

Agenda 2023

Regulation Hearing Committee

Date: Wednesday, 7 June 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

TERMS OF REFERENCE

Version 2.0 Adopted by Council 29 April 2021

1. MEMBERSHIP

There shall be a maximum of seven Councillors appointed to the Regulation Hearing Committee (RHC).

2. QUORUM

The quorum for the RHC meetings shall be two Councillors.

3. OBJECTIVES

The objectives for the RHC meetings shall be:

- (a) to consider and decide resource consent applications in accordance with delegated powers;
- (b) to appoint Consent Hearing Committees;
- (c) to appoint Hearing Commissioners; and
- (d) to exercise such other powers as delegated by Council.

4. DELEGATED POWERS

The Regulation Hearing Committee shall have those powers that are delegated to it by Council:

- (a) The authority to appoint Consent Hearing Committees from time to time comprising a minimum of three members and a maximum number of four members, one of whom shall be appointed Chairperson by the Regulation Hearings Committee, with the full powers of the Council as a consent authority under the Resource Management Act 1991. A committee so appointed may include any person who is not a member of the Council.
- (b) The authority to appoint hearing commissioners to hear and decide resource consent applications including the determination of any preliminary matter relating to an application, with full powers of the Council as a consent authority under the Resource Management Act 1991.
- (c) The authority to hear and decide resource consent applications for which the Council is obliged to hold a hearing.
- (d) The authority to decide resource consent applications to which submissions were received and where there are no requests to be heard or any requests to be heard have been withdrawn.
- (e) The authority to decide resource consent applications for notified non-complying activities irrespective of whether the Council is obliged to hold a hearing.
- (f) The authority to make decisions on a review of resource consent decisions.
- (g) The authority to decide notified resource consent applications to which no submissions were received and where the applicant has not requested to be heard.
- (h) The authority to authorise or prohibit the use in a clean air zone of any class of fuel.

- (i) The authority to hear appeals to Council's contaminated site registration process under the Council's Contaminated Site Information Strategy.

Document history and version control

Version	Date approved	Approved by	Brief description
1.0	23 August 2018	Council	Increase Committee membership to 6
2.0	29 April 2021	Council	Increase Committee membership to a maximum of 7

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 - 24 May 2023

Regulation Hearing Committee

Date of meeting	Wednesday, 7 June 2023
Author	Alison Cooper, Consents Coordinator
Endorsed by	David Perenara-O'Connell, Acting Director of Operations

Purpose

1. The previously circulated minutes from the Regulation Hearing Committee on 24 May 2023 are to be confirmed.

Recommendations

That the Regulation Hearing Committee:

1. Confirms the minutes from the Regulation Hearing Committee meeting held on 24 May 2023.

Attachments

1. 2023 05 24 UNCONFIRMED Minutes Regulation Hearing Committee [6.1.1 - 3 pages]

Minutes of the Regulation Hearing Committee held at Environment Canterbury, Council Chamber, 200 Tuam Street, Christchurch, on 24 May 2023 at 8.30am.

Present

Committee Chair Claire McKay, Committee Deputy Chair Craig Pauling, Councillors David East, Grant Edge, and Deon Swiggs

In attendance:

Councillor Nick Ward

1. Mihi / Karakia Timatanga - Opening

Councillor Grant Edge opened the meeting with a karakia.

2. Apologies

An apology for absence was received from Councillor Joe Davies.

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, or petitions.

5. Extraordinary and Urgent Business

There was no extraordinary or urgent business.

6. Minutes

6.1 Unconfirmed Minutes - Regulation Hearing Committee - 22 March 2023

Refer to pages 6 – 8 of the agenda.

Resolved RHC/2023/11

Staff recommendations adopted without change.

That the Regulation Hearing Committee:

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

Cr Craig Pauling/Cr Deon Swiggs
CARRIED

7. Report Items

7.1 Appointment of Hearing Commissioner - Ravensdown Limited

Refer to pages 9 – 12 of the agenda.

Staff sought approval for the appointment of independent hearing commissioners to hear and decide resource consent application CRC230609 applied for by Ravensdown Limited.

Resolved RHC/2023/12

Staff recommendations adopted without change.

