

Agenda 2022

Regulation Hearing Committee

Date: Thursday, 3 March 2022

Time: 8.30 AM

Venue: via online access



Regulation Hearing Committee

Membership

Co-Chairs:

Tumu Taiao Yvette Couch-Lewis
Councillor Nicole Marshall

Members:

Councillor Grant Edge
Councillor Claire McKay
Councillor Elizabeth McKenzie
Councillor Craig Pauling
Councillor Lan Pham

Regulation Hearing Committee

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1. Mihi / Karakia Timatanga - Opening

2. Apologies

3. Conflicts of Interest

4. Public Forum, Deputations, and Petitions

5. Extraordinary and Urgent Business

6. Minutes

Regulation Hearing Committee

Date of meeting	Thursday, 3 March 2022
Author	Alison Cooper, Consents Coordinator
Endorsed by	Judith Earl-Goulet, General Manager – Regulatory Services

Purpose

1. The minutes from the Regulation Hearing Committee on 9 December 2021 are to be confirmed.

Recommendations

That the Regulation Hearing Committee:

1. confirms the minutes from the Regulation Hearing Committee meeting held 9 December 2021.

Attachments

1. Unconfirmed Minutes - RHC - 2021 12 09 [6.1.1 - 3 pages]

Minutes of the Regulation Hearing Committee meeting held in the
Council Chambers, 200 Tuam Street, Christchurch on
Thursday, 9 December 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 – 2 December 2021
- 6.0 Matters Arising
- 7.0 Item for Discussion
 - 7.1 Appointment of Hearing Commissioner – Objection to Decision
- 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 and Craig Pauling

IN ATTENDANCE

Catherine Schache (Legal Counsel), Aurora Grant (Consents Manager), and Alison Cooper (Consents Coordinator)

1. MIHI/KARAKIA TIMATANGA - OPENING

Tumu Taiao Yvette Couch-Lewis 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 – 2 DECEMBER 2021

Refer pages 6 – 9 of the agenda.

RESOLVED

The Regulation Hearing Committee confirms the minutes of the meeting held on 2 December 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 – Objection to Decision

Refer pages 11-12 of the agenda.

RESOLVED

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 and 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 to decision**

Cr Pham/Cr McKay
CARRIED

8. EXTRAORDINARY AND URGENT BUSINESS

There was no extraordinary and urgent business

9. OTHER BUSINESS

9.1 Recording of meeting

Cr McKay asked about recording the meeting.

Ms Schache advised that if the meeting was closed to the public when a epidemic notice was in force for COVID-19 it was a requirement to provide an audio or video of the meeting and make either the recording or the written minutes available. It was not a requirement when the meeting was open. It was noted that Governance was currently undertaking a review of recording and livestream processes for all council meetings.

9.2 Training

Tumu Taiao Couch-Lewis suggested that there was a training opportunity based on decision-making process questions that arose from the last meeting.

Ms Schache noted that Mr Philip Maw would be presenting a workshop to all councillors that would incorporate that approach.

10. NEXT MEETING - To be confirmed.

11. MIHI/KARAKIA WHAKAMUTUNGA - CLOSURE – The meeting closed at 8:42am

CONFIRMED:

Committee Chair Yvette Couch-Lewis
Tumu Taiao, Environment Canterbury

7. Report Items

7.1. Appointment of Hearing Commissioner - Fletcher Concrete & Infrastructure Ltd

Regulation Hearing Committee report

Date of meeting	Thursday, 3 March 2022
Author	Alison Cooper, Consents Coordinator
Responsible Manager	Judith Earl-Goulet – General Manager, Regulatory Services

Purpose

1. To appoint a Hearing Commissioner to hear and decide resource consent applications CRC213142, CRC213143, CRC213144, CRC213145 and CRC213146 applied for by Fletcher Concrete and Infrastructure Limited.

Recommendations

That the Regulation Hearing Committee:

1. Appoints Graham Taylor as a Hearing Commissioner under s34A of the Resource Management Act 1991; and
2. Delegates to Graham Taylor 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. Fletcher Concrete and Infrastructure Limited has applied to Environment Canterbury for resource consents for the extension of an existing quarry – known as the 'Wheatsheaf Quarry' at 50 Selwyn Road and 706 Robinsons Road, Broadfield.
3. The proposal includes the excavation of land, deposition of material (cleanfill), use of water for dust suppression, discharge of dust to air, and contaminants into and onto land where they may enter groundwater.
4. A consent duration of 20 years is sought.
5. The application was limited notified to 37 affected parties.
6. It was determined that public notification was not required because the adverse effects of the proposal on the broader environment, disregarding effects on the site and

adjacent and other nearby landowners and occupiers, were likely to be no more than minor.

