

Agenda 2021

Regulation Hearing Committee

Date: Thursday 30 September 2021

Time: 8.30am

Venue: Council Chamber, 200 Tuam Street, Christchurch



Regulation Hearing Committee

Membership

Co-Chairs:

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 26 August 2021	5
6. Matters Arising.....	10
7. Items for discussion	11
7.1. Revocation of Appointment of Hearing Commissioner	11
8. Extraordinary and Urgent Business.....	13
9. Next Meeting - to be confirmed	13
10. Mihi/Karakia Whakamutunga – Closing.....	13

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

5. Minutes

5.1. Minutes from 26 August 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, 26 August 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 – 8 July 2021
- 6.0 Matters Arising
- 7.0 Item for Discussion
 - 7.1 Appointment of Hearing Commissioner – Christchurch City Council
 - 7.2 Appointment of Hearing Commissioners – Frews Contracting Limited
 - 7.3 Appointment of Hearing Commissioners – Drains and Developments Ltd
 - 7.4 Appointment of Hearing Commissioner – Objection to 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 – 8 JULY 2021

Refer pages 5 - 8 of the agenda.

Resolved

The Regulation Hearing Committee confirms the minutes of the meeting held on 8 July 2021 as a true and correct record.

Cr Pham / Cr McKenzie
CARRIED

6. MATTERS ARISING

There were no matters arising.

7. ITEMS FOR DISCUSSION

Refer pages 10 -19 of the agenda.

7.1 Appointment of Hearing Commissioner – Christchurch City Council

Councillor McKenzie asked about a sole commissioner should cultural matters be raised. Ms Grant advised that a hearing commissioner can adjourn the hearing and ask for a cultural assessment report if required to aid decision-making.

Resolved

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**

Cr McKay / Cr Pham
CARRIED

7.2 Appointment of Hearing Commissioners – Frews Contracting Limited

Resolved

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

- 7.2.1 Appoints Emma Christmas as a Hearings Commissioner, Chairperson and member of the Hearing Panel under s34A of the Resource Management Act 1991.**

Cr Marshall / Cr McKay
CARRIED

7.2.2. Appoints Craig Welsh as a Hearings Commissioner, and member of the Hearing Panel under s34A of the Resource Management Act 1991.

Cr Marshall / Cr McKay
CARRIED

7.2.3. 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; and

7.2.4. In the event of an equality of votes provides the Chairperson of the Hearing Panel, Emma Christmas with a casting vote.

Cr Marshall / Cr McKay
CARRIED

7.3 Appointment of Hearing Commissioner – Drains and Developments Ltd

Councillor Edge asked for clarification of the submissions. It was confirmed both submitters opposed the application.

Resolved

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**

Cr Pham / Cr McKay
CARRIED

7.4 Appointment of Hearing Commissioner – Objection to Costs

Resolved

That the Regulation Hearing Committee in regard to an objection 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.**

8. EXTRAORDINARY AND URGENT BUSINESS

There was no extraordinary and 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 8.51am

CONFIRMED

Date:

Chairperson:

6. Matters Arising

7. Items for discussion

7.1. Revocation of Appointment of Hearing Commissioner

Regulation Hearing Committee paper

Date of meeting	[enter meeting date here]
Agenda item	7.1
General Manager – Regulatory Services	Judith Earl-Goulet
Author	[enter name and title here]

Purpose

To revoke the appointment of Dr Jane Kitson as a member of the Hearing Panel to consider, hear and decide resource applications CRC184166, CRC200500, CRC201366, CR201367, CRC201368 and CRC203016 applied for by Bathurst Coal Limited.

Recommendations

That the Regulation Hearing Committee in regard to resource consent application(s) CRC184166, CRC200500, CRC201366, CR201367, CRC201368 and CRC203016 applied for by Bathurst Coal Limited:

- 1. Revokes the appointment of Dr Jane Kitson as a Hearings Commissioner, and member of the Hearing Panel made under s34A of the Resource Management Act 1991**

Background

- Bathurst Coal Limited applied for resource consents to the Environment Canterbury and Selwyn District Council for the continuation and extension to an operational coal mine (known as Canterbury Coal Mine), including retrospective and future operation consents in the Malvern Hills, Coalgate.
- The applications were jointly notified in March 2020 with over 640 submissions received 122 submitters indicated they wished to be heard.
- Prior to the application being heard Bathurst Coal Limited announced the closure of the mine for June 2021, and the applications have been amended to allow for the closure and rehabilitation of the mine instead of the continuation and expansion of the site.

Hearing Commissioners

- As a joint hearing is to be held, a hearing panel of three Hearing Commissioners - Sharon McGarry (Chairperson), Graham Taylor and Dr Jane Kitson were appointed in July 2020. The panel was also appointed by the Selwyn District Council.

5. The hearing is set to commence on Tuesday 26 October 2021.
6. Dr Kitson advises she is no longer available to be on the hearing panel for this hearing due to other work commitments for the remainder of the year. She was appointed because of her expertise in environmental science, ecology and mātauranga Maori /tikanga.
7. The Chairperson of the Panel has advised that the remaining members can continue as a two-person panel for this hearing. The remaining panel members have the necessary experience and skills to hear and decide the amended applications.
8. Sharon McGarry is a very experienced independent hearing commissioner with the 'Accredited Chair' endorsement under the Ministry for the Environment 'Making Good Decisions'. She is experienced in large hearings and chairs a robust and transparent hearing process. She has technical expertise in ecology, water quality and regional planning.
9. Graham Taylor is also an experienced hearing commissioner with particular experience in planning and technical issues associated with district council consents. Selwyn District Council sought his appointment.

Alternate Hearing Commissioner

10. Staff have considered four other suitably qualified hearing commissioners with environmental science, mātauranga Maori/tikanga and certification in 'Making Good Decisions' and none are available due to either conflict of interest, timing, and length of the hearing.
11. As the hearing has not commenced and the Hearing Panel have indicated they can continue as a two-person panel, it is recommended Dr Kitson's appointment be revoked and that the remaining hearing commissioners continue to hear and decide the application

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	Aurora Grant, Catherine Schache
-----------------------	---------------------------------

8. Extraordinary and Urgent Business

9. Next Meeting - to be confirmed

10. Mihi/Karakia Whakamutunga – Closing