

Agenda 2023

Regulation Hearing Committee

Date: Wednesday, 27 September 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to which submissions were received and where there are no requests to be heard or any requests to be heard have been withdrawn.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

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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 - 23 August 2023

Regulation Hearing Committee

Date of meeting Wednesday, 27 September 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 23 August 2023 are to be confirmed.

Recommendations

That the Regulation Hearing Committee:

1. Confirms the minutes from the Regulation Hearing Committee meeting held on 23 August 2023.

Attachments

1. 2023-08-23 UNCONFIRMED Minutes Regulation Hearing Committee [6.1.1 - 4 pages]

Minutes of the Regulation Hearing Committee held at Environment Canterbury, Council Chamber, 200 Tuam Street, Christchurch, on Wednesday, 23 August 2023 at 8.30am.

Present

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

In attendance: Councillors Nick Ward and Ian Mackenzie

1. Karakia/Mihi Timatanga - Opening

Cr Pauling opened the meeting with a karakia.

2. Apologies

No apologies were received.

3. Conflicts of Interest

Cr Pauling and Cr Swiggs declared an interest in item 7.3 Appointment of Hearing Commissioner – Z Energy Limited.

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 - 16 August 2023

Refer pages 9 -12 of the agenda.

Resolved RHC/2023/23

Staff recommendations adopted without change.

That the Regulation Hearing Committee:

1. Confirms the minutes from the Regulation Hearing Committee meeting held on 16 August 2023.

Cr East/Cr Davies
CARRIED

7. Report Items

7.1. Regulation Hearing Committee Resolutions Status Report - 23 August 2023

Refer to pages 13-15 of the agenda.

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

Resolved RHC/2023/24

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 23 August 2023.

Cr Davies/Cr Pauling
CARRIED

7.2. Appointment of Pre-hearing Facilitator

Refer to pages 16 -18 of the agenda.

Staff requested that the Committee appoint a Hearing Commissioner to facilitate a pre-hearing meeting for resource consent application CRC230275.

Resolved RHC/2023/25

Staff recommendations adopted without change.

That the Regulation Hearing Committee:

1. In regard to resource consent application CRC230275 applied for by Talley's Limited (the 'Application')

- appoints Myles McCauley as a Hearing Commissioner under Section
 34A of the Resource Management Act 1991; and
- 1.2. delegates to Myles McCauley 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 prehearing meeting of the Application.

Cr Swiggs/Cr Edge CARRIED

7.3. Appointment of Hearing Commissioner - Z Energy Limited

Refer pages 19 -21 of the agenda.

Cr Pauling declared a **conflict of interest** and sat back from the table and took no part in the <u>discussion and voting on this item</u>.

Cr Swiggs declared a **conflict of interest** and sat back from the table and took no part in the <u>discussion and voting on this item</u>.

Staff requested the Committee appoint a Hearing Commissioner to hear and decide resource consent application CRC210883.

Resolved RHC/2023/26

Staff recommendations adopted without change.

That the Regulation Hearing Committee:

- 1. In regard to resource consent application CRC210883 applied for by Z Energy Limited (the 'Application')
 - 1.1. appoints Ken Gimblett as a Hearing Commissioner under s34A of the Resource Management Act 1991; and
 - 1.2. delegates to Ken Gimblett 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 Edge/Cr East CARRIED

7.4. Appointment of Hearing Commissioner - PJ Pollard and Others

Refer pages 22 -24 of the agenda.

Staff requested that the Committee appoint a Hearing Commissioner to hear and decide resource consent application CRC040067.

Resolved RHC/2023/27

Staff recommendations adopted without change.

That the Regulation Hearing Committee:

- 1. In regard to resource consent application CRC040067 applied for by P J Pollard and Others (the 'Application')
 - 1.1. appoints Bianca Sullivan as a Hearing Commissioner under s34A of the Resource Management Act 1991; and
 - 1.2. delegates to Bianca Sullivan 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 East/Cr Edge CARRIED

8. Next Meeting

The next meeting to be advised.

