

Agenda 2020

Regulation Hearing Committee

Date: Thursday 23 July 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 2 July 2020

Refer to attachment on following page.

REGULATION HEARING COMMITTEE

Minutes of the meeting held in the
Council Chambers, 200 Tuam Street, Christchurch on
Thursday, 02 July 2020 at 8.30am

CONTENTS

- 1.0 Apologies
- 2.0 Conflict of Interest
- 3.0 Minutes of Meeting – 18 June 2020
- 4.0 Matters Arising
- 5.0 Deputations and Petitions
- 6.0 Item for Discussion
 - 6.1 Appointment of Hearing Commissioners – Environment Canterbury-related applications
- 7.0 Extraordinary and Urgent Business
- 8.0 Other Business
- 9.0 Next Meeting
- 10.0 Closure

PRESENT

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

IN ATTENDANCE

Marie Dysart (Solicitor), Virginia Loughnan (Consents Manager) and Alison Cooper (Consents Hearings Officer)

1. APOLOGIES

An apology was received from Councillor Marshall

Cr McKay / Cr Pham
CARRIED

2. CONFLICT OF INTEREST

Councillor McKay declared a conflict of interest in regard to Item 6.1 as she had applied for a resource consent in the past week.

3. DEPUTATIONS AND PETITIONS

There were no deputations or petitions.

4. MINUTES OF MEETING – 18 JUNE 2020

It was noted that the date of the meeting was incorrectly recorded as 18 May 2020 when the meeting was held 18 June 2020.

Resolved:

The Regulation Hearing Committee:

Confirms the minutes of the meeting held on 18 June 2020 as a true and correct record as amended to correct the date the meeting was held.

Cr McKay / Cr Pauling
CARRIED

5. MATTERS ARISING

There were no matters arising.

6. ITEMS FOR DISCUSSION

At the invitation of the Chairperson, Councillor Pham lead the discussion on Item 6.1

6.1 Appointment of Hearing Commissioners – Environment Canterbury-related applications

Resolved:

That the Regulation Hearing Committee, acting under section 34A of the Resource Management Act 1991 and for a period of time to expire on 22 May 2021:

1. in addition to the appointments and delegations made on 21 May 2020 (in relation to Sharon McGarry, Kenneth Lawn and Bianca Sullivan) and on 18 June 2020 (in relation to Hoani Langsbury) appoints:

- 1.1. Sharon McGarry as a Hearings Commissioner;**
- 1.2. Kenneth Lawn as a Hearings Commissioner;**
- 1.3. Bianca Sullivan as a Hearings Commissioner; and**
- 1.4. Hoani Langsbury as a Hearings Commissioner,**

each of them acting severally, to consider and decide the non-notification, limited notification or public notification of resource consent applications where Environment Canterbury or its staff would have a conflict of interest or a perceived conflict of interest of the type described in this paper; and

2. following any decision made under paragraph (1):

- 2.1. if that decision is not to notify that consent application, to consider and decide that consent application; and**
- 2.2. 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; and**

3. Delegates to each of the people named in paragraphs 1.1 to 1.4, 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 2.2 above, to decide any such applications.

Cr Pham / Cr Edge
CARRIED

7 EXTRAORDINARY AND URGENT BUSINESS

There was no extraordinary or urgent business.

8 GENERAL BUSINESS

Councillor Pham asked about the Bathhurst Coal Limited applications hearing that is required to be heard by 2 September.

It was explained that as a publicly notified application a hearing was required to be completed 75 working days from the close of submissions unless the applicant suspended the application and/or the timeframe was extended due to special circumstances due to complexity of the application. A hearing panel is to be appointed.

9 NEXT MEETING - To be advised

10 CLOSURE - The Chairperson declared the meeting closed at 8.36am

CONFIRMED

Date:

Chairperson:

5. Matters Arising

6. Items for discussion

6.1. Appointment of Hearing Commissioner - Objections to Costs

Regulation Hearing Committee paper

Date of meeting	23 July 2020
Agenda item	6.1
Operations – Senior Manager Support	Tania Harris
Author	Alison Cooper

Purpose

1. To appoint a Hearing Commissioner to hear and decide objections to costs of resource consent applications.

Recommendations

That the Regulation Hearing Committee in regard to an objection to costs incurred in the processing of the application for:

- i. resource consent CRC195487 held by Ellesmere Golf Club Limited;
 - ii. resource consent CRC193716 applied for by Leamington Downs Limited;
 - iii. resource consents CRC202132 and CRC202133 held by Longbrook Dairy Limited;
 - iv. resource consent CRC200154 held by Southern Proteins Limited;
 - v. resource consents CRC200322 and CRC201262 held by Stroma Farm Limited;
 - vi. resource consent CRC201551 held by Messrs JC & DJ Stewart, Mrs AM Stewart, Mr DJ Irving and Mr SJ Dorman;
1. Appoints Ken Lawn as a Hearings Commissioner pursuant to 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 objections.

