

# Agenda 2020

## **Regulation Hearing Committee**

Date: Thursday 15 October 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. Mihi/Karakia Timatanga - Opening**
- 2. Apologies**
- 3. Conflict of Interest**
- 4. Deputations and Petitions**

## **5. Minutes**

### **5.1. Minutes from 1 October 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, 1 October 2020 at 8.30am

### **CONTENTS**

- 1.0 Mihi/Karakia Timatanga - Opening
- 2.0 Apologies
- 3.0 Deputations and Petitions
- 4.0 Conflict of Interest
- 5.0 Minutes of Meeting – 10 September 2020
- 6.0 Matters Arising
- 7.0 Item for Discussion
  - 7.1 Appointment of Hearing Commissioner – Objection to Costs – GR & RC Wilson
  - 7.2 Appointment of Hearing Commissioner – Objections to Costs – CJ & LM Deans
  - 7.3 Appointment of Hearing Commissioner – Objection to Costs – V & R Flynn
- 8.0 Extraordinary and Urgent Business
- 9.0 Other Business
- 10.0 Next Meeting
- 11.0 Mihi/Karakia Whakamutunga - 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), Virginia Loughnan (Consents Planning Manager) and Alison Cooper (Consents Hearings Officer)

#### **1. MIHI/KARAKIA TIMATANGA - OPENING**

Cr Pauling opening the meeting with a Mihi and a Karakia.

#### **2. APOLOGY**

Cr Lan Pham (for lateness)

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

There were no deputations or petitions.

#### **4. CONFLICT OF INTEREST**

No conflicts of interests were declared.

## **5. MINUTES OF MEETING – 10 SEPTEMBER 2020**

Councillor Marshall advised that in Item 7.2 she had sought clarification about the appointment. It was agreed to add the following sentence to the item: “Councillor Marshall sought clarification to the appointment. Staff said it was about process and not technical in nature.”

### **Resolved**

#### **The Regulation Hearing Committee:**

- 1. confirms the amended minutes of the meeting held on 10 September 2020 as a true and correct record.**

Cr McKay / Cr Marshall  
CARRIED

## **6. MATTERS ARISING**

- 6.1 Councillor Marshall asked about the appointment to hear the Fulton Hogan Limited applications.  
Staff advised that a report on options was being prepared.
- 6.2 Councillor Pauling asked about the Committee deciding notified consents.  
Catherine Schache advised that she had initial discussions with the Chair and a report was being prepared

## **7. ITEMS FOR DISCUSSION**

- 7.1 Appointment of Hearing Commissioner – Objection to Costs – GR & R  
C Wilson**  
*Refer pages 11 to 12 of the agenda.*

### **Resolved**

**That the Regulation Hearing Committee in regard to an objection to costs incurred in the processing of resource consent applications CRC193934, CRC193935 and CRC195104 held by Mr G R & Mrs R C Wilson:**

- 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 Pham / Cr Edge  
CARRIED

- 7.2 Appointment of Hearing Commissioner – Objection to Costs – Mr C J & Mrs L M Deans**  
*Refer pages 13 to 14 of the agenda.*

**Resolved**

**That the Regulation Hearing Committee in regard to an objection to costs incurred in the processing of resource consent application CRC193831 held by Mr C J & Mrs L M Deans:**

- 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 Marshall  
CARRIED

- 7.3 Appointment of Hearing Commissioner – Objection to Costs – Mr V & R Flynn**  
*Refer pages 15 to 16 of the agenda*

**Resolved**

**That the Regulation Hearing Committee in regard to an objection to costs incurred in the processing of resource consent application CRC202938 held by Mr V & Mrs R Flynn:**

- 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 Edge / Cr Pauling  
CARRIED

**8. EXTRAORDINARY AND URGENT BUSINESS**

There was no extraordinary or urgent business.

**9. GENERAL BUSINESS**

Cr Pham asked about the amounts of costs being objected to.

Virginia Loughnan advised that costs objected to varied depending on complexity and type, noting that costs are reviewed, and that objections can only be made on the additional charges and not the initial application fee.

Tania Harris advised that an update on the review of the Fees and Charges will be going to Council this month.

It was noted that staff will report back on cost objections and objections to decisions.



10. **NEXT MEETING** - To be confirmed
  
11. **MIHI/KARAKIA WHAKAMUTUNGA - CLOSURE** - Cr Pauling closed the meeting with a mihi at 8.45am

**CONFIRMED**

**Date:**

\_\_\_\_\_

**Chairperson:**

\_\_\_\_\_

## **6. Matters Arising**

## 7. Items for discussion

### 7.1. Appointment of Hearing Commissioner - Objections to Decision

#### Regulation Hearing Committee paper

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<b>Date of meeting</b>	15 October 2020
<b>Agenda item</b>	7.1
<b>Operations Senior Manager Support</b>	Tania Harris
<b>Author</b>	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 application CRC210892 and CRC210893 made by Mr J S Rutherford;
  - (ii.) resource consent application CRC210995, CRC210996 and CRC211012 made by Gower Brae Limited; and
  - (iii.) resource consent CRC210382 to be held by NPD 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.

