

# Agenda 2021

## **Regulation Hearing Committee**

Date: Thursday 13 May 2021

Time: 8.30am

Venue: Council Chamber, 200 Tuam Street, Christchurch



# Regulation Hearing Committee

## Membership

### Chair

Tumu Taiao Yvette Couch-Lewis

### Members:

Cr Grant Edge

Cr Nicole Marshall

Cr Claire McKay

Cr Elizabeth McKenzie

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 28 March 2021**

Refer to attachment on following page.

## **REGULATION HEARING COMMITTEE**

Minutes of the meeting held in the  
Council Chambers, 200 Tuam Street, Christchurch on  
Thursday, 18 March 2021 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 – 4 March 2021
- 6.0 Matters Arising
- 7.0 Item for Discussion
  - 7.1 Appointment of Hearing Commissioner – Kilvarock Farming Company Ltd
- 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, and Lan Pham

### **IN ATTENDANCE**

Councillor Elizabeth McKenzie

Catherine Schache (General Counsel), Philip Burge (Principal Consents Advisor) and Alison Cooper (Consents Hearings Officer)

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

Cr Marshall opened the meeting with a Karakia.

#### **2. APOLOGY**

Councillor Pauling; Tumu Taiao Yvette Couch-Lewis

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

There were no deputations or petitions.

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

There were no conflicts of interest.

**5. MINUTES OF MEETING –**

An error was noted in Item 7.1 - Resolution Paragraph 4 – the last line reads: ‘deal with any preliminary matters; hear; and decide the objection’. This should read: “deal with any preliminary matters; hear; and decide the resource consent applications.”

**Resolved**

**The Regulation Hearing Committee:**

1. **confirms the corrected minutes of the meeting held on 4 March 2021 as a true and correct record.**

Cr McKay / Cr Edge  
CARRIED

**6. MATTERS ARISING**

There were no matters arising.

**7. ITEMS FOR DISCUSSION**

- 7.1 **Appointment of Hearing Commissioner – Kilvarock Farming Company Limited**  
*Refer pages 10 to 12 of the agenda*

Councillor Edge asked if the applicant had been made aware of the increased charges. Ms Cooper advised that the application had taken longer than anticipated to process.

**Resolved**

**That the Regulation Hearing Committee in regard to an objection to costs incurred in the processing of resource consent application CRC21220 held by Kilvarock Farming Company Limited:**

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.**

Cr McKay / Cr Edge  
CARRIED

**8. EXTRAORDINARY AND URGENT BUSINESS**

There was no extraordinary or urgent business.

**9. GENERAL BUSINESS**

There was no general business.

10. **NEXT MEETING** - To be confirmed

11. **MIHI/KARAKIA WHAKAMUTUNGA - CLOSURE** – The meeting closed at 8.38am

**CONFIRMED**

**Date:**

\_\_\_\_\_

**Chairperson:**

\_\_\_\_\_



## **6. Matters Arising**

## 7. Items for discussion

### 7.1. Appointment of Hearing Commissioner - SOL Screening and Crushing Ltd

#### Regulation Hearing Committee paper

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Date of meeting	{meeting-date}
Agenda item	7.1
General Manager – RMA Operations	Paul Hulse
Author	Alison Cooper

#### Purpose

1. To appoint a Hearing Commissioner to hear and decide resource consent applications CRC213183 and CRC212220 applied for by SOL Screening and Crushing Limited

#### Recommendations

**That the Regulation Hearing Committee in regard to resource consent application(s) CRC213183 and CRC212220 applied for by SOL Screening and Crushing 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 resource consent applications.**

#### Background

2. SOL Screening and Crushing Limited proposes to excavate a maximum of 60,000 cubic metres of gravel, sand and other natural material from the Clarence River from the State Highway 1 bridge to the confluence with the Wharekiri Stream.
3. Two resource consents are sought to undertake the gravel extraction; and to discharge contaminants to air from the handling and outdoor storage of bulk solid materials.
4. The application was limited notified to one party. A submission has now been received. The submission was received after the close of the notification period, and a decision has been made to waive compliance of the submission period timeframe and to accept the submission.

5. The submitter's areas of concern are water (water) ways management and kaitiakitanga of the river.
6. As the submitter wishes to be heard, a hearing is required.

## **Recommendation**

7. The Hearings Policy outlines the criteria for the selection of hearing commissioners:
  - Ability to understand and evaluate the key issues associated with the application.
  - Suitable experience
  - Scale, complexity, and nature of the application
  - Availability for considering the application and decision-making.
  - Conflicts of interest
  - Ministry for the Environment (MfE) Making Good Decisions Accreditation
8. It is proposed to appoint a sole commissioner to hear and decide this application.
9. We sought a hearing commissioner with hearings experience and ability to be able to evaluate the proposed effects on the bed and bank stability and flooding within the Clarence River, gravel allocation, water and air quality; and effects on tangata whenua values as well as the relevant planning provisions in order to make a decision.
10. It is recommended that Sharon McGarry be appointed. She is a very experienced hearing commissioner and has relevant experience in deciding applications to extract gravel from rivers; and where cultural values are acknowledged.
11. Sharon McGarry has satisfied Council staff she has the necessary criteria, including availability, timeframe commitments, technical ability and RMA accreditation certification 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>	Aurora Grant, Catherine Schache
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## 7.2. Appointment of Hearing Commissioners

### Regulation Hearing Committee paper

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<b>Date of meeting</b>	{meeting-date}
<b>Agenda item</b>	7.2
<b>General Manager – RMA Operations</b>	Paul Hulse
<b>Author</b>	Alison Cooper

#### Purpose

1. To appoint Hearing Commissioners to consider and decide whether to notify and decide certain resource consent applications where Council/Environment Canterbury staff would have or would be perceived to have a conflict of interest in making decisions.

