

CANTERBURY REGIONAL COUNCIL

Kaunihera Taiao ki Waitaha

Agenda 2022

Plan Change 7 Appeals Committee

Date: Friday, 17 June 2022
Time: 1.00 PM
Venue: Council Chamber
Environment Canterbury
200 Tuam Street, Christchurch



Plan Change 7 Appeals Committee

Membership

Committee Chair: Chair Jenny Hughey

Committee Members: Councillor Nicole Marshall
Councillor John Sunckell

PLAN CHANGE 7 APPEALS COMMITTEE TERMS OF REFERENCE

Adopted by Council 13 April 2022

REPORTING TO:	Council
MEMBERSHIP:	Three members of Council
QUORUM:	Two (2)
MEETING FREQUENCY:	As required to fulfil the purpose and responsibilities of the committee
CHAIR:	One Chair

A. PURPOSE

1. To receive advice and provide guidance to the Chief Executive as to how the Council will respond to each of the appeals lodged on the Council's decision on Proposed Plan Change 7 (PC7) to the Canterbury Land and Water Regional Plan (LWRP).

B. SPECIFIC RESPONSIBILITIES

2. The Committee will make all decisions necessary to fulfil the role and scope of the Committee, subject to the limitations imposed, for the duration of the High Court Appeals on PC7 to the LWRP, including:
 - a. Providing governance oversight in relation to PC7 to the LWRP (noting however that appeals are on points of law only);
 - b. Receiving and considering advice from legal counsel and technical staff regarding the appeals;
 - c. Providing guidance to the Chief Executive as to the Council's preferred approach and position in respect to each appeal.

C. DELEGATIONS

3. Subject to sections 4 to 6, the Council delegates to the Committee all the powers, functions and duties necessary to perform the Committee's responsibilities, except those that must not be delegated.
4. The Chief Executive has been delegated the authority to resolve High Court appeals on PC7 to the LWRP. The Committee will not be making decisions on the resolution of those appeals (with the delegation retained by the Chief Executive) but it will report to the Council on its work.
5. The Committee may make decisions on matters with a financial impact only where the related costs are budgeted for within a current, adopted Long Term Plan or Annual Plan, otherwise the matter must be referred to the Council for decision.
6. The Committee may not make a decision that is materially inconsistent with the Council's Long-Term Plan or Annual Plan.

Document history and version control

Version	Date approved	Approved by	Brief description
1.0	13 April 2022	Council	New Committee Terms of Reference.

Plan Change 7 Appeals Committee

Table of Contents

1. Mihi / Karakia Timatanga - Opening	6
2. Apologies.....	6
3. Conflicts of Interest	6
4. Public Forum, Deputations, and Petitions.....	6
5. Extraordinary and Urgent Business.....	7
6. Notices of Motion	7
7. Report Items	8
7.1. Inaugural Meeting	8
8. Next Meeting.....	14
9. Mihi / Karakia Whakamutunga - Closing.....	14

1. Mihi / Karakia Timatanga - Opening

The meeting will be opened with a mihi whakatau, followed by a member of the Plan Change 7 Appeals 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 Plan Change 7 Appeals 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 Plan Change 7 Appeals Committee.

Minor Matters relating to the General Business of the Plan Change 7 Appeals 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. Notices of Motion

At the time the agenda closed there were no notices of motion received.

7. Report Items

7.1. Inaugural Meeting

Plan Change 7 Appeals Committee report

Date of meeting	Friday, 17 June 2022
Author	Catherine Schache, General Counsel
Responsible Director	Dr Stefanie Rixecker, Chief Executive

Purpose

1. To adopt the meeting schedule for Plan Change 7 (PC7) Appeals Committee until the end of September 2022 where new members may be elected or appointed following the 2022 triennial general election of members.
2. To discuss the Terms of Reference for this Committee.

Recommendations

That the Plan Change 7 Appeals Committee:

1. **Approves the meeting schedule for Plan Change 7 Appeals Committee until the end of September 2022.**
2. **Notes the Committee's Terms of Reference.**

Key points

3. Five appeals have been lodged on the Council's decision on PC7 to the LWRP. The appeals are matters before the High Court of New Zealand.
4. The CE has existing delegated authority to make decisions on behalf of the Council regarding the settling of a dispute or issues to be discussed at a Court directed mediation or any other dispute resolution in relation to any matter before the High Court, this includes the appeals lodged on PC7.
5. This Committee will provide a formal structure for Councillors to set policy direction and provide governance oversight in relation to PC7 (noting however that appeals are on points of law only). The Plan Change 7 Appeals Committee would receive advice from legal counsel and staff, and provide guidance to the CE in the form of recommendations, based on that advice.
6. The Council did not make a full delegation to the Plan Change 7 Appeals Committee. Rather, the Council retained the CE's delegation to resolve appeals, which will ensure that the Council can comply with Court deadlines which are often required quickly and with limited notice. This is also consistent with how a number of other councils' appeals

committees operate. The Terms of Reference attached to this paper reflect this arrangement.

Background

7. This Committee was established and the Terms of Reference were adopted at the 13 April 2022 Council meeting. Local Government Act 2002 (LGA) specifically, Schedule 7 of the LGA provides that the Council may appoint a committee that it considers appropriate. A committee is subject in all things to the control of the Council and must carry out all general and special directions of the Council given in relation to the committee. The attached Terms of Reference set the direction for the Plan Change 7 Appeals Committee in this regard.
8. Any advice or information received by the Plan Change 7 Appeals Committee in respect of the appeals and the subsequent discussions regarding those appeals is confidential to the Committee, and in the case of legal advice will be subject to legal professional privilege. This information must not be shared or discussed beyond the Plan Change 7 Appeals Committee for any purpose. Managing the sensitive nature of the information to be received by the Committee will be easier with a smaller number of Committee members.