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.

Cr Deon Swiggs/Cr David East
CARRIED

8. Next Meeting

The next meeting will be held on 31 May 2023.

9. Mihi / Karakia Whakamutunga - Closing

A karakia was provided by Councillor Grant Edge.

The meeting concluded at 8.36am.

CONFIRMED 31 MAY 2023

Committee Chair Claire McKay
Councillor, Environment Canterbury

7. Report Items

7.1. Regulation Hearing Committee Resolutions Status Report - June 2023

Regulation Hearing Committee report

Date of meeting	Wednesday, 7 June 2023
Author	Vivienne Ong, Committee Advisor
Responsible Director	David Perenara-O'Connell, Te Pou Herenga

Purpose

1. To provide visibility on the status of resolutions made by Regulation Hearing Committee.

Recommendations

That the Regulation Hearing Committee:

1. **Notes the status of previous resolutions provided in the Status of Regulation Hearing Committee Resolutions report as at 7 June 2023.**

Status Reporting

2. The status of resolutions is reported at each ordinary Committee meeting. The report includes all resolutions from the previous meeting plus any incomplete actions from prior meetings. Comments and progress updates on incomplete actions are provided where applicable.

Cost, compliance, and communication

Financial implications

3. The report was compiled using existing staff resources, therefore there were no additional financial implications.

Risk assessment and legal compliance

4. This gives visibility to the Committee of matters outstanding to ensure appropriate actions have been taken as resolved.

Engagement, Significance and Māori Participation

5. Not applicable.

Consistency with council policy

6. Under Environment Canterbury Standing Orders 28.3 discussion of minutes is limited to their correctness. This report allows members to be updated on the status of resolutions and to monitor progress.

Climate Change Impacts

7. Not applicable.

Communication

8. Not applicable.

Next steps

9. An updated report will be provided to the next Regulation Hearing Committee meeting.

Attachments

1. RHC Resolutions Status Report 31 May 2023 [7.1.1 - 1 page]
2. RHC Resolutions Status Report Outstanding and In Progress May 2023 [7.1.2 - 3 pages]

Regulation Hearing Committee Resolutions Status Report – from meeting held 24 May 2023

Resolution No.	Meeting Date	Report	Resolution	Complete [Yes/No]
RHC/2023/11	24 May 2023	6.1 Unconfirmed Minutes – Regulation Hearing Committee – 22 March 2023	That the Regulation Hearing Committee: 1. Confirms the minutes from the Regulation Hearing Committee meeting held on 22 March 2023.	Yes
RHC/2023/12	24 May 2023	7.1 Appointment of Hearing Commissioner - Ravensdown Limited	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 1.1. Appoints Brent Cowie as a Hearing Commissioner and member of the hearing panel under s34A of the Resource Management Act 1991; and 1.2. 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.	Yes

Regulation Hearing Committee Resolutions Status Report - Outstanding and In Progress May 2023

Resolution No.	Meeting Date	Report	Resolution	Complete [Yes/No]
RHC/2023/10	22 March 2023	7.1 Nomination of An Expert Consenting Panel Member	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.	Yes
RHC/2023/9	22 March 2023	6.1 Unconfirmed Minutes - Regulation Hearing Committee - 8 March 2023	That the Regulation Hearing Committee: 1. Confirms the minutes from the Regulation Hearing Committee meeting held on Wednesday 8 March 2023.	Yes
RHC/2023/8	8 March 2023	7.3 Appointment of Hearing Commissioners – Woodstock Quarries Limited	That the Regulation Hearing Committee: 1. In regard to resource consent applications CRC214073, CRC214074, CRC214075, CRC214076 and CRC214077 applied for by Woodstock Quarries Limited (the 'Application'): 1. appoints Rob Enright as a Hearing Commissioner, Chairperson and member of the Hearing panel under s34A of the Resource Management Act 1991; and 2. appoints Dean Chrystal as a Hearing Commissioner and member of the Hearing panel under s34A of the Resource Management Act 1991; and 3. appoints Ngaire Phillips as a Hearing Commissioner and member of the Hearing panel under s34A of the Resource Management Act 1991; and 4. delegates to Rob Enright, Dean Chrystal and Ngaire Phillips pursuant to s34A(1) of the Resource Management Act 1991, the function, powers and duties required to: deal with any preliminary matters; hear and decide the Application.	Yes
RHC/2023/7	8 March 2023	7.2 Appointment of Hearing Commissioner - Christchurch City Council	That the Regulation Hearing Committee: 1. In regard to resource consent applications CRC230356, CRC230357 and CRC230358 applied for by Christchurch City Council (the 'Application'): 1. Appoints Hoani Langsbury as a Hearing Commissioner under s34A of the Resource Management Act 1991;	Yes

