

Agenda 2020

Regulation Hearing Committee

Date: Thursday 10 September 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
TABLE OF CONTENTS

1. Mihi/Karakia Timatanga - Opening	4
2. Apologies.....	4
3. Deputations and Petitions.....	4
4. Conflict of Interest	4
5. Minutes	5
5.1. Minutes from 20 August 2020	5
6. Matters Arising.....	9
7. Items for discussion	10
7.1. Appointment of Hearing Commissioner - Fulton Hogan Limited	10
7.2. Appointment of Hearing Commissioner - Objections to Decisions	13
8. Extraordinary and Urgent Business.....	15
9. General Business.....	15
10. Next Meeting - to be confirmed	15
11. Mihi/Karakia Whakamutunga – Closing.....	15

1. Mihi/Karakia Timatanga - Opening

2. Apologies

3. Deputations and Petitions

4. Conflict of Interest

5. Minutes

5.1. Minutes from 20 August 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, 20 August 2020 at 8.31am

CONTENTS

- 1.0 Apologies
- 2.0 Conflict of Interest
- 3.0 Deputations and Petitions
- 4.0 Minutes of Meeting – 13 August 2020
- 5.0 Matters Arising
- 6.0 Item for Discussion
 - 6.1 Late Item - Nomination of An Expert Consenting Panel Member
- 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, Lan Pham and Craig Pauling

IN ATTENDANCE

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

1. APOLOGIES

There were no apologies

2. CONFLICT OF INTEREST

Cr Pauling declared a potential conflict of interest in Late Item 6.1 and withdrew from the meeting at 8.34am

3. DEPUTATIONS AND PETITIONS

There were no deputations or petitions.

4. MINUTES OF MEETING – 13 AUGUST 2020

Resolved:

The Regulation Hearing Committee:

1. **confirms the minutes of the meeting held on 13 August 2020 as a true and correct record.**

Cr Pham / Cr Edge
CARRIED

2. **MATTERS ARISING**

There were no matters arising from the minutes.

3. **ITEMS FOR DISCUSSION – LATE ITEM**

Cr McKay advised that item 6.1 was a late agenda item to nominate an expert consenting panel member

Resolved:

That the report be received and considered at the Regulation Hearing Committee meeting of 20 August 2020:

- **Nomination of an Expert Consenting Panel Member under the Fast Track Consenting Pathway.**

Cr McKay / Cr Marshall
CARRIED

6.1 **Nomination of an Expert Consenting Panel Member under the Fast Track Consenting Pathway**

Tania Harris provided an overview of the COVID-19 recovery (Fast-Track Consenting) Act 2000 advising that the Environmental Protection Agency administers the process and that the decision making is undertaken by an expert consenting panel. Councils can nominate a person to the panel. It was noted that this application was for construction of dwellings at 2 Rāpaki Drive, Rāpaki.

Catherine Schache confirmed the process of the application started as an application made under the Resource Management Act 1991 before reapplying under the Fast-track legislation.

Cr Pham asked whether nominees went into a pool. Catherine Schache advised that the expert panel was four members and if there were more nominees proposed, the Panel convenor would choose the panel members.

Cr Edge asked about appointing a person with cultural expertise. It was noted that a nominee from local iwi was also being sought.

Resolved:

That the Regulation Hearing Committee nominates Justine Ashley to the Papakāinga Development Rāpaki expert Consenting Panel

Cr Pham / Cr Marshall
CARRIED

Council McKay queried about other projects under the fast-track process. Catherine Schache advised the projects were listed in the Act; and that any other projects to use the process would need to be approved by the Minister for the Environment.

7 EXTRAORDINARY AND URGENT BUSINESS

There was no extraordinary or urgent business.

8 GENERAL BUSINESS

There was no general business

9 NEXT MEETING - To be confirmed

10 CLOSURE - The Chairperson declared the meeting closed at 8.46am

CONFIRMED

Date:

Chairperson:

6. Matters Arising

7. Items for discussion

7.1. Appointment of Hearing Commissioner - Fulton Hogan Limited

Regulation Hearing Committee paper

Date of meeting	10 September 2020
Agenda item	7.1
Operations Senior Manager Support	Tania Harris
Author	Alison Cooper

Purpose

1. To appoint a Hearing Commissioner to hear and decide resource consent applications CRC204346, CRC204347, CRC204348, CRC204349, CRC204350 applied for by Fulton Hogan Limited.

