

Agenda 2020

Regulation Hearing Committee

Date: Thursday 13 August 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 23 July 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, 23 July 2020 at 8.30am

CONTENTS

- 1.0 Apologies
- 2.0 Conflict of Interest
- 3.0 Minutes of Meeting – 2 July 2020
- 4.0 Matters Arising
- 5.0 Deputations and Petitions
- 6.0 Item for Discussion
 - 6.1 Appointment of Hearing Commissioner – Objection to Costs
 - 6.2 Appointment of Hearing Commissioners – Bathurst Coal Limited
 - 6.3 Appointment of Hearing Commissioners – Tegel Foods 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, Craig Pauling and Lan Pham

IN ATTENDANCE

Catherine Schache (General Counsel), Tania Harris (Senior Manager Operational Support), Virginia Loughnan (Consents Manager) and Louise McDonald (Senior Committee Advisor)

1. APOLOGIES

There were no apologies.

2. CONFLICT OF INTEREST

No conflicts of interest were declared.

3. DEPUTATIONS AND PETITIONS

There were no deputations or petitions.

4. MINUTES OF MEETING – 2 JULY 2020

Resolved:

The Regulation Hearing Committee:

Confirms the minutes of the meeting held on 2 July 2020 as a true and correct record.

Cr Pham / Cr Edge
CARRIED

5. MATTERS ARISING

There were no matters arising from the minutes.

6. ITEMS FOR DISCUSSION

6.1 Appointment of Hearing Commissioner – Objection to Costs

Virginia Loughnan advised that the number of cost objections to be heard was due to an increase since COVID-19. It was also more efficient to hear these objections together.

Resolved:

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

- i. resource consent CRC195487 held by Ellesmere Golf Club Limited;**
 - ii. resource consent CRC193716 applied for by Leamington Downs Limited;**
 - iii. resource consent CRC202132 and CRC202133 held by Longbrook Dairy Limited;**
 - iv. resource consent CRC200154 held by Southern Proteins Limited;**
 - v. resource consent 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 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 objections.**

Cr McKay / Cr Marshall
CARRIED

6.2 Appointment of Hearing Commissioners – Bathurst Coal Limited

Resolved:

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

- 1. Appoints Sharon McGarry as a Hearing 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 Hearing 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.**

Cr Pauling/Cr Pham
CARRIED

6.3 Appointment of Hearing Commissioners – Tegel Foods Limited

Resolved

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.**

Cr Marshall/Cr Edge
CARRIED

7 EXTRAORDINARY AND URGENT BUSINESS

There was no extraordinary or urgent business.

8 OTHER BUSINESS

- 8.1 Councillor Pham noted that Bathurst Coal Limited applications were suspended. Virginia Loughnan advised that an applicant can suspend an application post notification to have more time to provide information.
- 8.2 Councillor Marshall advised that she had recently completed the Good Decision-makers course and noted that in regard to appointees the Local Government Act requires Council to consider options. Catherine Schache agreed and that more information was being given, but care was needed with names and personal information.
- 8.3 Councillor Marshall asked about conflicts of interest of appointees and was advised that checks of conflicts of interest were done prior to confirming availability.
- 8.4 Councillor Edge appreciated more information about the recommended Hearing Commissioners.
- 8.5 Councillor Marshall asked about the Plan Change 7 hearings. It was noted that the Planning Manger was meeting to discuss how the hearings were to proceed.

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 - Objection to Costs

Regulation Hearing Committee paper

Date of meeting	13 August 2020
Agenda item	6.1
Operations – Senior Manager Support	Tania Harris
Author	Alison Cooper

Purpose

1. To appoint a Hearing Commissioners to hear and decide an objection to costs of processing of a resource consent application CRC193716 applied for by Leamington Downs Limited.

Recommendations

That the Regulation Hearing Committee in regard to an objection to costs incurred in processing of the application for resource consent CRC193716 applied for by Leamington Downs Limited:

1. **Appoints Sharon McGarry as a Hearings Commissioner under s34A of the Resource Management Act 1991; and**
2. **Delegates to Sharon McGarry 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. Leamington Downs Limited has objected to the cost of processing of application CRC193716 to discharge contaminants and odour to air from an intensive poultry farm at Stockgrove Road, Glasnevin. The application has been notified with submitters to be heard. A hearing has yet to be heard for this application.

Proposed Commissioners

3. Mr Ken Lawn was appointed on 23rd July 2020 to hear and decide this objection hearing. Mr Lawn has subsequently declared a conflict of interest and is unable to hear the objection.

4. It is proposed to appoint Ms Sharon McGarry to hear this objection. She is an experienced independent hearing commissioner including chair positions in both small or large hearings.
5. For this cost objection hearing staff have assessed whether other Hearing Commissioners might be available, on the basis of no conflict of interest, availability to hear and make a decision and suitable experience in understanding and evaluating the key issues. The Hearing Commissioner recommended to the Committee is considered to be the most appropriate, having taken those other matters into account
6. Sharon McGarry has satisfied Council staff she has the necessary criteria, including technical ability, availability, timeframe commitments and RMA Accreditation certification to carry out the duties required.

Legal compliance

7. S34A of the Resource Management Act 1991 allows Council to delegate functions to Hearing Commissioners appointed by the Canterbury Regional Council.
8. 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 Commissioner - Objection to Costs

Regulation Hearing Committee paper

Date of meeting	13 August 2020
Agenda item	6.2
Operations – Senior Manager Support	Tania Harris
Author	Alison Cooper

Purpose

1. To appoint a Hearing Commissioner to hear and decide an objection to costs of resource consent application CRC193477 held by Mr C G Morris.