9. Karakia Whakamutunga - Closing

The meeting concluded at 8.42am.
CONFIRMED:
Committee Chair Claire McKay
Councillor, Environment Canterbury

7. Report Items

7.1. Regulation Hearing Committee Resolutions Status Report - 27 September 2023

Regulation Hearing Committee report

Date of meeting Wednesday, 27 September 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 27 September 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 27 September 2023 (1) [7.1.1 - 2 pages]

Regulation Hearing Committee Resolutions Status Report – from meetings as at 27 September 2023

Resolution No.	Meeting Date	Report	Resolution	Complete [Yes/No]
RHC/2023/23	23August 2023	6.1 Unconfirmed Minutes – Regulation Hearing Committee – 16 August 2023	That the Regulation Hearing Committee: 1. Confirms the minutes from the Regulation Hearing Committee meeting held on 16 August 2023.	Yes
RHC/2023/24	23 August 2023	7.1 Regulation Hearing Committee Resolution Status Report – 23 August 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 23 August 2023. 	Yes
RHC/2023/25	25 August 2023	7.2 Appointment of Prehearing Facilitator	 In regard to resource consent application CRC230275 applied for by Talley's Limited (the 'Application') 1.1. appoints Myles McCauley as a Hearing Commissioner under Section 34A of the Resource Management Act 1991; and 1.2. delegates to Myles McCauley 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 	Yes
RHC/2023/26	23 August 2023	7.3 Appointment of Hearing Commissioner	meeting of the Application That the Regulation Hearing Committee: 1. In regard to resource consent application CRC210883 applied for by Z Energy Limited (the 'Application') 1.1. appoints Ken Gimblett as a Hearing Commissioner	Yes
Regulation Hearing C	ommittee 2023-09-27		under s34A of the Resource Management Act 1991; and 1.2. delegates to Ken Gimblett pursuant to s34A(1) of the Resource Management Act 1991, the function,	15 of 26

Resolution No.	Meeting Date	Report	Resolution	Complete [Yes/No]
			powers and duties required to: deal with any	
			preliminary matters; hear and decide the Application	
RHC/2023/27	23 August 2023	7.4 Appointment of Hearing Commissioner	 In regard to resource consent application CRC040067 applied for by P J Pollard and Others (the 'Application') 1.1. appoints Bianca Sullivan as a Hearing Commissioner under s34A of the Resource Management Act 1991; and 1.2. delegates to Bianca Sullivan 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

7.2. Appointment of Hearing Commissioner - Schat Enterprises Limited Regulation Hearing Committee report

Date of meeting	Wednesday, 27 September 2023
Author	Alison Cooper, Consents Coordinator
Responsible Director	{custom-field-director}

Purpose

1. To appoint a Hearing Commissioner to hear and decide resource consent application CRC233813 applied for by Schat Enterprises Limited.

Recommendations

That the Regulation Hearing Committee:

- 1. In regard to resource consent application CRC233813 applied for by Schat Enterprises Limited (the "Application")
 - 1.1. appoints Antoinette Besier as a Hearing Commissioner under s34A of the Resource Management Act 1991; and
 - 1.2. delegates Antoinette Besier pursuant to s34A(1) of the Resource Management Act 1991, the functions, powers and duties required to deal with any preliminary matters; hear and decide the Application.

Background

Application

- Schat Enterprises Limited has applied for resource consent to use land for the operation of a single composting barn/feedlot located at 992 Wards Road, Kirwee.
- 3. The composting barn will house a maximum of 1,250 cattle.
- 4. A duration of 25 years has been sought.

Notification

5. The s95 notification report and decision report provides a full description of the application, consultation undertaken, all legal and planning matters as well as the notification recommendation and decision for notification. The decision was to limited notify the application.

