

Agenda 2023

Regulation Hearing Committee

Date: Wednesday, 16 August 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to which submissions were received and where there are no requests to be heard or any requests to be heard have been withdrawn.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

Table of Contents

1. Karakia/Mihi 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. Minutes	8
6.1. Unconfirmed Minutes - Regulation Hearing Committee - 21 June 2023	8
7. Report Items	12
7.1. Regulation Hearing Committee Resolutions Status Report - August 2023	12
7.2. Appointment of Prehearing Facilitator	16
7.3. Nomination of An Expert Consenting Panel Member	19
8. Next Meeting	21
9. Karakia Whakamutunga - Closing	21

1. Karakia/Mihi Timatanga - Opening

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

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.

Items not on the agenda may be brought before the meeting through a report from either the chief executive or the Chairperson.

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 - 21 June 2023

Regulation Hearing Committee

Date of meeting	Wednesday, 16 August 2023
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 21 June 2023 are to be confirmed.

Recommendations

That the Regulation Hearing Committee:

1. **Confirms the minutes from the Regulation Hearing Committee meeting held on 21 June 2023.**

Attachments

1. 2023 06 21 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 21 June 2023 at 8.30am.

Present

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

Report writers and other staff were also present.

*via online link

1. Mihi / Karakia Timatanga - Opening

Cr Deon Swiggs opened the meeting with a karakia.

2. Apologies

An apology for lateness was received from Committee Deputy Chair Craig Pauling who joined the meeting at 8.32am.

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 - 7 June 2023

Refer pages 9 -12 of the agenda.

Resolved RHC/2023/16

Staff recommendations adopted without change.

That the Regulation Hearing Committee:

1. Confirms the minutes from the Regulation Hearing Committee meeting held on 7 June 2023.

Cr Grant Edge/Cr Deon Swiggs

CARRIED

7. Report Items

7.1. Regulation Hearing Committee Resolutions Status Report - 21 June 2023

Refer to pages 13 -16 of the agenda.

Staff provided visibility on the status of resolutions made by the Regulation Hearing Committee.

Resolved RHC/2023/17

Staff recommendations adopted without change.

That the Regulation Hearing Committee:

1. Notes the status of previous resolutions provided in the status of Regulation Hearing Committee Resolutions report as at 21 June 2023.

Cr Deon Swiggs/Cr David East

CARRIED

7.2. Appointment of Hearing Commissioners - AW & KF Simpson

Refer pages 17 – 20 of the agenda.

Staff requested that the Committee appoint Hearing Commissioners to hear and decide resource consent applications CRC224567 and CRC230898.

Resolved RHC/2023/18

Staff recommendations adopted without change.

That the Regulation Hearing Committee:

1. In regard to resource consent applications CRC224567 and CRC230898 applied for by A W & K F Simpson (the 'Application')

- 1.1 appoints Sharon McGarry as a Hearing Commissioner, Chairperson and member of the Hearing panel under s34A of the Resource Management Act 1991; and
- 1.2 appoints Darryl Millar as a Hearing Commissioner and member of the Hearing panel under s34A of the Resource Management Act 1991; and
- 1.3 appoints Megan Justice as a Hearing Commissioner and member of the Hearing panel under s34A of the Resource Management Act 1991; and
- 1.4 delegates to Sharon McGarry, Darryl Millar and Megan Justice 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.

Cr Deon Swiggs/Cr David East
CARRIED

8. Next Meeting

The next meeting will be advised.

9. Mihi / Karakia Whakamutunga - Closing

A karakia was provided by Cr Deon Swiggs.

The meeting concluded at 8.37am.

CONFIRMED:

Committee Chair Claire McKay
Councillor, Environment Canterbury

7. Report Items

7.1. Regulation Hearing Committee Resolutions Status Report - August 2023

Regulation Hearing Committee report

Date of meeting	Wednesday, 16 August 2023
Author	Alison Cooper, Consents Coordinator
Responsible Director	Judith Earl-Goulet, General Manager – Regulatory Services

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 16 August 2023.