Background

2. Ellesmere Golf Club Limited has objected to the costs of processing of resource consent application CRC195487. They have requested an independent hearing commissioner consider this objection. The application sought to renew an existing take and use of groundwater for the irrigation of the course at Leeston; increase the rate of take, increase the volume taken; and allow water to be taken for domestic supply purposes. The application was granted.
3. Leamington Downs Limited has objected to interim costs incurred in the processing of application CR 193716 to discharge contaminants and odour to air from an intensive poultry farm at Stockgrove Road, Glasnevin. The application has been notified. A hearing has yet to be held for this application.
4. Longbrook Dairy Limited has objected to the cost of processing consent applications CRC202132 - to use land to disturb the bed of a waterway and CRC202133 – to discharge contaminants to water at Iverachs Road, Rotherham to allow anchored tree protection and block plantings for erosion defence. The applications were granted.
5. Southern Proteins Limited has objected to the costs incurred in the processing of application CRC200154 to discharge contaminants to air (odour) from a proposed rendering plant at Meadows Road, Timaru. The application was notified, and a hearing held. The application was granted.
6. Stroma Farm Limited has objected to the cost of processing of consent applications CEC200322 – a land use consent to disturb the bed of the Waiau River to install a defence against water; and CRC201262 – to discharge sediment to water associated with work in the bed of the river. The consents were sought to protect the property from ongoing erosion. The applications were granted.
7. Messrs JC & DJ Stewart, Mrs AM Stewart, Mr DJ Irving and Mr SJ Dorman have objected to the cost of processing of consent application CRC201551 – to use land for farming at Chamberlain Road, Albury. The property is within an orange nutrient allocation zone. The application was granted.

Proposed Commissioner

8. It is proposed to appoint Mr Ken Lawn. Mr Lawn is an experienced Hearings Commissioner and has undertaken a number of cost objection hearings. It is intended that Mr Lawn will undertake the above objections over the course of 1-2 days.
9. Ken 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.

Legal compliance

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

Peer reviewers	Virginia Loughnan, Catherine Schache
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6.2. Appointment of Hearing Commissioners - Bathurst Coal Limited

Regulation Hearing Committee paper

Date of meeting	23 July 2020
Agenda item	6.2
Operations – Senior Manager Support	Tania Harris
Author	Alison Cooper

Purpose

1. To appoint Hearing Commissioners to hear and decide resource consent applications CRC184166, CRC200500, CRC201366 CRC201367, CRC201368, CRC203016 applied for by Bathurst Coal Limited.

Recommendations

That the Regulation Hearing Committee in regard to resource consent application(s) CRC184166, CRC200500, CRC201366 CRC201367, CRC201368, CRC203016 applied for by Bathurst Coal Limited:

1. Appoints Sharon McGarry as a Hearings Commissioner, and member and Chairperson of the Hearing Panel under s34A of the Resource Management Act 1991; and
2. Appoints Dr. Jane Kitson as a Hearings Commissioner, and member of the Hearing Panel under s34A of the Resource Management Act 1991; and
3. Appoints Graham Taylor as a Hearings Commissioner, and member of the Hearing Panel under s34A of the Resource Management Act 1991; and
4. Delegates to Sharon McGarry, Dr. Jane Kitson and Graham Taylor 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. Bathurst Coal Limited has applied to Environment Canterbury and Selwyn District Council for resource consents to continue operating and expand an open cast coal mine

(known as Canterbury Coal Mine), including retrospective and future operation, at Bush Gully Road, Malvern Hills, in the Selwyn District.

3. The applications will be proceeding to a joint hearing. We are therefore seeking to appoint Commissioners who can decide both regional and district council consents.
4. The applications were publicly notified on the 21st March 2020. The submission period was doubled due to the COVID19 Level 4 alert. 647 submissions were received with 548 in opposition; 96 in support and three are neutral. 122 submitters have indicated they wish to be heard in support of their submission. Submissions in opposition raise concerns about the use of coal, effects on climate change, noise, traffic and loss of freshwater values. Submissions in support focus on benefits to the local economy.
5. A submission has been received from Te Taumutu Rūnanga who oppose the applications and wish to be heard. They state that the applications have the potential to impact on a range of cultural values – kaitiakitanga, air, land, freshwater, mahinga kai and indigenous diversity; and wish the applications to be declined.
6. The key issues associated with the applications relate to wetlands, water quality and ecology impacts; hydrology, consent scope issues; matters raised by Te Taumutu of kaitiakitanga; and traffic, noise and lighting.