#### Recommendations

1. 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 2022:

- 1.1 Appoints Sharon McGarry as a Hearings Commissioner;
- 1.2 Appoints Hoani Langsbury as a Hearings Commissioner;
- 1.3 Appoints Kenneth Lawn as a Hearings Commissioner; and
- 1.4 Appoints Bianca Sullivan 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 received from:

- a) sections within Environment Canterbury;
- b) Environment Canterbury staff members, Environment Canterbury Councillors and Tumu Taiao, and family members of those people;
- c) occupiers of Environment Canterbury owned land; and
- d) applicants where Environment Canterbury or its staff would have a conflict of interest or perceived conflict of interest; and

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

- 2.1. if that decision is not to notify the 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 sit as sole commissioner; or as Chair or member of a

**hearing panel in conjunction with other Hearing Commissioners to be appointed at a later date; to consider and decide that consent application; 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 set out in paragraph 2.2, to decide any such applications.**

## **Background**

3. At its meetings on 21 May 2020 and 18 June 2020 the Committee appointed four independent Hearing Commissioners to make decisions on applications received by from and by Environment Canterbury where there were possible conflicts of interest; and also decide whether such applications should be non-notified, limited or publicly notified.
4. The appointments to make these decisions expires on 22 May 2021.
5. Such conflicts arise where Environment Canterbury receives resource consent applications where Environment Canterbury is the applicant; from Environment Canterbury staff members, Environment Canterbury councillors and Tumu Taiao; or family members of either; or from occupiers of Environment Canterbury land.
6. Environment Canterbury may also receive applications where internal decision-makers may have concerns because of a perception of conflict or bias, and an independent hearing commissioner should therefore make decisions in relation to the application.
7. As non-notified applications need to be decided within twenty working days to meet Resource Management Act 1991 timeframes, it is proposed to appoint up to four independent hearing commissioners on a year appointment to ensure availability of one person as and when required.
8. The number of applications requiring an external decision-maker is approximately 20 per year.
9. The applications are considered 'on papers' – that is the application, associated documents and the s42A report. The decision-maker can request clarification from the Consents Planner.
10. It is considered that any one of four is enough to ensure availability, experience of the type of application, mātauranga Maori /tikanga experience; and to avoid any conflict of interest in regard to the applicant.
11. 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

12. Using the criteria above it is proposed that Sharon McGarry, Kenneth Lawn, Hoani Langsbury and Bianca Sullivan be reappointed. All are experienced in deciding a range of applications and are knowledgeable hearing commissioners. Ms McGarry, Mr Lawn and Ms Sullivan hold MfE accreditation with a chair endorsement. Mr Langsbury holds MfE accreditation.
13. Sharon McGarry, Kenneth Lawn, Hoani Langsbury 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.

## Legal compliance

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

<b>Peer reviewers</b>	Aurora Grant; Catherine Schache
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## 7.3. Appointment of Hearing Commissioner - Mr J H Bennett

### Regulation Hearing Committee paper

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<b>Date of meeting</b>	{meeting-date}
<b>Agenda item</b>	7.3
<b>General Manager – RMA Operations</b>	Paul Hulse
<b>Author</b>	Alison Cooper

#### Purpose

1. To appoint a Hearing Commissioner to hear and decide an objection to costs incurred in the processing of resource consent applications CRC182730 and CRC204606, CRC204607, CRC204609, CRC210998, and CRC210999 applied for by Mr J H Bennett.

#### Recommendations

2. **That the Regulation Hearing Committee in regard to an objection to costs incurred in the processing of resource consent applications CRC182730 and CRC204606, CRC204607, CRC204609, CRC210998, and CRC210999 applied for by Mr J H Bennett.**
  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

3. Mr J H Bennett has objected to costs incurred in the processing of resource consent applications CRC182730 – to use land for farming activity, and CRC204606, CRC204607, CRC204609, CRC210998, and CRC210999 to part transfer of water at River Road, Wakanui.
4. The applications were granted non-notified.

#### Proposed Commissioners

5. It is proposed to that Cindy Robinson be appointed to hear this objection. Ms Robinson is an experienced hearings commissioner, including the hearing of objections and has an understanding of regional council applications.

6. For this hearing Council staff have assessed whether other Hearing Commissioners might be available on the basis of availability to hear and make a decision, no conflict of interest, and suitable experience in understanding and evaluating key issues.
7. The Hearing Commissioner recommended to the Committee is considered to be the most appropriate, having taken those other matters into account.
8. 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**

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

<b>Peer reviewers</b>	Aurora Grant, 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**