

# Agenda 2020

## **Regulation Hearing Committee**

Date: Thursday 19 March 2020

Time: 8.30am

Venue: Council Chamber, 200 Tuam Street, Christchurch



# Regulation Hearing Committee

## Membership

**Chair**

Cr Claire McKay

**Members:**

Cr Grant Edge  
Cr Nicole Marshall  
Cr Craig Pauling  
Cr Lan Pham

**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 12 March 2020**

Refer to attachment on following page.

## **REGULATION HEARING COMMITTEE**

Minutes of the meeting held in the  
Council Chamber, 200 Tuam Street, Christchurch, on  
Thursday, 12 March 2020 at 8.30am

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- 2.0 Conflict of Interest
- 3.0 Minutes of Meeting – 13 February 2020
- 4.0 Matters Arising
- 5.0 Deputations and Petitions
- 6.0 Item for Discussion
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  - 6.3 Appointment of Hearing Commissioner – Oakvale Farm Limited
  - 6.4 Appointment of Hearing Commissioner – Mr C G Morris
- 7.0 Extraordinary and Urgent Business
- 8.0 Other Business
- 9.0 Next Meeting
- 10.0 Closure

### **PRESENT**

Councillors Claire McKay (Chair), Grant Edge, Nicole Marshall, Craig Pauling and Lan Pham

### **IN ATTENDANCE**

Haleigh Brereton (Regional Leader Consents Delivery), Catherine Schache (General Counsel) and Alison Cooper (Consents Hearings Officer)

#### **1. APOLOGIES**

Councillor C Pauling (for lateness)

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

Councillor Pauling noted the objector in item 6.3 was a neighbour. It was noted and agreed that it was not a conflict of interest in this matter.

#### **3. DEPUTATIONS AND PETITIONS**

There were no deputations or petitions.

#### **4. MINUTES OF MEETING – 13 FEBRUARY 2020**

The Committee noted that Councillor Pauling was recorded as being both present and as an apology at the meeting and agreed that the minutes be amended to record he had presented an apology.

**Resolved:**

**The Regulation Hearing Committee:**

**Confirms the amended minutes of the meeting held on 13 February 2020 as a true and correct record.**

Cr McKay / Cr Marshall  
CARRIED

**5. MATTERS ARISING**

There were no matters arising.

**6. ITEMS FOR DISCUSSION**

**6.1 Appointment of Hearing Commissioners – Oceania Dairy Limited**

**Resolved:**

**That the Regulation Hearing Committee in regard to resource consent applications CRC201187, CRC201191, CRC201192, CRC201190 and CRC201194 made by Oceania Dairy Limited:**

- 1. Appoints Paul Rogers as a Hearings Commissioner; and Chair of the Hearing Panel under s34A of the Resource Management Act 1991; and**
- 2. Appoints Emma Christmas as a Hearings Commissioner; and member of a Hearing Panel under s34A of the Resource Management Act 1991; and**
- 3. Appoints Hoani Langsbury as a Hearings Commissioner; and member of a Hearing Panel under s34A of the Resource Management Act 1991; and**
- 4. Delegates to Paul Rogers, Emma Christmas and 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.**

Cr McKay/ Cr Pham  
CARRIED

**6.2 Appointment of Hearing Commissioners – NSK Farming Limited**

**Resolved:**

**That the Regulation Hearing Committee in regard to resource consent application CRC145237 made by NSK Farming Limited:**

- 1. Appoints Bianca Sullivan as a Hearings Commissioner under s34A of the Resource Management Act 1991; and**

2. Delegates to Bianca Sullivan 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 McKay / Cr Edge  
CARRIED

### 6.3 Appointment of Hearing Commissioner - Oakvale Farms Limited

Resolved:

That the Regulation Hearing Committee in regard to an objection to decision on resource consents CRC103245 and CRC094177 held by Oakvale Farm Limited:

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.

Cr McKay / Cr Pham  
CARRIED

### 6.4 Appointment of Hearing Commissioner – Mr C G Morris

Resolved:

That the Regulation Hearing Committee in regard to an objection to costs on resource consent application CRC193477 held by Mr C Morris:

1. Appoints Ken Lawn as a Hearings Commissioner under s34A of the Resource Management Act 1991; and
2. Delegates to Ken 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.

Cr McKay / Cr Marshall  
CARRIED

## 7 EXTRAORDINARY AND URGENT BUSINESS

There was no extraordinary or urgent business.

## 8 OTHER BUSINESS

- 8.1 Catherine Schache introduced Haleigh Brereton, Regional Leaders Consents Delivery.
- 8.2 Councillor Pham asked about the Committee returning to making notified decisions where no submitters are to be heard. Catherine Schache advised it was the Councillors decision and could resume once more members have completed the 'Making Good Decisions' programme.



9 **NEXT MEETING** - To be advised

10 **CLOSURE** - The Chairperson declared the meeting closed at 8.44 am

**CONFIRMED**

**Date:**

\_\_\_\_\_

**Chairperson:**

\_\_\_\_\_

## **5. Matters Arising**

## 6. Items for discussion

### 6.1. Appointment of Hearing Commissioners - Waste Management Limited

#### Regulation Hearing Committee paper

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|                         |                   |
|-------------------------|-------------------|
| <b>Date of meeting</b>  | 19 March 2020     |
| <b>Agenda item</b>      | 6.1               |
| <b>Consents Manager</b> | Virginia Loughnan |
| <b>Author</b>           | Yvette Rodrigo    |

#### Purpose

1. To appoint Hearing Commissioners to hear and decide resource consent application CRC194083 to be held by Waste Management Limited.

