

Agenda 2022

Regulation Hearing Committee

Date: Thursday, 5 May 2022
Time: 8.30 AM
Venue: Council Chamber
Environment Canterbury
200 Tuam Street, Christchurch



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

The meeting will be opened with a mihi whakatau, followed by a member of the Regulation Hearing Committee with a karakia.

2. Apologies

At the time the agenda closed there were no apologies received.

3. Conflicts of Interest

Members are reminded to be vigilant and to stand aside from decision making when a conflict arises between their role as an elected representative and any private or other external interest they might have.

4. Public Forum, Deputations, and Petitions

There were no requests for public forum, deputations and petitions at the time the agenda was prepared.

5. Extraordinary and Urgent Business

The Chairperson will give notice of items requiring urgent attention not on the agenda as follows.

Matters Requiring Urgent Attention as Determined by Resolution of the Regulation Hearing Committee:

A meeting may deal with an item of business that is not on the agenda where the meeting resolves to deal with that item and the Chairperson provides the following information during the public part of the meeting:

1. The reason why the item is not on the agenda; and
2. The reason why discussion of the item cannot be delayed until a subsequent meeting. The item may be allowed onto the agenda by resolution of the Regulation Hearing Committee.

Minor Matters relating to the General Business of the Regulation Hearing Committee:

A meeting may discuss an item that is not on the agenda only if it is a minor matter relating to the general business of the meeting and Chairperson explains at the beginning of the public part of the meeting that the item will be discussed. The meeting may not make a resolution, decision or recommendation about the item, except to refer it to a subsequent meeting for further discussion.

6. Minutes

Regulation Hearing Committee

| | |
|------------------------|---|
| Date of meeting | Thursday, 5 May 2022 |
| Author | Alison Cooper, Consents Coordinator |
| Endorsed by | Judith Earl-Goulet, General Manager – Regulatory Services |

Purpose

1. The previously circulated minutes from the Regulation Hearing Committee on Thursday, 24 March 2022 are to be confirmed.

Recommendations

That the Regulation Hearing Committee:

1. **confirms the minutes from the Regulation Hearing Committee meeting held Thursday, 24 March 2022.**

Attachments

1. RHC 2022-03-24 UNCONFIRMED Minutes [6.1.1 - 2 pages]

Minutes of the Regulation Hearing Committee (under COVID-19 Red Traffic Light restrictions), held online on Thursday, 24 March 2022 at 8.30am.

Present

Co-Chairs Tumu Taiao Yvette Couch-Lewis and Cr Nicole Marshall, Cr Grant Edge, Cr Claire McKay, Cr Elizabeth McKenzie, Cr Craig Pauling, and Cr Lan Pham.

Report writers and other staff were also present.

via MS Teams

1. Mihi / Karakia Timatanga - Opening

Councillor Nicole Marshall opened the meeting, followed by Councillor Craig Pauling with a mihi whakatau.

2. Apologies

An apology for lateness was received from Councillor Elizabeth McKenzie who joined the meeting at 8:33am.

3. Conflicts of Interest

There were no conflicts of interest reported.

4. Public Forum, Deputations, and Petitions

There were no requests for public forum, deputations and petitions.

5. Extraordinary and Urgent Business

There was no extraordinary or urgent business.

6. Minutes

Resolved RHC/2022/8

Staff recommendations adopted without change.

That the Regulation Hearing Committee:

1. confirms the minutes from the Regulation Hearing Committee meeting held Thursday 10 March 2022.

Councillor Lan Pham/Councillor Nicole Marshall
CARRIED

7. Report Items

7.1. Appointment of Hearing Commissioner - Objections to Costs

Resolved RHC/2022/9

Staff recommendations adopted without change.