Resolution No.	Meeting Date	Report	Resolution	Complete [Yes/No]
			2. Delegates to Hoani Langsbury 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.	
RHC/2023/6	8 March 2023	7.1 Appointment of Hearing Commissioner - South Island Resource Recovery Limited	That the Regulation Hearing Committee: 1. In regard to the objection to a decision to return resource consent applications CRC232714, CRC232715, CRC232716, CRC232717, CRC232718, CRC232719 and CRC232720 applied for by South Island Resource Recovery Limited (the "Objection"): 1. Appoints Rob Enright as a Hearings Commissioner under s34A of the Resource Management Act 1991, and 2. Delegates to Rob Enright pursuant to s34A(1) of the Resource Management Act 1991, the function; powers and duties required to: deal with any preliminary matters; hear and decide the Objection.	Yes
RHC/2023/5	8 March 2023	6.1 Unconfirmed Minutes - Regulation Hearing Committee - 1 March 2023	That the Regulation Hearing Committee: 1. Confirms the minutes from the Regulation Hearing Committee meeting held on 1 March 2023.	Yes
RHC/2023/4	1 March 2023	7.3. Appointment of Hearing Commissioner- Kaikoura Business Park (2021) Ltd	That the Regulation Hearing Committee: 1. In regard to the objection to a decision to return resource consent application CRC232345 applied for by Kaikoura Business Park 2021 Limited (the 'Objection'): 1.1 appoints Myles McCauley as a Hearings Commissioner under s34A of the Resource Management Act 1991; and 1.2 delegates to Myles McCauley pursuant to s34A(1) of the Resource Management Act 1991, the function, powers and duties required to: deal with any preliminary matters; hear and decide the Objection to decision.	Yes
RHC/2023/3	1 March 2023	7.2. Appointment of Hearing Commissioner –	That the Regulation Hearing Committee: 1. In regard to resource consent application CRC220756 applied for by Lyttelton Port Company (the 'Application'): 1.1. appoints John Iseli as a Hearing Commissioner under s34A of the Resource Management Act 1991;	Yes

Resolution No.	Meeting Date	Report	Resolution	Complete [Yes/No]
		Lyttelton Port Company	1.2. delegates to John Iseli 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.	
RHC/2023/2	1 March 2023	7.1. Nomination of An Expert Consenting Panel Member	That the Regulation Hearing Committee: 1. Nominates Janette Dovey to be a member to the Faringdon Oval (Fast-track Consenting project FTC000072) Expert Consenting Panel.	Yes
RHC/2023/1	1 March 2023	6.1. Unconfirmed Minutes - Regulation Hearing Committee - 24 November 2022	That the Regulation Hearing Committee: 1. Confirms the minutes from the Regulation Hearing Committee meeting held on 24 November 2022.	Yes
RHC/2022/19.1	24 November 2022	6.1 Previous Minutes - Regulation Hearing Committee - 8 September 2022	That the Regulation Hearing Committee: 1. Notes the confirmed minutes from the Regulation Hearing Committee meeting held on 8 September 2022.	Yes
RHC/2022/19	24 November 2022	7.1 Appointment of Hearing Commissioners - B L & A M Parkinson Family Trust	That the Regulation Hearing Committee: 1. In regard to resource consent applications CRC176146, CRC176147 and CRC202022 applied for by B L & A M Parkinson Family Trust (the 'Application'): 1.1. appoints John Iseli as a Hearings Commissioner under s34A of the Resource Management Act 1991; 1.2. appoints David Mountfort as a Hearings Commissioner under s34A of the Resource Management Act 1991; and 1.3. delegates to John Iseli and David Mountfort pursuant to s34A(1) of the Resource Management Act 1991, the function, power and duties required to: deal with any preliminary matters; consider and decide the Application.	Yes