#### Background

2. Mr J S Rutherford has objected to the decision to return consent applications CRC210892 and CRC210893 made under s88 of the Resource Management Act 1991 (RMA). The application was returned as being incomplete as it did not include information relating to the activity and its effects on the environment required by Schedule 4 of the RMA.

3. The lodged application was for a land use consent to disturb the riverbed of the Waiau River to increase the diversion rate of water, and a water permit to divert water into a natural diversion channel.
4. Gower Brae Limited has objected to the decision to return the application made under s88 of the RMA. The application was returned as being incomplete as assessments of the effects: of the transfer; on localised waterbodies; and planning rules were not provided.
5. The lodged application was for a full transfer from site to site of water – CRC210995; change of conditions of that consent – CRC210996, and a land use consent- CRC211012 - to use land for farming at Spotswood.
6. NPD Limited has objected to the decision on duration of consent CRC210382. The application is to discharge stormwater from hard surfaces at Rakaia. The applicant requested 35 years whereas a seven-year duration was granted.
7. All objectors have indicated they wish the objection to be heard by an independent hearing commissioner.

## **Proposed Commissioners**

8. It is proposed to appoint Cindy Robinson to hear and decide these objections. She is a lawyer experienced in resource management, including planning matters.
9. She has undertaken a number of objection hearings for council and is an experienced hearings commissioner.
10. For these objection hearings 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 planning issues. The Hearing Commissioner recommended to the Committee is considered to be the most appropriate, having taken into account those other matters into account.
11. 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**

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.

<b>Peer reviewers</b>	Virginia Loughnan, Catherine Schache
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## 7.2. Appointment of Hearing Commissioners - SOL Quarries Limited

### Regulation Hearing Committee paper

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Date of meeting	15 October 2020
Agenda item	7.2
Operations Senior Manager Support	Tania Harris
Author	Alison Cooper

#### Purpose

1. To appoint Hearing Commissioners to hear and decide resource consent applications CRC193563, CRC193564 and CRC193773 applied for by SOL Quarries Limited

#### Recommendations

That the Regulation Hearing Committee in regard to resource consent application(s) CRC193563, CRC193564 and CRC193773 applied for by SOL Quarries Limited:

1. **Appoints John Maassen as a Hearings Commissioner, Chairman and member of the Hearing Panel under s34A of the Resource Management Act 1991; and**
2. **Appoints Ken Gimblett as a Hearings Commissioner, and member of the Hearing Panel under s34A of the Resource Management Act 1991; and**
3. **Delegates to John Maassen and Ken Gimblett 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, and**
4. **In the event of an equality of votes provides the Chairman of the Hearing Panel, John Maassen with a casting vote**

#### Background

2. SOL Quarries Limited has applied for resource consents to extend the existing SOL Quarries Limited quarry and landfill operations at 93 and 133 Conservators Road, Yaldhurst.
3. The suite of resource consents sought includes consents for the use of land for quarrying activities, and the discharge of contaminants from cleanfilling onto and into land where they may enter water; and discharge of dust to air.

4. SOL Quarries Ltd has also applied to the Christchurch City Council for a land use consent to extend the area of the existing quarry.
5. The applications were limited notified. Seven submissions have been received. Two affected parties have been granted a waiver of timeframe to provide a late submission. At the time of writing those submissions have not been received.
6. The majority of submissions oppose the application and two are neutral. At least five submitters wish to be heard. Submitters' areas of concern are health issues from dust exposure; issues with monitoring; noise, traffic, water quality and quantity, and accumulated negative effects of quarrying operations.
7. A hearing of the applications will be held jointly with the Christchurch City Council.

## **Commissioner Selection**

8. The joint hearing is to commence early December and take three days. The submitters have a high level of interest in this application.
9. The Hearings Policy outlines the criteria for selection of hearing commissioners:
  - Scale, complexity and nature of the hearing;
  - Suitable Experience
  - 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
10. We are seeking to appoint Commissioners who can decide both regional and district council consents and appoint them jointly so one decision can be issued.
11. For the hearing we are seeking commissioners who are experienced in running and participating in a robust and transparent hearing process. A list of potential candidates was prepared and screened against the Policy criteria.
12. Christchurch City Council has indicated they wished to appoint the commissioner who made their notification decision – Mr John Maassen.
13. On this basis, the following panel is recommended.

## **Proposed Commissioners**

14. It is recommended that a panel of two Commissioners is required. This will allow coverage of the issues from both a district and regional council planning perspective, plus the ability to share the workload over the course of the hearing
15. We therefore recommend the following Commissioner appointments:

Chairperson – John Maassen

Mr Maassen is an experienced and accredited Hearings Commissioner and barrister with strong skills and knowledge of environmental law. He is conversant in district, and regional consent processes across land, water, and air management.

Panel Member – Ken Gimblett

Mr Gimblett is also a very experienced accredited hearings commissioner and planner having either chaired or sat on panels over a range of consent application types in both the regional and district council environment.

16. John Maassen and Ken Gimblett have satisfied Council staff they meet the relevant criteria, including technical ability, RMA Accreditation certification, availability and timeframe commitments to carry out the duties required as Hearing Commissioners for this consent hearing.

## **Legal compliance**

17. S34A of the Resource Management Act 1991 allows Council to delegate functions to Hearing Commissioners appointed by the Canterbury Regional Council.
18. 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, 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**