<p>Within one month of the installation of the measuring or recording device(s), or any subsequent replacement measuring or recording device(s), and at five-yearly intervals thereafter, and at any time when requested by the Canterbury Regional Council, the consent holder shall provide a certificate to the Canterbury Regional Council, Attention Regional Leader - Monitoring and Compliance, signed by a suitably qualified person certifying, and demonstrating by means of a clear diagram, that:</p> <p>a. The measuring and recording device(s) has been installed in accordance with the manufacturer's specifications; and</p> <p>b. Data from the recording device(s) can be readily accessed and/or retrieved in accordance with clauses (b) and (c) of condition (6).</p>
8	<p>The Canterbury Regional Council, Attention Regional Leader - Monitoring and Compliance, shall be informed within five days of first exercise of this consent by the consent holder.</p>
9	<p>The consent holder shall surrender resource consent CRC020255.1 before first exercise of this consent.</p>
10	<p>Access to allow water level measurements to be taken in the bore(s) shall be established, and maintained, via a bung and socket with a minimum diameter of 20 millimetres installed in the bore casing or headworks.</p>
11	<p>If the irrigation system is used to distribute diluted effluent, fertiliser or added contaminants the consent holder shall ensure:</p> <p>a. An effective backflow prevention device is installed and operated within the pump outlet plumbing or within the mainline to prevent the backflow of contaminants into the water source; and</p> <p>b. The backflow prevention device is tested at the time of installation and annually thereafter by a suitably qualified or certified person in accordance with Canterbury Regional Council approved test methods for the device used; and</p>

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	<p>c. The test report is provided to the Canterbury Regional Council Attention Regional Leader - Monitoring and Compliance, within two weeks of each inspection.</p> <p>Advice Note: This is not authorisation to discharge fertiliser or other contaminants to land, water or air under section 15 of the Resource Management Act.</p>
12	<p>The consent holder shall take all practicable steps to:</p> <ul style="list-style-type: none">a. Ensure that the volume of water used for irrigation does not exceed that required for the soil to reach field capacity; andb. Avoid leakage from pipes and structures; andc. Avoid the use of water onto non-productive land such as impermeable surfaces and river or stream riparian strips.
13	<p>The Canterbury Regional Council may, once per year, on any of the last five working days of May or November, serve notice of its intention to review the conditions of this consent for the purposes of dealing with any adverse effect on the environment which may arise from the exercise of the consent.</p>
14	<p>If this consent is not exercised before 30 September 2022 then it shall lapse in accordance with section 125 of the Resource Management Act.</p> <p>Advice note: 'Exercised' is defined as implementing any requirements to operate this consent and undertaking the activity as described in these conditions and/or application documents.</p>

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5. Matters Arising

6. Items for discussion

6.1. Appointment of Hearing Commissioners - Mr NJ & Mrs LM Harris & Harakeke Nominees Ltd

Regulation Hearing Committee paper

Date of meeting	10 October 2019
Agenda item	6.1
Consents Manager	Virginia Loughnan
Author	Alison Cooper

Purpose

1. To appoint a Hearing Commissioner to hear and decide resource consent applications CRC190984 and CRC190985 to be held by Mr N J & Mrs L M Harris and Harakeke Nominees Limited

Recommendations

That the Regulation Hearing Committee in regard to resource consent applications CRC190984 and CRC190985 to be held by Mr N J & Mrs L M Harris and Harakeke Nominees Limited:

1. **Appoints Hoani Langsbury as a Hearings Commissioner under s34A of the Resource Management Act 1991; and**
2. **Delegates to Hoani Langsbury 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. Mr N J & Mrs L M Harris and Harakeke Nominees Limited have applied for a land use to disturb the bed of the Hurunui River and associated water permit to divert the river. The application is in relation to an existing diversion channel to one of four authorised points for their property located on Hurunui Mouth River Road, Hurunui.
3. The applicant is requesting a retrospective consent to authorise the channel and its diversion and allow for on-going maintenance of the diversion channel which is located within the Hurunui River.
4. The river is within a Ngāi Tahu Statutory Acknowledgement Area.

5. A consent duration of 35 years is sought.
6. The application was limited notified to three parties with submissions closing on 17 September 2019.
7. One submission opposing the application was received. The party wishes to be heard.
8. A hearing is proposed to be held mid- November 2019.

Proposed Commissioners

9. It is recommended that a Hearing Commissioner with expertise in cultural matters be appointed.
10. Hoani Langsbury 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. He has experience in deciding similar regional council consents.

Legal compliance

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

Peer reviewers	Virginia Loughnan
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6.2. Appointment of Hearing Commissioner - Waterloo Park Limited

Regulation Hearing Committee paper

Date of meeting	10 October 2019
Agenda item	6.2
Consents Manager	Virginia Loughnan
Author	Alison Cooper

Purpose

1. To appoint a Hearing Commissioner to hear and decide resource consent application CRC174709 to be held by Waterloo Park Limited.

Recommendations

That the Regulation Hearing Committee in regard to resource consent application CRC174709 to be held by Waterloo Park Limited:

1. **Appoints Sarah Dawson as a Hearings Commissioner under s34A of the Resource Management Act 1991; and**
2. **Delegates to Sarah Dawson 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. Waterloo Park Limited has applied for a land use consent to undertake the deposition of approximately 109,400 cubic metres of contaminated material onto land at 400 Waterloo Park Limited.
3. The deposited material includes construction waste, including concrete and brick rubble, copper wire, and asbestos-laden building material; natural material including wood and decomposed material; and industrial waste including bone fragments, "BioBlend", fat, black ash and plastic.
4. To mitigate the effects on groundwater quality, contaminated materials have been placed at the lower levels of the excavation so that the material can be capped to minimise water movements through the material.
5. The application was limited notified to one party. They have submitted opposing the application and wish to be heard at a hearing.
6. A hearing is required to be completed by early December 2019.

Proposed Commissioners

7. Sarah Dawson 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. Ms Dawson is an experienced hearing commissioner with technical expertise in planning and regional council consent applications.

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
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7. Extraordinary and Urgent Business

8. Other Business

9. Next Meeting - to be confirmed

10. Closure