Status Reporting

2. The status of resolutions is reported at each ordinary Committee meeting. The report includes all resolutions from the previous meeting.
3. There are no incomplete actions from prior meetings.

Cost, compliance and communication

Financial implications

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

Risk assessment and legal compliance

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

Engagement, Significance and Māori Participation

6. Not applicable.

Consistency with council policy

7. 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

8. Not applicable.

Communication

9. Not applicable.

Next steps

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

Attachments

1. RHC Resolutions Status Report 16 August 2023 (1) [7.1.1 - 2 pages]

Regulation Hearing Committee Resolutions Status Report – from meeting held 21 June 2023

Resolution No.	Meeting Date	Report	Resolution	Complete [Yes/No]
RHC/2023/16	21 June 2023	6.1 Unconfirmed Minutes – Regulation Hearing Committee – 7 June 2023	That the Regulation Hearing Committee: 1. Confirms the minutes from the Regulation Hearing Committee meeting held on 7 June 2023.	Yes
RHC/2023/17	21 June 2023	7.1 Regulation Hearing Committee Resolution Status Report - 21 June 2023	That the Regulation Hearing Committee: 1. Notes the status of previous resolutions provided in the Status of Regulation Hearing Committee Resolutions report as at 21 June 2023.	Yes
RHC/2023/18	21 June 2023	7.2 Appointment of Hearing Commissioners	That the Regulation Hearing Committee: 1. In regard to resource consent applications CRC224567 and CRC230898 applied for by A W & K F Simpson (the 'Application') 1.1 appoints Sharon McGarry as a Hearing Commissioner, Chairperson and member of the Hearing panel under s34A of the Resource Management Act 1991; and 1.2 appoints Darryl Millar as a Hearing Commissioner and member of the Hearing panel under s34A of the Resource Management Act 1991; and 1.3 appoints Megan Justice as a Hearing Commissioner and member of the Hearing panel under s34A of the Resource Management Act 1991; and 1.4 delegates to Sharon McGarry, Darryl Millar and Megan Justice 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

Resolution No.	Meeting Date	Report	Resolution	Complete [Yes/No]

7.2. Appointment of Prehearing Facilitator

Regulation Hearing Committee report

Date of meeting	Wednesday, 16 August 2023
Author	Alison Cooper, Consents Coordinator
Responsible Director	Judith Earl-Goulet, General Manager – Regulatory Services

Purpose

1. To appoint a hearing commissioner to facilitate a pre-hearing meeting for resource consent application CRC210883 applied for by Z Energy Limited.

Recommendations

That the Regulation Hearing Committee:

1. In regard to resource consent application CRC210883 applied for by Z Energy Limited (the ‘Application’)
 - 1.1 appoints Andrew Henderson as a Hearing Commissioner under Section 34A of the Resource Management Act 1991
 - 1.2 delegates to Andrew Henderson pursuant to Section 34A(1) of the Resource Management Act 1991, the function powers and duties required to: deal with any preliminary matters and facilitate a pre-hearing meeting of the Application.

Background

2. Z Energy Limited has applied to Environment Canterbury for resource consent to discharge contaminants to groundwater from a site at 25 Colombo Street, Christchurch
3. The application is to allow for the on-going passive discharge of hydrocarbon-based contaminants remaining in subsurface soils and groundwater following the removal of hydrocarbon-contaminated soils as part of the re-tanking works in 2016. The re-tanking works also involved the installation of a gypsum trench to help mitigate any residual off-site hydrocarbon discharge.

Notification

4. The s95 notification report provides a full description of the application, consultation undertaken, all legal and planning matters as well as the recommendation for notification.

5. The notification report indicates consultation undertaken with potentially affected parties.
6. The application was limited notified to one party who submitted in support and wished to be heard. The submitter's concern was the potential for the hydrocarbon plume to adversely affect nearby Council water supply pipes.
7. The applicant and submitter have been in discussion regarding conditions.
8. The applicant has requested a pre-hearing meeting be held.
9. The purpose of a pre-hearing meeting is to clarify a matter or any issue; or facilitate a resolution of a matter or issue.