Cost, Compliance and communication

Financial implications

9. Financial costs associated with the resolution of appeals are generally funded from reserves. Legal expenses will be required to support the Plan Change 7 Appeals Committee and the CE, but those costs would be incurred in any event as part of resolving these appeals and will not be materially increased as a result of establishing the Plan Change 7 Appeals Committee

Risk assessment and legal compliance

10. The financial, legal, and reputational, risks associated are different for each appeal. The Plan Change 7 Appeals Committee will be advised of relevant risks as they relate to each appeal and will provide guidance and make recommendations on behalf of the Council to the CE as to the management of those risks.

Engagement, Significance and Māori Participation

11. Te Rūnanga o Ngāi Tahu and Te Rūnanga o Arowhenua have appealed the Council's decision on PC7. As an appellant, the involvement of Te Rūnanga o Ngāi Tahu and Te Rūnanga o Arowhenua will be facilitated through the normal judicial process.
12. Engagement and relationship building for the ki uta ki tai planning work programme will continue as scheduled, albeit separate to the appeals process.

Communication

13. Appeals on PC7 are High Court legal processes, any communications with other parties to the appeals will be managed by legal counsel and the Court. External communication regarding the appeals will not be made whilst the appeals are before the High Court.
14. The notices of appeal are available on the Council's website, and this will be updated with information regarding the resolution of appeals as it is appropriate to do so.

Attachments

1. 2022 Plan Change 7 Appeals Committee Meeting Schedule [7.1.1 - 1 page]
2. ToR Plan Change 7 Appeals Committee [7.1.2 - 2 pages]

File reference	[SharePoint link for this paper]
Legal review	
Peer reviewers	[Names of two peer reviewers who have reviewed this paper]

Proposed until the end of September 2022

		July		August		September		October		November		December	
SAT							1						SAT
SUN							2						SUN
MON			1				3						MON
TUE			2				4		1				TUE
WED			3				5		2				WED
THU			4		1	PC7 Appeals	6		3		1		THU
FRI	1		5		2		7		4		2		FRI
SAT	2		6		3		8	ELECTIONS	5		3		SAT
SUN	3		7		4		9		6		4		SUN
MON	4		8		5		10		7		5		MON
TUE	5		9		6		11		8		6		TUE
WED	6		10		7		12		9		7		WED
THU	7		11		8		13		10		8		THU
FRI	8		12		9		14		11		9		FRI
SAT	9		13		10		15		12		10		SAT
SUN	10		14		11		16		13		11		SUN
MON	11		15		12		17		14		12		MON
TUE	12		16		13		18		15		13		TUE
WED	13		17	PC7 Appeals	14		19		16		14		WED
THU	14		18		15		20		17		15		THU
FRI	15		19		16		21		18		16		FRI
SAT	16		20		17		22		19		17		SAT
SUN	17		21		18		23		20		18		SUN
MON	18		22		19		24		21		19		MON
TUE	19		23		20		25		22		20		TUE
WED	20		24		21		26		23		21		WED
THU	21		25		22		27		24		22		THU
FRI	22		26		23		28		25		23		FRI
SAT	23		27		24		29		26		24		SAT
SUN	24		28		25		30		27		25		SUN
MON	25		29		26		31		28		26		MON
TUE	26		30		27				29		27		TUE
WED	27		31		28				30		28		WED
THU	28				29						29		THU
FRI	29				30						30		FRI
SAT	30										31		SAT
SUN	31												SUN

PLAN CHANGE 7 APPEALS COMMITTEE TERMS OF REFERENCE

Adopted by Council 13 April 2022

REPORTING TO:	Council
MEMBERSHIP:	Three members of Council
QUORUM:	Two (2)
MEETING FREQUENCY:	As required to fulfil the purpose and responsibilities of the committee
CHAIR:	One Chair

A. PURPOSE

1. To receive advice and provide guidance to the Chief Executive as to how the Council will respond to each of the appeals lodged on the Council's decision on Proposed Plan Change 7 (PC7) to the Canterbury Land and Water Regional Plan (LWRP).

B. SPECIFIC RESPONSIBILITIES

2. The Committee will make all decisions necessary to fulfil the role and scope of the Committee, subject to the limitations imposed, for the duration of the High Court Appeals on PC7 to the LWRP, including:
 - a. Providing governance oversight in relation to PC7 to the LWRP (noting however that appeals are on points of law only);
 - b. Receiving and considering advice from legal counsel and technical staff regarding the appeals;
 - c. Providing guidance to the Chief Executive as to the Council's preferred approach and position in respect to each appeal.

C. DELEGATIONS

3. Subject to sections 4 to 6, the Council delegates to the Committee all the powers, functions and duties necessary to perform the Committee's responsibilities, except those that must not be delegated.
4. The Chief Executive has been delegated the authority to resolve High Court appeals on PC7 to the LWRP. The Committee will not be making decisions on the resolution of those appeals (with the delegation retained by the Chief Executive) but it will report to the Council on its work.
5. The Committee may make decisions on matters with a financial impact only where the related costs are budgeted for within a current, adopted Long Term Plan or Annual Plan, otherwise the matter must be referred to the Council for decision.
6. The Committee may not make a decision that is materially inconsistent with the Council's Long-Term Plan or Annual Plan.

Document history and version control

Version	Date approved	Approved by	Brief description
1.0	13 April 2022	Council	New Committee Terms of Reference.

8. Next Meeting

The next meeting of the Plan Change 7 Appeals Committee is scheduled to be held on Wednesday, 17 August 2022 at 3.30pm. Any changes to this time 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 Plan Change 7 Appeals Committee.