

Agenda 2021

Regulation Hearing Committee

Date: Thursday 26 August 2021

Time: 8.30am

Venue: Council Chamber, 200 Tuam Street, Christchurch



Regulation Hearing Committee

Membership

Co-Chair:

Tumu Taiao Yvette Couch-Lewis

Cr Nicole Marshall

Members:

Cr Grant Edge

Cr Claire McKay

Cr Elizabeth McKenzie

Cr Craig Pauling

Cr Lan Pham

ENVIRONMENT CANTERBURY
REGULATION HEARING COMMITTEE
TABLE OF CONTENTS

1. Mihi/Karakia Timatanga - Opening	4
2. Apologies.....	4
3. Conflict of Interest	4
4. Deputations and Petitions.....	4
5. Minutes	5
5.1. Minutes from 8 July 2021.....	5
6. Matters Arising.....	9
7. Items for discussion	10
7.1. Appointment of Hearing Commissioner - Christchurch City Council	10
7.2. Appointment of Hearing Commissioners - Frews Contracting Limited	13
7.3. Appointment of Hearing Commissioner - Drains and Developments Limited	16
7.4. Appointment of Hearing Commissioners - Objections to Costs	18
8. Extraordinary and Urgent Business.....	20
9. General Business.....	20
10. Next Meeting - to be confirmed	20
11. Mihi/Karakia Whakamutunga – Closing	20

- 1. Mihi/Karakia Timatanga - Opening**
- 2. Apologies**
- 3. Conflict of Interest**
- 4. Deputations and Petitions**

5. Minutes

5.1. Minutes from 8 July 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, 8 July 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 – 17 June 2021
- 6.0 Matters Arising
- 7.0 Item for Discussion
 - 7.1 Appointment of Hearing Commissioner – Objection to Decision and Costs
- 8.0 Extraordinary and Urgent Business
- 9.0 Other Business
- 10.0 Next Meeting
- 11.0 Mihi/Karakia Whakamutunga - Closure

PRESENT

Tumu Taiao Yvette Couch-Lewis (Chair), Councillors Claire McKay, Grant Edge, Nicole Marshall, Elizabeth McKenzie, Lan Pham, Craig Pauling

IN ATTENDANCE

Catherine Schache (Legal Counsel), Judith Earl-Goulet (General Manager Regulatory Services), Aurora Grant (Consents Manager) and Alison Cooper (Consents Hearings Officer)

1. MIHI/KARAKIA TIMATANGA - OPENING

Cr McKay opened the meeting with a karakia.

2. APOLOGY

There were no apologies.

3. DEPUTATIONS AND PETITIONS

There were no deputations or petitions.

4. CONFLICT OF INTEREST

There were no conflicts of interest.

5. MINUTES OF MEETING – 17 JUNE 2021

Refer pages 5 - 8 of the agenda.

Resolved

The Regulation Hearing Committee confirms the minutes of the meeting held on 17 June 2021 as a true and correct record.

Cr McKay / Cr Marshall
CARRIED

6. MATTERS ARISING

There were no matters arising.

7. ITEMS FOR DISCUSSION

Refer pages 10 -12 of the agenda.

7.1 Appointment of Hearing Commissioner – Objection to Decision and Costs

Tumu Taiao Couch-Lewis introduced the item.

Cr Marshall noted that there had been previous discussion on a consistent approach to objections on decisions. Ms Grant advised that this decision objection was to the return of the application under s88 and not a decline. She noted that there is an improvement in quality of applications and work was being undertaken with consultants. She also noted that this application was a technical one and not able to be processed.

Resolved

That the Regulation Hearing Committee in regard to an objection to:

- i. a decision in regard to resource consent application CRC214574 applied for by E C Biden and Sons Limited; and**
- ii. costs incurred in the processing of resource consent application CRC203885 held by Mr Brendan Best**

- 1. appoints Bianca Sullivan as a Hearings Commissioner under s34A of the Resource Management Act 1991; and**
- 2. Delegates to Bianca Sullivan 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 Pham / Cr McKay
CARRIED

8. EXTRAORDINARY AND URGENT BUSINESS

Tumu Taiao Couch-Lewis noted that at the last meeting staff were asked to look at the process for determining hearing commissioners and making decisions.

Ms Grant advised workshops will be held after the councillor break. She asked for feedback on the information provided in the agenda item.

There was discussion about the level of information to be provided about proposed hearing commissioners. It was considered that professional information be included as well as a statement identifying there was no conflict of interest.

9. GENERAL BUSINESS

There was no general business.

10. NEXT MEETING - To be confirmed.

11. MIHI/KARAKIA WHAKAMUTUNGA - CLOSURE – The meeting closed at 9.00am

CONFIRMED

Date:

Chairperson:

6. Matters Arising

7. Items for discussion

7.1. Appointment of Hearing Commissioner - Christchurch City Council

Regulation Hearing Committee paper

Date of meeting	26 August 2021
Agenda item	7.1
General Manager – Regulatory Services	Judith Earl-Goulet
Author	Alison Cooper

Purpose

1. To appoint Hearing Commissioners to hear and decide resource consent applications CRC203551, CRC203552, CRC203553, CRC214759, CRC214760 and CRC214761 applied for by Christchurch City Council.