Recommendations

That the Regulation Hearing Committee in regard to an objection to costs incurred in the processing of the application for resource consent application CRC193477 held by Mr C G Morris:

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 costs.**

Background

2. Mr C G Morris has objected to the costs of processing of resource consent application CRC193477. He has requested an independent hearing commissioner consider the application.
3. The consent application is to use land for farming purposes at Springston.

Proposed Commissioners

4. Ken Lawn was appointed on 12 March 2020 to hear and decide this objection to costs. Mr Lawn has subsequently declared a conflict of interest and is unable to hear this objection.

5. It is proposed to appoint Ms Cindy Robinson to hear this objection. She is a lawyer with experience in resource management matters and as an independent hearing commissioner.
6. For this cost objection hearing staff have assessed whether other Hearing Commissioners might be available, on the basis of no conflict of interest, availability to hear and make a decision, suitable experience in understanding and evaluating the key issues. The Hearing Commissioner recommended to the Committee is considered to be the most appropriate, having taken those other matters into account.
7. Cindy Robinson has satisfied Council staff she has the necessary criteria, including technical ability, availability, timeframe commitments and RMA Accreditation certification to carry out the duties required.

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; Catherine Schache
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6.3. Appointment of Hearing Commissioner - Objection to Costs - 3 Bears Running Ltd

Regulation Hearing Committee paper

Date of meeting	13 August 2020
Agenda item	6.3
Operations – Senior Manager Support	Tania Harris
Author	Alison Cooper

Purpose

1. To appoint Hearing Commissioners to hear and decide an objection to costs of resource consent applications CRC191946 and CRC191947 held by 3 Bears Running Limited.

Recommendations

That the Regulation Hearing Committee in regard to an objection to costs incurred in the processing of resource consent applications CRC191946 and CRC191947 held by 3 Bears Running Limited:

1. Appoints Cindy Robinson as a Hearings Commissioner, and member of the Hearing Panel 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.

Background

2. 3 Bears Running Limited has objected to the costs of processing of applications to discharge on-site wastewater to land and discharge stormwater into land from a proposed 17 lot residential subdivision located between Monument Road and Clayton Road, Fairlie.
3. The applications were granted.

Proposed Commissioner

4. It is proposed to appoint Ms Cindy Robinson to hear this objection. She is a lawyer with experience in resource management matters and as an independent hearing commissioner.

5. For this cost objection hearing staff have assessed whether other Hearing Commissioners might be available, on the basis of no conflict of interest, availability to hear and make a decision, suitable experience in understanding and evaluating the key issues. The Hearing Commissioner recommended to the Committee is considered to be the most appropriate, having taken those other matters into account.
6. Cindy Robinson 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.

Legal compliance

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

Peer reviewers	Virginia Loughnan and Catherine Schache
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6.4. Appointment of Hearing Commissioner - Pre-Hearing Facilitator

Regulation Hearing Committee paper

Date of meeting	13 August 2020
Agenda item	6.4
Operations – Senior Manager Support	Tania Harris
Author	Alison Cooper

Purpose

1. To appoint a Hearing Commissioner to facilitate a pre-hearing meeting.

Recommendations

That the Regulation Hearing Committee in regard to resource consent application(s) CRC204346, CRC204347, CRC204348, CRC204349 and CRC204350 applied for Fulton Hogan Limited:

1. **Appoints Ken Gimblett as a Facilitator under s99 of the Resource Management Act 1991.**
2. **Delegates to Ken Gimblett pursuant to s34A(1) Resource Management Act 1991, the function, powers and duties required under s99 to facilitate a pre-hearing meeting.**

Background

1. Fulton Hogan Limited has applied for resource consents to extend the existing Fulton Hogan quarry operation at 552, 562, 572 and 582 West Coast Road and 52, 68, 80 and 92 Kettlewell Drive, Yaldhurst.
2. The proposal includes the excavation of land (extraction), the deposition of material into land (cleanfilling), the discharge of dust to air, the discharge of contaminants from cleanfilling onto and into land where they may enter water, and to take and use water. Crushing, screening and stockpiling of excavated material within the extension is not proposed.
3. Consent applications include change of conditions of existing consents to take and use water; and discharge contaminants to air; and new applications to use land for quarrying; discharge contaminants from cleanfilling onto and into land; and discharge contaminants to land.

4. The applications were limited notified. Four submissions have been received with three submitters to be heard. The submissions, in opposition, indicate concern about adverse effects including noise; air quality, dust; water contamination; lack of consultation, visual impacts; health and traffic.
5. The applicant has requested a formal pre-hearing meeting which is for the purpose of clarifying a matter or issue; or facilitating a resolution of a matter or issue.
6. A pre-hearing meeting is to be held prior to a hearing.

Proposed Facilitator

7. It is proposed to appoint Ken Gimblett as Facilitator.
8. We sought a facilitator that has experience in facilitating meetings and enables open and robust discussion between parties.
9. Mr Gimblett is an experienced facilitator and hearing commissioner in either a sole capacity, or as a panel member. He is also a trainer for the Good Decision-makers Ministry for the Environment programme.
10. For this pre-hearing meeting staff have assessed whether facilitators might be available, on the basis of suitable experience to achieve resolution wherever possible between an applicant and submitters, availability to facilitate a meeting and no conflict of interest. The Facilitator recommended to the Committee is considered to be the most appropriate, having taken those other matters into account.
11. Ken Gimblett 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

12. S34A of the Resource Management Act 1991 allows Council to delegate functions to Hearing Commissioners appointed by the Canterbury Regional Council.
13. 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