7. The steps of s95B of the RMA were then followed to determine if limited notification was required. It was decided that there were localised potential effects of the dust discharge, groundwater quality and users, on surface water quality, and cultural values. Notice was served on those identified as affected.
8. Eleven submissions have been received with three submitters wishing to be heard. The main submitter issues are impact of dust, noise, traffic, water quality, boundary setback and duration if granted.
9. The key issues associated with the applications relate to air and water quality.
10. Selwyn District Council has also received an application for the extension of the existing quarry. The application was limited notified, and one submission has been received. A joint hearing will be held if the submission is not withdrawn.
11. We are seeking to appoint a hearing commissioner who can decide both regional and district council applications.

Proposed Hearing Commissioners

12. Some submitters have requested under s100A of the Resource Management Act 1991 that Council delegates its functions, powers and duties to one or more hearing commissioners who are not members of the local authority.
13. It is recommended that one hearing commissioner be appointed to hear and decide these applications because of the small number of submitters with similar concerns, and who wish to be heard; and to bring appropriate expertise to understand and consider the key issues. The hearing should take one day with a reserve day set aside.
14. Council's Hearings Policy outlines the criteria for selection of 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
15. We sought a hearing commissioner who is experienced in acting as a sole commissioner and can provide a robust and transparent hearing process. They would also have an understanding of both regional and district council matters.

16. A list of potential candidates was prepared and screened against the criteria outlined in paragraph 14. On this basis the following hearing commissioner is recommended. Selwyn District Council agree to the recommended hearing commissioner.
17. It is recommended that Graham Taylor be appointed. Graham is an experienced planner and director of Resource Management Group (RMG). He has extensive experience in land use planning and related fields including resource consents, subdivisions, designations, infrastructure, Reserves Act, Building Act, project management, policy, and local government processes, across a range of private, corporate and public sectors and industry groups. He has recently sat on the Bathurst Coal Limited hearing panel.
18. He has satisfied Council staff he has the necessary criteria, including technical ability, no conflict of interest, RMA Accreditation certification, availability and timeframe commitments to carry out the duties required.

Legal compliance

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

Legal review	Catherine Schache
Peer reviewers	Aurora Grant

7.2. Appointment of Hearing Commissioner - Beach Road Estates Limited

Regulation Hearing Committee report

Date of meeting	Thursday, 3 March 2022
Author	Alison Cooper
Responsible Director	Judith Earl-Goulet, General Manager -Regulatory Services

Purpose

1. To appoint a Hearing Commissioner to consider and decide resource consent applications CRC221158, CRC221159, CRC221160, CRC221161, CRC221162, CRC221163 and CRC221164 applied for by Beach Road Estates Limited.

Recommendations

That the Regulation Hearing Committee in regard to resource consent applications CRC221158, CRC221159, CRC221160, CRC221161, CRC221162, CRC221163 and CRC221164 applied for by Beach Road Estates Limited:

1. **Appoints Michael Durand as a Hearings Commissioner under s34A of the Resource Management Act 1991; and**
2. **Delegates to Michael Durand pursuant to s34A(1) Resource Management Act 1991, the function, powers and duties required to: deal with any preliminary matters; consider and decide the resource consent applications.**

Background

2. Beach Road Estates Limited applied for two packages of various resource consents associated with an on-going residential subdivision at 280 Beach Road, Kaiapoi.
3. The application is for the earthworks associated with the realignment of approximately 880 metres of McIntosh Drain and reclamation of part of the current realignment; and to construct and operate two new stormwater wet basins to treat stormwater from the subdivision.
4. A consent duration of ten years is sought for the land use consents; and 35 years for the discharge and water consents.
5. The applications were publicly notified as it was determined that the effects of the reclamation of McIntosh drain on ecological values may be more than minor. No submissions were received.
6. No hearing is required as there are no submitters to be heard.

