

Agenda 2021

Regulation Hearing Committee

Date: Thursday 09 December 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
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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 2 December 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, 2 December 2021 at 8.30am

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- 1.0 Mihi/Karakia Timatanga - Opening
- 2.0 Apologies
- 3.0 Deputations and Petitions
- 4.0 Conflict of Interest
- 5.0 Minutes of Meeting – 11 November 2021
- 6.0 Matters Arising
- 7.0 Item for Discussion
 - 7.1 Appointment of Hearing Commissioner – Objections to Decision
 - 7.2 Appointment of Hearing Commissioner – Canterbury Regional Council
 - 7.3 Appointment of Hearing Commissioner – Amuri Irrigation Company Ltd
- 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, and Lan Pham

IN ATTENDANCE

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

1. MIHI/KARAKIA TIMATANGA - OPENING

Tumu Taiao Yvette Couch-Lewis opened the meeting.

2. APOLOGY

An apology was received from Councillor Craig Pauling.

3. DEPUTATIONS AND PETITIONS

There were no deputations or petitions.

4. CONFLICT OF INTEREST

Councillor McKay advised that as a constituent councillor she has had meetings with constituents within the Amuri Irrigation company area but did not consider there was a conflict of interest.

Tumu Taiao Yvette Couch-Lewis advised she had supported Cr McKay at some meetings and did not consider this was a conflict of interest.

5. MINUTES OF MEETING – 11 NOVEMBER 2021

Refer pages 6 - 10 of the agenda.

RESOLVED

The Regulation Hearing Committee confirms the minutes of the meeting held on 11 November 2021 as a true and correct record.

Cr Pham/Cr Edge
CARRIED

6. MATTERS ARISING

There were no matters arising.

7. ITEMS FOR DISCUSSION

7.1 Appointment of Hearing Commissioner – Objections to Decision

Refer pages 12-13 of the agenda.

Cr Marshall asked about decisions on previous objection hearings and what was happening to achieve consistency in information supplied with applications.

Ms Grant said that two recent objection hearing decisions were favourable and noted that next year educational meetings will be held to advise and upskill consultants on the expectations for successful applications.

RESOLVED

That the Regulation Hearing Committee in regard to an objection to decision on resource consent application(s):

- a. **CRC221776 and CRC221777 applied for by Team Blueberry Limited and T J Bunting; and**
- b. **CRC221841 applied for by R Mao and X Mao**

- 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 to decision**

Cr Pham/Cr McKay
CARRIED

7.2 Appointment of Hearing Commissioner – Canterbury Regional Council*Refer pages 14 – 16 of the agenda*

Cr Edge asked for clarification on the sections of the Resource Management Act 1991 relating to notification. It was noted that s95A of the RMA relates to public notification of consent applications. It was also noted that the applicant can continue to use their current consents under s124 of the RMA as the new applications are processed.

There was discussion about council making decisions on appointments for Council applications; if it was appropriate to do so; and could decision making be referred to another council for decision; and if decision makers could be sourced internationally.

Ms Schache advised that Council must make its own decisions and that it cannot delegate the power of appointment. Ms Grant confirmed that all the processing of these applications is being outsourced including decision-making. In regard to the use of international decision makers it was a requirement for a decision maker to have the Making Good Decisions certification. She also noted that as the RMA is bespoke to New Zealand, she would be hesitant to use international decision-makers without that understanding.

RESOLVED

That the Regulation Hearing Committee in regard to resource consent applications CRC222040, CRC222041 and CRC222043 applied for by Canterbury Regional Council

- 1. Appoints Robert Lieffering as a Hearings Commissioner under s34A of the Resource Management Act 1991 to consider and decide the non-notification or notification of the consent applications.**
- 2. Following the decision made in the paragraph above, if that decision is:**
 - 2.1 not to notify the applications under s95 of the Resource Management Act 1001, to consider and decide the applications.**
 - 2.2 to notify the applications under s95 of the Resource Management Act 1991, to be the Chair of a hearing panel to consider, hear and decide the consent applications, in conjunction with other Hearing Commissioners, to be appointed at a later date.**
- 3. Delegates to Robert Lieffering pursuant to s34A(1) Resource Management Act 1991, the function, powers and duties required to: deal with any preliminary matters; consider, and subject to the appointment of additional Hearing Commissioners provided at resolution set out in 2.2 above, hear; and decide the application.**

Cr McKay/Cr Edge
CARRIED

7.3 Appointment of Hearing Commissioner – Amuri Irrigation Company Limited
(Refer pages 17 -20 of the agenda)

There was discussion about the decision to limit notify the application.