#### Recommendations

**That the Regulation Hearing Committee in regard to resource consent application CRC194083 applied for by Waste Management Limited:**

1. **Appoints Ken Gimblett as a Hearings Commissioner, and Chairperson of the Hearing Panel under s34A of the Resource Management Act 1991; and**
2. **Appoints Sharon McGarry as a Hearings Commissioner, and member of the Hearing Panel under s34A of the Resource Management Act 1991; and**
3. **Appoints John Iseli as a Hearings Commissioner, and member of the Hearing Panel under s34A of the Resource Management Act 1991; and**
4. **Delegates to Ken Gimblett, Sharon McGarry and John Iseli 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. Waste Management Limited (WML) proposes to expand their operation at 305 Marsh Road, South Hornby to establish a waste processing and stabilisation facility. The site is zoned "Heavy Industrial" under Christchurch City Council's (CCC) district plan and its boundary borders land zoned as "Lower Plains" and "Living" in the Selwyn District Council district plan.

3. The proposed facility will receive a variety of wastes and the treatment processes will produce stabilised solids for disposal to consented landfill or wastewater for discharge to the trade waste network. The application states that activities will generally occur within a purpose-designed building with process controls to minimise the discharge of contaminants to air.
4. WML currently holds resource consents from CCC (RMA/2018/2330) for the use and access of the site and from Environment Canterbury (CRC192911-913) for ancillary activities such as stormwater and earthworks.
5. The company has applied for an additional resource consent from Environment Canterbury to discharge contaminants into air from the site.
6. A consent duration of 35 years is sought.
7. The application was limited notified to 38 landowners and occupiers within a 500 metre radius of the applicant's site, based on an assessment of effects on air quality resulting from the discharges of odour and dust from the operation.
8. 18 submissions have been received so far with the submission period still to close. 16 submitters have indicated they wish to speak at a hearing. The majority oppose the application with the key issues stated in submissions as being the release of particles into the air, odour and the impact on health.

## **Commissioner selection process**

9. The key technical issues associated with the application relate to the impacts of discharges to air from the operation. The application has stirred a significant amount of community feeling and the hearing is likely to be subject to a high level of political and public interest.
10. The relevant criteria for the selection of commissioners for the panel are therefore the following:
  - Nature of the hearing;
  - Suitable Experience, particularly with consents for discharges to air;
  - Ability to understand and evaluate the key issues associated with the application;
  - Availability for hearing and decision making;
  - No conflicts of interest;
  - Ministry for the Environment (MfE) Making Good Decisions Accreditation and Chair accreditation for the proposed Chair.
11. In identifying suitable Commissioners, we reviewed potential commissioners against the criteria listed above (1-6) and sought advice and recommendations from the Council's internal legal advisors.
12. For the hearing, we are seeking a Chairperson who is well-experienced in managing contentious hearings, chairing a robust and transparent hearing process and ensuring that all parties to the process, including a large number of lay submitters, feel

comfortable when making their submission to the hearing panel. We are also seeking commissioners who have a strong technical background in planning and air quality.

13. The MfE website was referenced to confirm that everyone recommended holds a “Making Good Decisions” certification and where appropriate, Chair accreditation. This was to ensure that the appointments are consistent with Section 39B of the Resource Management Act and the Council’s Hearings Policy, requiring all hearing commissioners to have a current certification under the “Making Good Decisions” programme, and a “Chair Endorsement” under this programme for the recommended Chairperson of the panel.
14. The following panel is recommended to the Committee, as each potential commissioner meets all the selection criteria listed above (1-6).

## **Proposed Commissioners**

15. For a hearing of this size, it is usual for the Council to appoint a panel of two or three commissioners. It is recommended that a panel of three hearing commissioners is required. This will allow coverage of the issues and ability to share the workload over the course of the hearing.

### Chairperson – Ken Gimblett

16. It is proposed that Ken Gimblett be appointed as the Chairperson of the hearing panel. Ken is a director of Boffa Miskell and has extensive experience in statutory and environmental planning. He is an accredited RMA decision-maker with a chair endorsement and has been a presenter for the Making Good Decisions Accreditation course since its inception in 2005. He has extensive experience as an independent hearing commissioner, including for a number of hearings associated with industrial, commercial and mixed-use sites e.g. Rolleston Wastewater Treatment Plan, Airport Business Park.

### Commissioner: Air Quality – John Iseli

17. It is proposed that John Iseli is appointed as a member of the Hearing Panel. He has a technical background in air quality and extensive experience as a Commissioner deciding regional council consents with similar effects and issues that will be raised with this application (e.g. Canterbury Landscapes, Fonterra Studholme and Darfield, Chairperson of the Hearing Panel for Environment Southland’s Air Plan).
18. He will be able to provide the necessary expertise to deal with any technical issues relating to odour or discharges into air arising from this application.

### Commissioner: Planning – Sharon McGarry

19. It is proposed that Sharon McGarry is appointed as a member of the hearing panel.
20. Sharon McGarry has been an independent hearings commissioner since 2006 and has extensive experience deciding regional council consents with similar effects and issues

that will be raised with this application. She also has a strong knowledge of the Council's planning framework and provides clear, well written decisions.

21. We consider that she will be able to provide the necessary expertise to deal with the planning and technical issues that may be raised in relation to this consent application.
22. Ken Gimblett, Sharon McGarry and John Iseli have satisfied Council staff they have the necessary criteria, including technical ability, RMA Accreditation certification, availability and timeframe commitments to carry out the duties required as Hearing Panel members.

## **Legal compliance**

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

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| <b>Peer reviewers</b> | Tania Harris, Senior Manager Operational Support |
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**7. Extraordinary and Urgent Business**

**8. Other Business**

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

**10. Closure**