Proposed Commissioner

7. As no submitters are to be heard this application could be determined by the Regulation Hearing Committee. It is noted that the application would be considered and decided in a remote session and with limited staff capacity to support the deliberation discussion, it is proposed at this time to appoint an experienced hearing commissioner to consider and decide these applications.
8. Council's Hearing 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 and Chair accreditation if required.
9. We sought a hearing commissioner who has the ability to consider and evaluate the the impact of the proposed drain realignment on the assessments under the National Policy Statement for Freshwater Management, and the Land and Water Regional Plan for the stormwater discharge.
10. It is recommended that Michael Durand be appointed. He is an accredited hearing commissioner; and is a resource management practitioner with extensive experience in local and central government and consulting. He is an experienced substantive decision-maker of resource consents and has a good understanding and expertise in the technical areas of air, water takes and discharges, land use effects and mitigation.
11. Michael Durand has satisfied Council staff he has the necessary criteria, including technical ability, no conflict of interest, RMA accreditation certification, availability and timeframe commitments to consider and decide the applications.

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	Catherine Schache
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7.3. Appointment of Hearing Commissioner - Silver Fern Farms Ltd

Regulation Hearing Committee report

Date of meeting	Thursday, 3 March 2022
Author	Alison Cooper
Responsible Manager	Judith Earl-Goulet, General Manager, Regulatory Services

Purpose

1. To appoint Hearing Commissioners to hear and decide resource consent applications CRC203304 and CRC203305 applied for by Silver Fern Farms Limited

Recommendation

That the Regulation Hearing Committee in regard to resource consent applications CRC203304 and CRC203305 applied for by Silver Fern Farms Limited:

- 1. Appoints Paul Rogers as a Hearing Commissioner, Chairman and member of the Hearing Panel under s34A of the Resource Management Act 1991; and**
- 2. Appoints Hoani Langsbury as a Hearing Commissioner and member of the Hearing Panel under s34A of the Resource Management Act 1991; and**
- 3. Delegates to Paul Rogers and Hoani Langsbury 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, Paul Rogers, with a casting vote.**

Background

2. Silver Fern Farms Limited has applied to Council to renew resource consents relating to the discharge of meat processing wastewater to land and the coastal marine area from a meat processing facility located at 111 The Avenue, Pareora.
3. The discharge of water and contaminants is to the applicant's land adjacent to the processing facility and Pareora Village; and into the coastal marine area via an existing above ground outfall pipe, and to operate and maintain the outfall structure. The outfall structure is immediately adjacent to the meat processing facility.
4. A consent duration of 25 years has been requested for each consent.
5. The applications were publicly notified as requested by the Applicant.

6. Eight submissions were received with one submitter requesting to be heard. Submitters' concerns relate to the effects of discharging into the coastal marine environment, effects on aquatic life; and odour from the discharge to land.
7. A hearing is expected to be held May 2022.

Proposed Hearing Commissioners

8. It is recommended that two hearing commissioners be appointed to hear and decide these applications because of the small number of submitters with similar concerns and with only one to be heard; and to bring appropriate expertise to understand and consider the key issues. The hearing should take one day.
9. Council's Hearings Policy outlines the criteria for selection of 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)
10. We sought hearing commissioners who are experienced and have the ability to ensure a transparent hearing process is maintained, and who will be able to evaluate and consider the key issues. They should also have an understanding of the planning framework, water and air quality and coastal marine matters and mātauranga Maori /tikanga. The Chairperson should also be experienced in chairing a hearing of this nature.
11. A list of potential candidates was prepared, and candidates were screened against the selection criteria as listed in paragraph 9. On this basis the following panel is recommended.

Chairperson and Panel Member

12. Paul Rogers is an independent accredited hearing commissioner with the Chair endorsement. He is an experienced hearing commissioner and chairman with legal expertise. He has acted as a sole commissioner and has sat on and chaired hearing panels for a wide range of regional council activities. He recently chaired the Oceania Dairy Ltd hearing and has also chaired other large joint hearings including the Rangitata Diversion Race Management Ltd – Klondyke storage pond applications; and Fonterra Limited – Studholme dairy factory applications.

Panel Member

13. Hoani Langsbury is an accredited and experienced hearing commissioner and has sat on several recent regional council hearings for discharges into a coastal environment including Christchurch City Council – Akaroa wastewater applications and the Oceania Dairy Ltd factory waste discharge applications. He has technical expertise in ecology and mātauranga Maori /tikanga and a background in environmental management.

14. Pauri Rogers and Hoani Langsbury have satisfied Council staff they have the necessary criteria, including technical ability, no conflict of interest, RMA Accreditation certification, availability and timeframe commitments to carry out the duties required.

Legal compliance

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

Legal review	Catherine Schache
Peer reviewer	Aurora Grant

8. Next Meeting

9. Mihi / Karakia Whakamutunga - Closing