7.2. Appointment of Hearing Commissioners

Regulation Hearing Committee report

Date of meeting	Wednesday, 7 June 2023
Author	Alison Cooper, Consents Coordinator
Responsible Director	David Perenara-O'Connell, Acting Director of Operations

Purpose

1. To appoint hearing commissioners to consider, hear, and decide certain resource consent applications, resource consents, objections to costs incurred in processing of resource consent applications, and objections to decisions in regard to resource consent applications, where Council/Environment Canterbury staff would have or would be perceived to have a conflict of interest in making decisions.

Recommendations

That the Regulation Hearing Committee:

1. **Acting under Section 34A of the Resource Management Act 1991 and for a period of time to expire 8 June 2024:**
 - 1.1 **appoints Sharon McGarry as a Hearings Commissioner;**
 - 1.2 **appoints Hoani Langsbury as a Hearings Commissioner;**
 - 1.3 **appoints Bianca Sullivan as a Hearings Commissioner;**
 - 1.4 **appoints Michael Freeman as a Hearings Commissioner;**
 - 1.5 **appoints Graham Taylor as a Hearings Commissioner;**
 - 1.6 **appoints Myles McCauley as a Hearings Commissioner;**
 - 1.7 **appoints Andrew Henderson as a Hearings Commissioner;**
 - 1.8 **appoints Ngaire Phillips as a Hearings Commissioner;**
 - 1.9 **appoints Dean Chrystal as a Hearings Commissioner;**
 - 1.10 **appoints Cindy Robinson as a Hearings Commissioner;**
 - 1.11 **appoints Hilke Giles as a Hearings Commissioner**

each of them severally, to consider and decide the non-notification, limited notification, or public notification of resource consent applications; hear and decide an objection to costs and an objection to a decision to a resource consent application, or to consider and decide applications to extend a lapse period received from:

 - a) **sections within Environment Canterbury;**
 - b) **Environment Canterbury staff members, Environment Canterbury Councillors, and family members of those people;**

- c) **Occupiers of Environment Canterbury owned land; and**
 - d) **applicants or objectors where Environment Canterbury, or its staff, would have a conflict of interest or perceived conflict of interest; and**
 - e) **Objectors to a decision who request an independent hearing commissioner.**
- 2. Following any notification decision made under paragraph (1):**
- 2.1 if that decision is not to notify the consent application, to consider and decide that consent application; and**
 - 2.2 if that decision is to limited notify, or publicly notify, that consent application, to sit as sole commissioner; or as Chair or member of a hearing panel in conjunction with other Hearing Commissioners to be appointed at a later date; to consider and decide that consent application; and**
- 3. Delegates to each of the people named in paragraphs 1.1.to 1.11, the function, powers and duties required to: deal with any preliminary matters; consider, hear and decide objections to costs or decisions; and subject to the appointment of additional hearing commissioners set out in paragraph 2.2, to decide any such applications.**

Background

- 2. At its meeting of 19 May 2022, the Committee appointed five independent hearing commissioners to make decisions on applications received by, from and to Environment Canterbury where there were possible conflicts of interest; and also decide whether such applications should be non-notified, limited or publicly notified.
- 3. At the same meeting the Committee also appointed three hearing commissioners to consider, hear and decide objections to costs, and objections to decisions, and where it would be appropriate to have an external decision-maker consider and decide that objection received under s357 of the Resource Management Act 1991 (RMA).
- 4. The appointments were for a year's term and expired 23 May 2023.
- 5. Such conflicts arise where Environment Canterbury receives resource consent applications or objections to costs and decisions from Environment Canterbury, from Environment Canterbury staff members, Environment Canterbury councillors or family members of either, or from occupiers of Environment Canterbury owned land.
- 6. Environment Canterbury may also receive applications and objections where internal decision-makers may have concerns because of a perception of conflict or bias, and an independent hearing commissioner should therefore make a decision.