- 6. The notification decision report notes the consultation undertaken with Mahaanui Kurataiao Limited on behalf of Te Ngāi Tūāhuriri Rūnanga and Te Taumutu Rūnanga who opposed the applications and considered themselves affected.
- 7. Te Taumutu Rūnanga has formally submitted against the application and wishes to be heard.
- 8. The concern of the submitter is the increase of cattle numbers on the existing land and impact on water quality within Te Waihora and its catchment.
- A hearing is required as there is a submitter to be heard; and before an independent hearing commissioner as requested by the submitter. A hearing is expected to be held late October.

Proposed Hearing Commissioner

- 9. 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.
- 10. As a hearing is required, a hearing commissioner is needed to hear and decide the application. It is expected that this will be a one-day hearing.
- 11. It is recommended that a sole hearing commissioner be appointed to hear and decide the application. Any hearing commissioner should have experience in running a hearing, and the ability to understand and evaluate the key issues and provide a written decision.
- 12. A list of potential candidates was prepared, and candidates were screened against the selection criteria listed in paragraphs 9 and 11 and checked with the Ministry for the Environment (MfE) website to confirm 'Making Good Decisions' certification. On this basis the following commissioner is recommended.
- 13. It is recommended that Antoinette Besier be appointed. She is an accredited and experienced hearing commissioner as either a sole commissioner or as a member of hearing panels for both regional and district councils. She is a director of Tasman Law specialising in resource management and local government law. Prior to

- qualifying as a lawyer, she also worked as a planner in local government and as a consultant.
- 14. Ms Besier has identified that she has no conflict of interest with parties and is available to hear and decide the application.

Cost and compliance

Financial implications

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

Risk assessment and legal compliance

- 16. Section 100 of the Resource Management Act 1991 (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.
- 17. The RMA provides for financial penalties should the application not be processes within the required timeframe.
- 18. Section 34A of the RMA allows Council to delegate functions to hearing commissioners appointed by Canterbury Regional Council.
- 19. 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. Appointment of Hearing Commissioner - Adams Sawmilling Co.Ltd Regulation Hearing Committee report

Date of meeting	Wednesday, 27 September 2023	
Author	Alison Cooper, Consents Coordinator	
Responsible Director	{custom-field-director}	

Purpose

1. To appoint a hearing commissioner to hear and decide resource consent application CRC174865 applied for by Adams Sawmilling Company Limited

Recommendations

That the Regulation Hearing Committee:

- 1. In regard to resource consent application CRC174865 applied for by Adams Sawmilling Company Limited (the 'Application')
 - 1.1 appoints Janette Campbell as a Hearing Commissioner under s34A of the Resource Management Act 1991; and
 - 1.2 delegates to Janette Campbell pursuant to s34A(1) of the Resource Management Act 1991, the function, powers and duties and duties required to: deal with any preliminary matters; hear and decide the Application.

Background

Application

- 2. Adams Sawmilling Company Limited has applied to Environment Canterbury for resource consent for the discharge of operational stormwater onto and/or into land from roofs, internal roads, and gravel hardstand areas from an industrial site used to mill, process, dry, and treat timber at 24 Malcolm McDowell Avenue, Ashburton.
- 3. A consent duration of 15 years has been requested.

Notification

4. The s95 notification report provides a full description of the proposed activity applied for, consultation undertaken and all legal and planning matters plus the recommendation for notification. The notification decision was made to publicly notify the application as it was concluded the potential adverse effects of the proposal on the receiving environment are more than minor.

- 5. The application was publicly notified with eight submissions being received mainly in opposition to the proposal. Two submitters have indicated their wish to be heard. Submitter concerns are the potential groundwater contamination and impact on water quality; and if granted then conditions should include increased testing and monitoring of water and soil and a shorter duration.
- 6. A hearing is therefore required to be held as there are submitters to be heard.

