

Agenda 2023

Regulation Hearing Committee

Date: Wednesday, 24 May 2023
Time: 8.30 AM
Venue: Council Chamber
Environment Canterbury
200 Tuam Street, Christchurch



Regulation Hearing Committee

Membership

Chair: Councillor Claire McKay

Deputy Chair: Councillor Craig Pauling

Members:
Councillor Joe Davies
Councillor David East
Councillor Grant Edge
Councillor Deon Swiggs

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

6.1. Unconfirmed Minutes - Regulation Hearing Committee - 22 March 2023

Regulation Hearing Committee

Date of meeting	Wednesday, 24 May 2023
Author	{author-name}, {position}
Endorsed by	Judith Earl-Goulet, General Manager – Regulatory Services

Purpose

1. The previously circulated minutes from the Regulation Hearing Committee on 22 March 2023 are to be confirmed.

Recommendations

That the Regulation Hearing Committee:

1. **Confirms the minutes from the Regulation Hearing Committee meeting held on 22 March 2023.**

Attachments

1. RHC Unconfirmed Minutes 2023-03-22 [**6.1.1** - 2 pages]

Minutes of the Regulation Hearing Committee held at Environment Canterbury, Council Chamber, 200 Tuam Street, Christchurch on Wednesday 22 March 2023 at 8:30am.

Present

Committee Chair Claire McKay, Committee Deputy Chair Craig Pauling*, Councillors Joe Davies and Deon Swiggs

Report writers and other staff were also present.

*via online link

1. Mihi / Karakia Timatanga – Opening

Cr Claire McKay opened the meeting followed by Cr Deon Swiggs with a karakia.

2. Apologies

Apologies were received from Councillors Grant Edge and David East.

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

6.1. Unconfirmed Minutes - Regulation Hearing Committee - 8 March 2023

Refer pages 7 - 10 of the agenda.

Resolved RHC/2023/9

Staff recommendations adopted without change.

That the Regulation Hearing Committee:

1. Confirms the minutes from the Regulation Hearing Committee meeting held on Wednesday 8 March 2023.

Cr Deon Swiggs/Cr Joe Davies
CARRIED

7. Report Items

7.1. Nomination of An Expert Consenting Panel Member

Refer pages 11-12 of the agenda

Staff recommended that the Committee nominate an Expert Consent Panel member in relation to Faringdon Oval.

Resolved RHC/2023/10

Staff recommendations adopted without change.

That the Regulation Hearing Committee:

1. Nominates Graham Taylor to be a member to the Faringdon Oval (Fast-track Consenting Project FTC000072) Expert Consenting Panel.

Cr Deon Swiggs/Cr Joe Davies
CARRIED

8. Next Meeting

The next meeting will be advised.

9. Mihi / Karakia Whakamutunga – Closing

A karakia was provided by Cr Deon Swiggs.

Meeting concluded at 8:36am.

CONFIRMED:

Committee Chair Claire McKay
Councillor, Environment Canterbury

Date

7. Report Items

7.1. Appointment of Hearing Commissioner - Ravensdown Limited

Regulation Hearing Committee report

Date of meeting	Wednesday, 24 May 2023
Author	Alison Cooper, Consents Coordinator
Responsible Director	David Perenara-O'Connell, Acting Director of Operations

Purpose

1. To appoint hearing commissioners to hear and decide resource consent application CRC230609 applied for by Ravensdown Limited.

Recommendations

That the Regulation Hearing Committee:

1. In regard to resource consent application CRC230609 applied for by Ravensdown Limited (the 'Application'):
 - 1.1 appoints Bianca Sullivan as a Hearing Commissioner, Chairperson and member of the hearing panel under s34A of the Resource Management Act 1991; and
 - 1.2 appoints Brent Cowie as a Hearing Commissioner and member of the hearing panel under s34A of the Resource Management Act 1991; and
 - 1.3 delegates to Bianca Sullivan and Brent Cowie pursuant to s34A(1) of the Resource Management Act 1991, the function, powers and duties required to: deal with any preliminary matters; and hear and decide the Application.

2. Background

Application

3. Ravensdown Limited has applied for resource consent associated with the discharge of contaminants to land where it may enter groundwater or surface water at 312 Main South Road, Hornby.