Recommendations

That the Regulation Hearing Committee in regard to resource consent application(s) CRC204346, CRC204347, CRC204348, CRC204349, CRC204350 applied for by Fulton Hogan 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 applications.**

Background

2. Fulton Hogan Limited has applied for resource consents to extend the existing Fulton Hogan quarry operation (Miners Road quarry) at 552, 562, 572 and 582 West Coast Road and 52, 68, 80 and 92 Kettlewell Drive, Yaldhurst.
3. 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.
4. 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.

5. The applications were limited notified to eleven parties and four submissions were received. All were in opposition and three wished to be heard. The submitters expressed concern about adverse effects including noise; air quality; dust; water contamination; lack of consultation, visual, health and traffic.
6. The applicant has requested a pre-hearing meeting which is for the purpose of clarifying a matter or issue, or a resolution of a matter or issue. An independent facilitator, Mr Ken Gimblett was appointed on the 13 August 2020 to facilitate this pre-hearing.
7. If no resolution at the pre-hearing is reached, a hearing would continue to be held.

Proposed Commissioner

8. The Hearings Policy outlines the criteria for selection of hearing commissioners:
 - Scale, complexity and nature of the hearing;
 - Suitable Experience, particularly with consents for discharges to air and air quality
 - Ability to understand and evaluate the key issues associated with the application;
 - Availability for hearing and decision making;
 - Conflicts of interest;
 - Ministry for the Environment (MfE) Making Good Decisions Accreditation
9. The key technical issue associated with this application relates to the impact on air quality including dust.
10. For this hearing it is recommended that this application be heard by a sole hearing Commissioner as there is a limited number of submissions to be considered, and submitters to be heard. It is anticipated that this hearing would be a one to two-day hearing therefore one commissioner would be appropriate to hear and decide this application.
11. We sought a commissioner who is an experienced hearing commissioner and has a technical background in air quality matters.
12. Mr John Iseli is an experienced hearings commissioner in regional council consents with similar effects and has a strong technical background in air quality. He is an accredited hearing commissioner with chair endorsement.
13. For this hearing staff have assessed whether other hearing commissioners may 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.
14. Mr Iseli has indicated that he did act as an odour expert for a proposed sludge drying plant in Otago for the applicant over six years ago, and does not view that as a conflict of interest, but would declare it to the parties if appointed. It is considered that Mr Iseli would not be conflicted because of the length of time and nature of the work undertaken.

15. The hearing commissioner recommended to the Committee is considered to be the most appropriate, having taken the other matters into consideration.
16. John Iseli 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

1. S34A of the Resource Management Act 1991 allows Council to delegate functions to Hearing Commissioners appointed by the Canterbury Regional Council.
2. 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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7.2. Appointment of Hearing Commissioner - Objections to Decisions

Regulation Hearing Committee paper

Date of meeting	{meeting-date}
Agenda item	7.2
Operations Senior Manager Support	Tania Harris
Author	Alison Cooper

Purpose

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

Recommendations

That the Regulation Hearing Committee in regard to an objection to decision made on:

- (i) resource consent CRC210399 held by Mr Russell M Parkin and
 - (ii) resource consent CRC203023 held by Landcorp Farming 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 objections to decision

Background

1. Mr R M Parkin has objected to the decision to return resource consent application CRC210399 under s88 of the Resource Management Act 1991. The application is to take and use groundwater at Washbournes Road, Sedgemere and was returned as not providing sufficient information to adequately determine the effects of the proposal.
2. Landcorp Farming Limited has objected to the decision on duration of resource consent application CRC203023. The application is to take and use groundwater at Downs Road, Eyrewell Forest. The applicant had requested a duration of 17 years whereas a four year duration was granted.

3. Objections may be decided internally unless the objector requests an objection be heard by an independent hearing commissioner.
4. Mr Parkin has not requested the objection be heard by an independent hearing commissioner however it is considered appropriate for a commissioner to be appointed, rather than having Environment Canterbury reviewing its own decision.
5. Landcorp Farming Limited has requested an independent hearing commissioner decide the objection.

Proposed Commissioners

6. It is proposed to appoint Cindy Robinson to hear and decide these objections. She is a lawyer with experience in resource management, including planning, matters.
7. She is an experienced independent hearing commissioner and has undertaken a number of objection hearings for council.
8. For these objection hearings staff have assessed whether other hearing commissioners might be available, on the basis of availability to hear and make a decision, suitable experience in understanding and evaluating the key planning issues, and no conflict of interest. The Hearing Commissioner recommended to the Committee is considered to be the most appropriate, having taken those other matters into account.
9. 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

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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8. Extraordinary and Urgent Business

9. General Business

10. Next Meeting - to be confirmed

11. Mihi/Karakia Whakamutunga – Closing