Ms Schache said the notification decision had already been made therefore she advised against the committee discussing the decision further.

Cr. McKenzie said she had concerns about the complexity of the application and suggested two people should be appointed.

UNCONFIRMED

Ms Grant noted that the planning framework, existing environment, and complexity of application was similar to other applications where one hearing commissioner had been appointed. It was noted that it was possible for a second person to be appointed however Council resolved to proceed with one commissioner.

RESOLVED

That the Regulation Hearing Committee in regard to resource consent applications CRC210312, CRC210313, CRC210314, CRC210315, CRC210316, CRC210317, CRC210318, CRC210319 and CRC211142 applied for by Amuri Irrigation Company Limited:

- 2. Appoints Reginald Proffit as a Hearings Commissioner under s34A of the Resource Management Act 1991; and that**
- 3. Delegates to Reginald Proffit 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 Edge/Cr Pham
CARRIED

8. EXTRAORDINARY AND URGENT BUSINESS

There was no extraordinary and urgent business

9. OTHER BUSINESS

There was no other business

10. NEXT MEETING - To be confirmed.

11. MIHI/KARAKIA WHAKAMUTUNGA - CLOSURE – The meeting closed at 9:03am

CONFIRMED:

Committee Chair Yvette Couch-Lewis
Tumu Taiao, Environment Canterbury

6. Matters Arising

7. Items for discussion

7.1. Appointment of Hearing Commissioner - Mr P D & Mrs P A Davies

Regulation Hearing Committee paper

| | |
|------------------------|-----------------|
| Date of meeting | 9 December 2021 |
| Agenda item | 7.1 |
| Author | Alison Cooper |

Purpose

1. To appoint a Hearing Commissioner to hear and decide an objection to decision on resource consent applications CRC211031 and CRC211032 applied for by Mr P D & Mrs P S Davies.

Recommendations

That the Regulation Hearing Committee in regard to an objection to decision on resource consent applications CRC211031 and CRC211032 applied for by Mr P D & Mrs P A Davies:

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 objection.**

Background

2. Mr P D and Mrs P A Davies applied for resource consent in relation to a diversion channel within the bed of Hurunui River to facilitate the secure supply of the water by creating a diversion of water along an existing old channel bed of the Hurunui River and allow for on-going maintenance of the diversion channel.
3. The specific consent applications are a land use to disturb the bed of the river, and a water permit to divert water.
4. The proposal was limited notified to three parties because they were considered adversely affected by the proposal. No submissions were received.
5. The decision on the applications was made by staff acting under delegation. The decision was to refuse the applications.

6. The applicant has objected to the decision under s357A of the Resource Management Act 1991.

Proposed Commissioners

7. The Hearings Policy outlines the criteria for the selection of a hearing commissioner:
 - Ability to understand and evaluate the key issues associated with the application
 - Suitable experience
 - Scale, complexity and nature of the application
 - Availability for hearing and decision-making
 - Conflicts of interest
 - Ministry for the Environment (MfE) Making Good Decisions Accreditation and Chair endorsement if required.
8. It is recommended that Bianca Sullivan be appointed. She is an experienced decision-maker and hearing commissioner with a good understanding of the relevant planning frameworks and requirements in the processing and deciding of applications.
9. Ms Sullivan has satisfied Council staff she has the necessary criteria, including no conflict of interest, 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.

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|-----------------------|---------------------------------|
| Peer reviewers | Aurora Grant, Catherine Schache |
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8. Extraordinary and Urgent Business

9. Next Meeting - to be confirmed

10. Mihi/Karakia Whakamutunga – Closing