4. The contaminants originate from fugitive discharges beneath the Ravensdown site that operates a product intake, a sulphuric acid plant, superphosphate manufacturing plant and fertiliser storage and dispatching facilities.
5. A duration of 15 years is sought.

Notification

6. The s95 notification and decision report provides a full description of the application, consultation undertaken, all legal and planning matters and assessments of adverse effects. The report also provides a recommendation to publicly notify the application and identifies the affected parties to be notified. The decision affirms the recommendation to publicly notify the application as the activity is having adverse effects on the environment that are more than minor.
7. The notification report notes that a cultural values assessment including against the Mahaanui Iwi Management Plan. Ngāi Tuāhuriri Rūnanga were also consulted and advised they were opposed to the application on the basis that there is not enough information provided on the sources, pathways for contamination and mitigation measures and that the contamination levels are having negative impacts on the quality of waterways, ecosystems, and the environment.
8. Ngāi Tuāhuriri Rūnanga and Te Rūnanga o Ngāi Tahu were notified of the application. Ngāi Tuāhuriri Rūnanga lodged a submission stating there are contaminants entering groundwater and migrating offsite towards Hayton Stream, and the effects entering water bodies is culturally unacceptable.
9. The application was publicly notified in March 2023. Five submissions were received with two submitters wishing to be heard. Four opposed the application with one being neutral.
10. Common concerns raised include: impact of contaminants in the water; proposed mitigation measures that do not appropriately mitigate adverse effects; and the negative impact on waterways and water quality.
11. A hearing is required as there are submitters to be heard. A hearing is expected to be completed August 2023.

Proposed Hearing Panel

12. Hearing Commissioners are required to hear and decide the applications.
13. 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 the hearing and decision-making;
 - No conflict of interest;

- Ministry for the Environment (MfE) Making Good Decisions Accreditation and Chair endorsement for the proposed Chair.
14. The hearing will take a maximum of two days with 2 submitters and applicants' evidence to be heard.
 15. It is recommended that a panel of two hearing commissioners be appointed. This will allow coverage of the issues outlined in paragraph 10 and as arising from the use of an existing site. It will also enable sharing of the workload of the hearing process. Panel members should have experience in hearings and the technical ability to understand regional planning documents, stormwater contaminants, and ground and surface water quality aspects.
 16. For the hearing we are seeking a Chairperson who is experienced in managing a hearing, chairing a robust and transparent hearing process, and ensuring that all parties are comfortable presenting to the hearing panel.
 17. A list of potential candidates was prepared and screened against the selection criteria listed in paragraph 13 and checked with the Ministry for the Environment (MfE) website to confirm 'Making Good Decisions' certification and Chair endorsement where appropriate. On this basis the following panel is recommended.
 18. Chairperson and Panel Members

Chairperson and panel members

Bianca Sullivan is an experienced hearings commissioner with the Chair endorsement and has sat as either a sole commissioner, chair, or panel member. She is an experienced environmental planner and Director at Enviser Limited. She has a good understanding of water quality issues and the relevant regional planning frameworks round stormwater management. She also has an awareness of mātauranga Māori.

Panel member

Dr. Brent Cowie is also an experienced hearings commissioner sitting either as a sole commissioner or as a panel member. He is also an experienced environmental consultant with expertise in water resource management, investigation. He also understands the regional council planning framework.

19. Both have identified they have no conflict with parties and are available to hear and decide the Application.
20. Bianca Sullivan and Brent Cowie have satisfied staff they have the necessary criteria including hearing experience and technical ability, RA accreditation certification, availability, no conflicts of interest, and timeframe commitments to carry out the duties required.

Cost and Compliance

Financial implications

- 21. Processing of resource consent applications are at cost to the applicant.
- 22. The Resource Management Act 1991 (RMA) provides for financial penalties to apply should the application not be processed within the required timeframe.

Risk assessment and legal compliance

- 23. Section 100 of the RMA provides an obligation to hold a hearing when a person who has made a submission in relation to an application, or the applicant, has requested to be heard.
- 24. S34A of the RMA allows Council to delegate functions to hearing commissioners appointed by Canterbury Regional Council.
- 25. The Regulation Hearing Committee appoints hearing commissioners in relation to consent authority matters under the RMA.

Legal review	Robyn Fitchett
Peer reviewers	Aurora Grant

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.