7. An objector to a decision may also request an independent hearing commissioner consider and decide an objection.
8. Under the RMA, there is a twenty working day timeframe to notify and if not to notify, to decide an application.
9. Council may also receive applications to extend a lapse period and such conflicts described in paragraphs five and six may arise.
10. The number of application and objections requiring an external decision-maker is approximately 18 per year.
11. Decisions on applications are considered 'on the papers' – that is the application and associated documents. The decision-maker can request a clarification from the consent planner or report writer.
12. Decisions on objections are made after hearing from an objector.

Proposed Hearing Commissioners

13. It is proposed that a larger group of hearing commissioners be appointed to remove the risk of conflict, to be available at short notice and enable a faster response to meeting timeframes for decisions; and in organising an objection hearing and a final outcome for an objector and council.
14. Appointees should have:
 - Availability to undertake decision making at short notice;
 - Ability to write decisions;
 - Suitable experience in making notification and/or substantive decisions on differing activity applications;
 - Ability to discern and evaluate the key issues;
 - Hold Ministry for the Environment (MfE) Making Good Decisions accreditation;
 - Experience as a hearings commissioner.
15. It is recommended that any one of the hearing commissioners is enough to ensure availability, able to run a hearing, technical ability and to avoid any conflict of interest.
16. It is proposed that Sharon McGarry, Hoani Langsbury, Bianca Sullivan, Michael Freeman, Graham Taylor, Myles McCauley, Andrew Henderson, Ngaire Phillips, Dean Chrystal, Cindy Robinson and Hilke Giles be appointed. All are experienced decision-makers and have a range of technical abilities. All hold the MfE Making Good Decisions accreditation.

Sharon McGarry - is an experienced independent hearing commissioner and decision-maker. She has chaired and been on panels around New Zealand hearing and deciding both regional and district council consent applications. She has a good understanding of regional council activities and the relevant planning frameworks.

Bianca Sullivan – an environmental planner and director of Enviser Limited. She is also an experienced hearing commissioner and decision-maker with a good understanding of regional council activities.

Hoani Langsbury – is an experienced hearing commissioner with mātauranga Māori/tikanga knowledge and technical expertise in environmental management and marine ecology.

Michael Freeman – is also an experienced hearing commissioner and resource management practitioner planner with substantive decision-making experience. He has technical expertise in water takes, discharges to land, land use effects and mitigation.

Graham Taylor – is an experienced hearing commissioner, planner and director of Resource Management Group. He has planning and processing experience in resource consent applications, infrastructure, land use and related fields.

Myles McCauley – is an experienced environmental planner with technical expertise in air quality. He has experience in the preparation and processing of resource consent applications and has undertaken an objection hearing.

Andrew Henderson – is a hearing commissioner and experienced principal environmental planner with Jacobs. He has a strong interest in Māori values. He has ability in land use planning and a good understanding of regional and district plans and consent processing.

Ngaire Phillips – is an experienced hearing commissioner and environmental scientist with specialist expertise in aquatic ecology and environmental toxicology. She is a co-owner of Streamlined Environmental.

Dean Chrystal – is a partner of Planz Consultants and an experienced hearing commissioner throughout the South Island and planner with an excellent understanding and knowledge of the local government environment.

Cindy Robinson – is an experienced hearings commissioner and a sole resource management lawyer. She has experience in making decisions as a sole commissioner or in a panel.

Hilke Giles – is a certified hearing commissioner and managing director of Pisces Consulting. She has technical expertise in coastal and systems science with relevant experience in resource management.

Cost, and Compliance

Financial implications

17. Processing of resource consent applications are at cost to an applicant. Where an objector to a decision request to be heard before an independent hearing commissioner this cost can be charged to an objector.

Risk assessment and legal compliance

18. The RMA allows for financial penalties to apply should the application not be processed within the required timeframe. Being able to choose a decision-maker from a pool of appointees enables timeframes to be met.
19. S34A of the RMA allows Council to delegate functions to hearing commissioners appointed by Canterbury Regional Council.
20. The Regulation Hearing Committee appoints hearing commissioners in relation to consent authority matters under the RMA.

Legal review	Robyn Fitchett, General Counsel
Peer reviewers	Aurora Grant, Consents Manager

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.