

# Agenda 2020

## **Regulation Hearing Committee**

Date: Thursday 21 May 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 19 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, 19 March 2020 at 8.30am

### **CONTENTS**

- 1.0 Apologies
- 2.0 Conflict of Interest
- 3.0 Minutes of Meeting – 12 March 2020
- 4.0 Matters Arising
- 5.0 Deputations and Petitions
- 6.0 Item for Discussion
  - 6.1 Appointment of Hearing Commissioners – Waste Management Limited
- 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, and Lan Pham

### **IN ATTENDANCE**

Catherine Schache (General Counsel), Tania Harris (Senior Manager Operational Support) and Alison Cooper (Consents Hearings Officer)

#### **1. APOLOGIES**

Councillor C Pauling

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

No conflicts of interest were declared.

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

There were no deputations or petitions.

#### **4. MINUTES OF MEETING – 12 MARCH 2020**

**Resolved:**

**The Regulation Hearing Committee:**

**Confirms the minutes of the meeting held on 12 March 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 – Waste Management Limited**

Councillor Marshall asked why a panel member with cultural expertise was not included; and why the chair was not the air quality expert.

Catherine Schache advised that no cultural effects of the proposal had been raised by rūnanga; the site was not within a cultural sensitive area, and there were no submissions regarding cultural effects on air quality, so a commissioner with cultural expertise was not considered.

She also advised that the chairperson did not need to have air technical expertise as the chair could concentrate on running a robust hearing. As a panel member the air expertise would be in contributing to the decision writing.

Councillor Pham noted it was a robust panel.

#### **Resolved:**

**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 Chair of the Hearing Panel under s34A of the Resource Management Act 1991; and**
- 2. Appoints Sharon McGarry as a Hearings Commissioner; and member of a Hearing Panel under s34A of the Resource Management Act 1991; and**
- 3. Appoints John Iseli as a Hearings Commissioner; and member of a 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 applications.**

Cr McKay/ Cr Pham  
CARRIED

## **7 EXTRAORDINARY AND URGENT BUSINESS**

There was no extraordinary or urgent business.

**8 OTHER BUSINESS**

There was no other business

**9 NEXT MEETING - To be advised**

**10 CLOSURE - The Chairperson declared the meeting closed at 8.41 am**

**CONFIRMED**

**Date:**

\_\_\_\_\_

**Chairperson:**

\_\_\_\_\_



## **5. Matters Arising**

## 6. Items for discussion

### 6.1. Appointment of Hearing Commissioners - Non-Notified Applications

#### Regulation Hearing Committee paper

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<b>Date of meeting</b>	21 May 2020
<b>Agenda item</b>	6.1
<b>Consents Manager</b>	Virginia Loughnan
<b>Author</b>	Alison Cooper

#### Purpose

1. To appoint Hearing Commissioners to decide non-notified resource consent applications.

#### Recommendations

##### That the Regulation Hearing Committee

1. **Appoints Sharon McGarry as a Hearings Commissioner under s34A of the Resource Management Act 1991, to consider and decide non-notified resource consent applications for a period of time to expire 22 May 2021.**
2. **Appoints Kenneth Lawn as a Hearings Commissioner under s34A of the Resource Management Act 1991, to consider and decide non-notified resource consent applications for a period of time to expire 22 May 2021.**
3. **Appoints Bianca Sullivan as a Hearings Commissioner under s34A of the Resource Management Act 1991, to consider and decide non-notified resource consent applications for a period of time to expire 22 May 2021.**
4. **Delegates to Sharon McGarry, Kenneth Lawn and Bianca Sullivan pursuant to s34A(1) Resource Management Act 1991, the function, powers and duties required to: deal with any preliminary matters; consider; and decide a resource consent application.**

#### Background

2. The current appointments of Sharon McGarry, Ken Lawn, Robert Nixon and Mike Freeman as independent hearing commissioners to make decisions on non-notified applications expires 15 May 2020.

3. The reasons for appointing independent decision makers is because Environment Canterbury may receive resource consent applications from sections within Environment Canterbury; from Environment Canterbury staff members, Environment Canterbury Councillors, or family members of either; or from occupiers of Environment Canterbury owned land.
4. Environment Canterbury may also receive applications from applicants where internal decision-makers may have concerns because of a perception of conflict or bias, and an independent hearing commissioner should decide the application.
5. As non-notified applications need to be processed within twenty days to meet Resource Management Act timeframes, it is proposed to appoint up to three independent hearing commissioners on a year appointment to ensure availability of one person as and when required.
6. Approximately 25 applications per year require an external decision-maker.
7. Non-notified applications are undertaken 'on papers' – that is the application, associated documents and the s42A report. The decision-maker can request clarification from the Consents Planner.
8. In previous years up to four people have been appointed, however it is considered that any one of three is enough to ensure availability, experience of the type of application and to avoid any conflict of interest in regard to the applicant.
9. Appointees should have:
  - availability to undertake decision-making at short notice
  - suitable experience in making decisions on differing applications;
  - the ability to understand and evaluate any key issues associated with an application;
  - Hold Ministry for the Environment (MfE) Making Good Decisions Accreditation

## **Proposed Commissioners**

10. Using the above criteria it is proposed that Sharon McGarry and Ken Lawn be reappointed. Both have been available and provided non-notified decisions in a timely manner and are experienced in deciding a range of applications. They are knowledgeable hearing commissioners and hold the appropriate Good Decisions accreditation.
11. It is also proposed that Bianca Sullivan also be appointed. She is an experienced planner with a good understanding of the regional plans and consent activity types and is an accredited decisionmaker.
12. Sharon McGarry, Kenneth Lawn and Bianca Sullivan 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 to decide any non-notified application.

## **Legal compliance**

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

<b>Peer reviewers</b>	Virginia Loughnan
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## 6.2. Appointment of Hearing Commissioner - D A James

### Regulation Hearing Committee paper

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<b>Date of meeting</b>	21 May 2020
<b>Agenda item</b>	6.2
<b>Consents Manager</b>	Virginia Loughnan
<b>Author</b>	Alison Cooper

#### Purpose

1. To appoint Hearing Commissioners to hear and decide an objection to costs of monitoring resource consent CRC182385 held by Mr D A James.

#### Recommendations

**That the Regulation Hearing Committee in regard to an objection to costs of monitoring of resource consent CRC1182385 held by Mr D A James:**

1. **Appoints Kenneth Lawn as a Hearings Commissioner 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 costs.**

#### Background

2. Mr D A James has objected to the costs incurred in monitoring of his resource consent CRC182835 to take and use water at 101 Pareora River Road, Springbrook.

#### Proposed Commissioners

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.
4. Mr Lawn is an experienced Hearings Commissioner and has undertaken the hearing of objections to costs for over seven years.

#### Legal compliance

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

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

<b>Peer reviewers</b>	Virginia Loughnan
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**7. Extraordinary and Urgent Business**

**8. Other Business**

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

**10. Closure**