That the Regulation Hearing Committee:

1. revokes the appointment of Cindy Robinson to hear and decide an objection to costs incurred in the processing of resource consent application CRC211303 made by Canterbury Strip Limited.
2. in regard to an objection to costs incurred in the processing of resource consent applications CRC211303 made by Canterbury Strip Limited; and CRC213997 made by D R & B J Youdale (the 'Objections')
 1. appoints Graham Taylor as a Hearings 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 require to: deal with any preliminary matters; hear; and decide the objections.

Councillor Nicole Marshall/Councillor Craig Pauling
CARRIED

8. Next Meeting

The next meeting will be advised.

9. Mihi / Karakia Whakamutunga - Closing

Meeting concluded at 08:33am.

CONFIRMED:

Chair Nicole Marshall
Councillor, Environment Canterbury

Date

7. Report Items

7.1. Revocation and Appointment of Hearing Commissioners

Regulation Hearing Committee report

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|-----------------------------|---|
| Date of meeting | Thursday, 5 May 2022 |
| Author | Alison Cooper, Consents Coordinator |
| Responsible Director | Judith Earl-Goulet, General Manager -Regulatory Service |

Purpose

1. To revoke an appointment; and appoint a Hearing Commissioner to hear and decide resource consent applications CRC212078, CRC212079 and CRC212384 made by Mr J S Rutherford.

Recommendations

That the Regulation Hearing Committee:

1. **revokes the appointment of Reginald Profitt as a Hearings Commissioner to hear and decide resource consent applications CRC212078, CRC212079 and CRC212384 made by Mr J S Rutherford.**
2. **in regard to resource consent applications CRC212078, CRC212079 and CRC212384 made by Mr J S Rutherford appoints Sharon McGarry as a Hearings Commissioner under s34A of the Resource Management Act 1991; and**
3. **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. Mr Reginald Profitt was appointed on 10 March 2022 to hear and decide the applications. Since the appointment, the hearing has had to be rescheduled and Mr Profitt is no longer available to undertake the duties within the consent timeframe for this application. A new hearing commissioner is required.
3. Mr J S Rutherford has applied to Council for resource consent to disturb the bed of the Waiau River at the diversion point, and to divert up to two cumecs of surface water from

the mainstream of the Waiau River along a natural side channel to maintain reliability of supply for an existing irrigation take.

4. Mr Rutherford is also proposing to undertake maintenance to the entrance of the side channel throughout the duration of the consent.
5. The activity is located in the Waiau River at or about Leslie Hills Road, Waiau.
6. The applications were publicly notified. Eight submissions were received with four requesting to be heard. The majority of submitters opposed the applications. Submitter concerns were the lack of information including effects on river hydrology; effects on Ngāi Tahu values; effects on ecological values and recreational users.

Proposed Hearing Commissioner

7. It was previously considered that a sole hearing commissioner be appointed to hear and decide the applications because of the similar concerns of the submitters and small number who wish to be heard for this one-day hearing. The recommendation for a sole commissioner to hear the application remains unchanged.
8. 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
9. We sought a hearing commissioner who is experienced as a sole commissioner, has a understanding of tikanga and activities applied for, the planning framework; be able to evaluate and consider the key issues, have no conflict of interest, and be available.
10. On that basis the following hearing commissioner is recommended.
11. Sharon McGarry is a very experienced independent accredited hearing commissioner in regional council consent applications and has acted as a sole commissioner; or panel chair and/or panel member. She has a good understanding of water quality issues, ecological values, and has tikanga knowledge. She has heard applications around New Zealand from in all facets of resource management activities.
12. Sharon McGarry has satisfied staff she has the necessary criteria, including technical ability, no conflict of interest, availability and timeframe commitment, and RMA Accreditation certification to carry out the duties required.

Legal compliance

13. Section 34A 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.

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| Peer reviewers | Aurora Grant, Catherine Schache |
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8. Next Meeting

The next meeting of the Regulation Hearing Committee will be advised. Any changes will be publicly advertised and updated on the Environment Canterbury website.

9. Mihi / Karakia Whakamutunga - Closing

The meeting will conclude with a karakia by a member of the Regulation Hearing Committee.