Proposed Commissioners

7. The hearing will take at least 10-13 days due to the number of submitters to be heard and technical evidence to be considered.
8. The selection of Commissioners for the panel was therefore based on the following criteria:
 - a. Scale, complexity and nature of the hearing
 - b. Suitable Experience
 - c. Ability to understand and evaluate the key issues associated with the application
 - d. Availability for hearing and decision making
 - e. No conflicts of interest
 - f. Ministry for the Environment (MfE) Making Good Decisions Accreditation and Chair accreditation for the proposed Chair.
9. For the hearing we are seeking a Chairperson who is experienced in large hearings, chairing a robust and transparent hearing process, as well as ensuring all submitters feel comfortable when making their submission to the hearing panel. Members of the panel will also include a hearing commissioner recommended by the Selwyn District Council.
10. The Ministry for the Environment (MfE) website was referenced to confirm that all recommended hold the “Making Good Decisions” certification and where appropriate a “Chair Endorsement”.

11. A list of potential candidates was prepared and candidates were screened against the selection criteria listed above (a-f). On this basis the following panel is recommended.

12. Chairperson – Sharon McGarry

Sharon is an independent hearing commissioner, with the ‘Accredited Chair’ endorsement under the MfE programme. She has extensive chair and panel experience in both large and small regional and district council consent hearings throughout New Zealand. She has also sat on a decision-making committee for the Environmental Protection Agency.

Given her ability to deal with the interests of all parties to the process and experience in chairing larger hearings, we consider that she would be a strong appointment to Chair the panel for the Bathurst Coal hearing.

13. Environment Canterbury appointed Commissioner – Dr Jane Kitson

Dr Kitson is an accredited hearings commissioner with expertise in environmental science, ecology and mātauranga Maori/tikanga. She has experience in regional council hearings.

We consider that she will be able to provide the necessary expertise to deal with the technical and cultural issues that may be raised in relation to the consent applications to Environment Canterbury.

14. Selwyn District Council appointed Commissioner – Graham Taylor

The Selwyn District Council are seeking to appoint Mr Graham Taylor to the panel. He has particular experience in the planning and technical issues associated with district council consents.

15. We believe that Sharon McGarry, Dr Jane Kitson and Graham Taylor have satisfied Council staff they have the necessary criteria, including technical ability, experience, RMA Accreditation certification, and availability a to carry out the duties required as Hearing Commissioners for this consent hearing

Legal compliance

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

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

Peer reviewers	Virginia Loughnan; Catherine Schache
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6.3. Appointment of Hearing Commissioners - Tegel Foods Limited

Regulation Hearing Committee paper

Date of meeting	23 July 2020
Agenda item	6.3
Operations – Senior Manager Support	Tania Harris
Author	Alison Cooper

Purpose

1. To appoint a Hearing Commissioner to hear and decide resource consent application CRC194459 applied for by Tegel Foods Limited.

Recommendations

That the Regulation Hearing Committee in regard to resource consent application CRC194459 applied for by Tegel Foods Limited:

1. **Appoints John Iseli as a Hearings Commissioner under s34A of the Resource Management Act 1991; and**
2. **Delegates to 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. Tegel Foods Limited has applied for resource consent to renew their existing discharge of contaminants to air from a poultry processing plant at Carmen Road, Hornby. The discharge includes combustion products from boilers and the operation of a poultry smokehouse; and odour from poultry processing, a protein recovery plant and wastewater storage and conveyance.
3. The application was publicly notified with submissions closing early this year. 24 submissions were received of which six submitters wish to be heard. The majority of submitters to be heard oppose the application.
4. A consent duration of 20 years is sought.

Proposed Commissioners

5. It is proposed to appoint a sole hearing commissioner to hear this application to hear this application for a two- day hearing which commences mid-August. As the

applicant is forwarding three experts and three Tegel Foods representatives; and with only six submitters to appear, one commissioner is appropriate to hear and decide this application.

6. The key technical issue for this application is air quality including odour.
7. The relevant criteria for the selection of a hearing commissioner is:
 - a. Nature of the hearing
 - b. Suitable experience, particularly with consents for discharges to air involving odour
 - c. Ability to understand and evaluate the key issues
 - d. Availability for hearing and decision-making
 - e. No conflicts of interest
 - f. Ministry for the Environment (MfE) Making Good Decisions Accreditation and Chair accreditation for the proposed Chair.
8. We sought a commissioner who is an experienced hearing commissioner and has a strong technical background in air quality matters.
9. Mr John Iseli is an experienced hearings commissioner in regional council consents with similar effects and has a strong technical background in air quality.
10. John Iseli has satisfied Council staff he has the necessary criteria, including technical ability, RMA Accreditation certification, and availability a to carry out the duties required.

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; Catherine Schache
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7. Extraordinary and Urgent Business

8. General Business

9. Next Meeting - to be confirmed

10. Closure