Recommendations

That the Regulation Hearing Committee in regard to resource consent application(s) CRC203551, CRC203552, CRC203553, CRC214759, CRC214760 and CRC214761 applied for by Christchurch City Council:

1. **Appoints Emma Christmas as a Hearings Commissioner under s34A of the Resource Management Act 1991; and**
2. **Delegates to Emma Christmas 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. Christchurch City Council propose to construct an earth embankment/flood detention dam across the upper Cashmere Valley. The earth embankment is to be constructed for flood detention purposes.
3. Land use consents are sought for the earthworks for the dam construction across the Cashmere Valley, in and over a drain and wetland area and associated water permits for the damming and diversion of water.
4. Applications CRC203551, CRC203552, CRC203553 were publicly notified in February 2021 with five submissions received, mainly in support or neutral to the proposal. Four submitters wish to be heard.

5. Applications CRC214759, CRC214760 and CRC214761 were publicly notified in July 2021 after it was identified that the proposed dam alignment passed through a wetland. One submission from a submitter to the notification, was received to this notification.
6. The submitters areas of concern are sediment discharges to the Cashmere Stream; dam failure; location of power infrastructures within the work site area; access and water management.

Proposed Commissioner

7. The Hearings Policy outlines the criteria for the selection of independent 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 hearing commissioner to hear and decide these applications because of the small number of submitters to be heard, their general support for the proposal, and limited key issues that can be addressed. The hearing should take one day.
9. We sought a hearings commissioner with hearings experience as a sole decision-maker and the ability to hear and evaluate the key issues of sediment discharge and water quality.
10. It is recommended that Emma Christmas be appointed. She has extensive experience as a Hearings commissioner managing hearings as a sole commissioner or as a panel member both in Canterbury and around the country. She has a good understanding and experience in regional council planning and expertise in water quality and management. Recent hearings include Oceania Dairy Limited, Christchurch City Council -global stormwater and Wangan Hills Limited applications where land use and water quality were key issues.
11. She is accredited under the Making Good Decision Makers programme and has the Chair endorsement
12. Emma Christmas has satisfied Council staff she has the necessary criteria, including technical ability, no conflicts of interest, availability and timeframe commitment, and RMA Accreditation certification to carry out the duties required.

Legal compliance

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

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

Peer reviewers	Aurora Grant, Catherine Schache
-----------------------	---------------------------------

7.2. Appointment of Hearing Commissioners - Frews Contracting Limited

Regulation Hearing Committee paper

Date of meeting	26 August 2021
Agenda item	7.2
General Manager – Regulatory Services	Judith Earl-Goulet
Author	Alison Cooper

Purpose

1. To appoint Hearing Commissioners to hear and decide resource consent applications CRC201181, CRC201182 and CRC201808 applied for by Frews Contracting Limited

Recommendations

That the Regulation Hearing Committee in regard to resource consent application(s) CRC201181, CRC201182 and CRC201808 applied for by Frews Contracting Limited:

- 1. Appoints Emma Christmas as a Hearings Commissioner, Chairperson and member of the Hearing Panel under s34A of the Resource Management Act 1991; and**
- 2. Appoints Craig Welsh as a Hearings Commissioner, and member of the Hearing Panel under s34A of the Resource Management Act 1991; and**
- 3. Delegates to Emma Christmas and Craig Welsh 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.**
- 4. In the event of an equality of votes provides the Chairperson of the Hearing Panel, Emma Christmas with a casting vote.**

Background

2. Frews Contracting Limited propose to extend their existing consented quarry and clean fill operation at Plantation Road, Hororata. The proposal involves the extraction of up to 75,000 cubic metres of aggregate per year; the deposition of managed clean fill; and the storage of up to 1,000 cubic metres of green waste at the site.
3. Resource consents applied for are discharges to air from the operation of a quarry; discharge to land from the deposition of managed fill material and use of land for the deposition of material over an unconfined or semi-confined aquifer

4. A duration of 35 years is sought.
5. The application was publicly notified, and nine submissions were received. Five were in support of the proposal and four opposed. The key issues for this application are groundwater quality and dust. Five submitters wish to be heard.
6. Selwyn District Council received a similar application for the proposal. This application was limited notified to affected parties, and two submissions received.
7. It is therefore proposed to hold a joint hearing with Selwyn District Council to hear the applications.

Proposed Commissioners

8. 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
9. It is proposed to appoint a two-person hearing panel to hear and decide these applications because of the scale and nature of the application, technical evidence to be considered, and experience in deciding both regional and district council consents.
10. We sought hearing commissioners with hearings experience, the ability to understand and evaluate the key issues of the impact groundwater quality, quarrying and cleanfill deposition and regional and district planning matters. The chairperson would also require experience in chairing a robust and transparent hearing process.
11. A list of potential candidates was prepared and screened against the selection criteria in paragraph 8. On this basis the following panel is recommended.
12. Chairperson and panel member

Emma Christmas is an independent accredited hearing commissioner with Chair endorsement. She is an experienced hearing commissioner with planning experience. She has sat as both a sole commissioner and panel member for regional and district council activities. She has a good understanding of water quality issues. She has recently been a panel member on the Oceania Dairy Ltd hearing; Christchurch City Council – global stormwater, and sole commissioner for the Wangan Hills Ltd – transfer of water applications; and Hurunui District Council - Amberley Community water supply take application.