Proposed Pre-Hearing Facilitator

10. 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 applications;
 - 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.
11. For the pre-hearing meeting we are seeking a person who is experienced in facilitating pre-hearing meetings or managing hearings and ensuring all parties to the process are comfortable and heard.
12. A list of potential candidates was prepared and screened against the selection criteria listed above in paragraph 10 and 11. On this basis the following hearing commissioner is recommended:

Andrew Henderson – Andrew is an experienced hearing commissioner with over 20 years' experience as a planner covering roles in local government and private practice. He has a good understanding of regional council and district council activities and planning frameworks. He also has experience facilitating pre-hearing meetings.
13. Mr Henderson has identified that he has no conflict of interest with parties and is available to facilitate the pre-hearing meeting and provide a report of the outcome of the meeting.

Cost, and compliance

14. Processing of resource consent applications are at cost to the applicant.

Risk assessment and legal compliance

15. Section 99 of the Resource Management Act 1991(RMA) provides council to invite or require applicants and some or all submitters on the application to be invited or required to attend a pre-hearing meeting.
16. Section 34A of the RMA allows Council to delegate function to hearing commissioners appointed by the Canterbury Regional Council.
17. 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

7.3. Nomination of An Expert Consenting Panel Member

Regulation Hearing Committee report

Date of meeting	Wednesday, 16 August 2023
Author	Alison Cooper, Consents Coordinator
Responsible Director	Judith Earl-Goulet, General Manager – Regulatory Services

Purpose

1. To nominate an Expert Consenting Panel Member under the COVID-19 Recovery (Fast-track Consenting) Act 2020 in relation to Holly-Lea Village - Buildings D and E project.

Recommendations

That the Regulation Hearing Committee:

1. **Nominates Nathan O’Connell to be a member of the Holly-Lea Village - Buildings D and E project Expert Consenting Panel.**

Background

2. Environment Canterbury has been advised by the Environmental Protection Agency (EPA) of the lodgement of the Holly-Lea Village - Buildings D and E project at Fendalton Christchurch for fast-track consenting and has asked Council to consider a nomination to the Expert Consenting Panel.
3. Expert panel members are appointed by a Panel Convenor and must include a person nominated by the relevant local authorities and a person nominated by the relevant iwi authorities.
4. Holly-Lea Village - Buildings D and E is a project accepted under the COVID-19 Recovery (Fast-track Consenting) Act 2020. The EPA are responsible for receiving the applications and providing advice and secretariat support to the Panel Convenor and Expert Consenting Panel.
5. The scope of the project is for the construction of two three storey buildings for independent living units, carry out landscaping and planting; and construct or install infrastructure or structures associated with the two new buildings.
6. The project mainly covers city council building and planning requirements, with regional council matters relating to stormwater management.

Nominations

7. The EPA have formally asked for nominations to the Expert Consenting Panel from both Environment Canterbury and Christchurch City Council. The nominations must be received by the EPA by 21 August 2023.
8. The Panel Convenor chooses one nominee from those nominated by the relevant local authority. Ideally, the local authorities should consult to reach a consensus and nominate the same person. If no nomination is made, the EPA will appoint a person with the appropriate skills and experience to be a member of the panel.
9. Nominees must be accredited under the Ministry for the Environment 'Making Good Decisions' programme.
10. Environment Canterbury has consulted with Christchurch City Council and there is agreement as local authorities in relation to this proposed nominee.
11. Nathan O'Connell has over twelve years' experience in consent planning in Christchurch city and the surrounding areas in relation to both local government and the private sector. He is a director of Nathan O'Connell Planning Limited and a member of the New Zealand Planning Institute.
12. He has experience in complex land use and subdivision resource consent applications and, as an independent hearing commissioner, has sat as a sole commissioner deciding both non-notified and notified decisions.

Cost, compliance and communication

13. There are no cost, compliance and communication implications as the application is made to the Environmental Protection Agency who process and decide the application. Council is asked for their nomination to an Expert Consenting Panel.

Legal review	Robyn Fitchett, General Counsel
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. Karakia Whakamutunga - Closing

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