13. Panel member

Craig Welsh is an independent hearing commissioner also with Chair endorsement. He is experienced in regional and district planning matters as well as particular experience

in mining and oil exploration, hydro-power generation and river management, as well as numerous land use consents relating to earthworks and vegetation clearance. He recently sat as sole commissioner to the Fulton Hogan Ltd – Miners Road quarry extension hearing.

14. Emma Christmas and Craig Welsh have satisfied Council staff they have the necessary criteria, no conflicts of interest, technical ability, RMA Accreditation certification, availability and timeframe commitments to carry out the duties required.
15. As this is to be a joint hearing with Selwyn District Council, it is appropriate that the same hearing commissioners be appointed by Selwyn District Council. Selwyn District Council are in agreement that the two person panel is appropriate, and will appoint the same recommended hearing commissioners.

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	Aurora Grant. Catherine Schache
-----------------------	---------------------------------

7.3. Appointment of Hearing Commissioner - Drains and Developments Limited

Regulation Hearing Committee paper

Date of meeting	26 August 2021
Agenda item	7.3
General Manager Regulatory Services	Judith Earl-Goulet
Author	Alison Cooper

Purpose

1. To appoint a Hearing Commissioner to hear and decide resource consent applications CRC210621 and CRC211795 applied for by Drains and Developments Limited.

Recommendations

That the Regulation Hearing Committee in regard to resource consent application(s) CRC210621 and CRC211795 applied for by Drains and Developments Limited:

1. **Appoints Bianca Sullivan as a Hearings Commissioner under s34A of the Resource Management Act 1991; and**
2. **Delegates to Bianca Sullivan 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. Drains and Developments Limited have applied to Environment Canterbury to excavate gravel, sand and other natural material from the Waimakariri River, and discharge contaminants to air from the handling and outdoor storage of bulk solid materials at Cooks Road, Darfield.
3. The applications were limited notified to seven parties. Two submissions were received in response opposing the applications.
4. The main issues of concern are availability of resource and that the proposed mitigation will not avoid adverse effects on the environment.
5. As submitters wish to be heard, a hearing is required.

Proposed Commissioner

6. 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
7. As there are only two submitters to be heard with similar issues, it is proposed a sole hearing commissioner be appointed.
 8. We sought a hearing commissioner with experience to evaluate the proposed effects of the extraction within the Waimakariri River, water and air quality as well as the relevant planning provisions required to make a decision.
 9. It is recommended that Bianca Sullivan be appointed. She is an experienced planner with a good understanding of regional council environmental plans and activities requiring consent. She is an accredited hearing commissioner including hearings of resource consent applications for the Canterbury and Southland regional councils.
 10. She provides environmental policy and planning advice to clients, including planning advice, submissions on planning processes, consent application advice and preparation and strategic planning advice.
 11. Bianca Sullivan has satisfied Council staff she has the necessary criteria, including technical ability, no conflicts of interest, 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	Aurora Grant, Catherine Schache
-----------------------	---------------------------------

7.4. Appointment of Hearing Commissioners - Objections to Costs

Regulation Hearing Committee paper

Date of meeting	26 August 2021
Agenda item	7.4
General Manager – Regulatory Services	Judith Earl-Goulet
Author	Alison Cooper

Purpose

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

Recommendations

That the Regulation Hearing Committee in regard to objections to costs incurred in the processing of resource consent application:

- a. CRC211303 held by Canterbury Strip Limited; and
 - b. CRC212652 held by Mr N D Smart and Ms R H Macfie
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 costs.**

Background

2. Canterbury Strip Limited has objected to the costs incurred in the processing of their resource consent application CRC211303 to discharge contaminants to air from abrasive blasting at various locations throughout the Canterbury Region.
3. Mr N D Smart & Ms R H Macfie have objected to the costs incurred in the processing of their resource consent application to discharge contaminants to land from an onsite wastewater system at Arthurs Pass.
4. Both applications were processed as non-notified applications.

Proposed Commissioners

5. It is proposed that Cindy Robinson be appointed to hear the two objections. An understanding of the processing of resource consent applications is required.

6. Ms Robinson is an experienced resource management lawyer and accredited hearings commissioner. She has undertaken objection hearings as well as deciding resource consent applications as a sole commissioner and as chair of hearing panels.
7. Ms Robinson has satisfied Council staff she has the necessary criteria, including no conflicts of interest, technical ability, RMA Accreditation certification, availability and timeframe commitment 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	Aurora Grant, Catherine Schache
-----------------------	---------------------------------

8. Extraordinary and Urgent Business

9. General Business

10. Next Meeting - to be confirmed

11. Mihi/Karakia Whakamutunga – Closing