Proposed Hearing Commissioner

- 7. 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
 - Chair endorsement for the proposed Chair
- 8. As a hearing is required, a hearing commissioner is needed to hear and decide the application.
- 9. It is expected this will a one-day hearing.
- 10. It is recommended that a sole hearing commissioner be appointed to hear and decide the application. Any hearing commissioner should have experience in running a hearing, and the ability to understand and evaluate the key issues and provide a written decision.
- 11. A list of potential candidates was prepared, and candidates were screened against the selection criteria listed in paragraphs 7 and 10 and checked with the Ministry for the Environment (MfE) website to confirm 'Making Good Decisions' certification. On this basis the following hearing commissioner is recommended.
- 12. It is recommended that Janette Campbell be appointed. She is an accredited and experienced hearing commissioner with chair endorsement. She has over 26 years' experience as lawyer with expertise in environmental and resource management law and has worked with regional and district council decision-making and advancing resource consent applications.
- 13. Ms Campbell has identified she has no conflict of interest with parties and is available to hear and decide the application.

Cost and Compliance

Financial implications

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

Risk assessment and legal compliance

- 15. Section 100 of the Resource Management Act 1991 (RMA) provides an obligation to hold a hearing when a person who has made a submission in relation to an application or when the applicant has requested to be heard.
- 16. The RMA provides for financial penalties should the application not be processes within the required timeframe.
- 17. Section 34A of the RMA allows Council to delegate functions to hearing commissioners appointed by Canterbury Regional Council.
- 18. 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

7.4. Appointment of Hearing Commissioner - P H & M J Evans

Regulation Hearing Committee report

Date of meeting	Wednesday, 27 September 2023
Author	Alison Cooper, Consents Coordinator
Responsible Director	{custom-field-director}

Purpose

1. To appoint a hearing commissioner to hear and decide resource consent application CRC223481 applied for by Mr P H & Mrs J M Evans.

Recommendations

That the Regulation Hearing Committee:

- 1. In regard to resource consent application CRC223481 applied for by Mr P H and Mrs M J Evans (the 'Application')
 - 1.1. Appoints Doctor Ngaire Phillips as a Hearing Commissioner under s34A of the Resource Management Act 1991; and
 - 1.2. Delegates to Doctor 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.

Background

Application

- 2. Mr P H and Mrs M J Evans have applied to Environment Canterbury for resource consent to use land associated with the afforestation of 78.2-hectare *Pinus radiata* forestry at 28 Pareora Gorge Road, Maungati.
- 3. The site is located within the flow-sensitive Taiko Stream catchment.
- 4. A duration of 35 years is requested.

Notification

5. The s92 notification report provides a full description of the proposed activity, the affected environment, consultation undertaken and legal and planning matters as well as the recommendation to notify the application. The decision report concluded that public notification was required as the adverse effects on the environment are potentially more than minor.

- 6. The application was publicly notified with eight submissions being received. The majority of submitters supported the application. Four submitters indicated their wish to be heard. Submitter concerns against the proposal include impact on the cultural landscape and degradation of mahinga kai.
- 7. A hearing is required to be held as there are submitters to be heard.

Proposed Hearing Commissioner

- 8. 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
 - Chair endorsement for the proposed Chair.
- 9. As a hearing is required, a hearing commissioner is needed to hear and decide the application.
- 10. It is expected that this hearing will be held in one day.
- 11. It is recommended that a sole hearing commissioner be appointed to hear and decide the application. Any hearing commissioner should have experience in running a hearing, and the ability to understand and evaluate the key issues and provide a written decision.
- 12. A list of potential candidates was prepared, and candidates were screened against the selection criteria listed in paragraphs 8 and 11 and checked with the Ministry for the Environment (MfE) website to confirm 'Making Good Decisions' certification. On this basis the following hearing commissioner is recommended.
- 13. It is recommended that Doctor Ngaire Phillips be appointed. She is an accredited and experienced hearing commissioner and environmental scientist with expertise in aquatic ecology and environmental toxicology as well as a practical knowledge over a range of other disciplines including water quality and land management associated with rivers, lakes and estuaries. She is a director of Streamlined Limited a specialist science consultancy and a member of the Hazardous Substances and Noxious Organisms Committee.
- 14. Doctor Phillips has identified she has no conflict of interest with parties and is available to hear and decide the application.

Cost, and Compliance

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

Risk assessment and legal compliance

- 16. Section 100 of the Resource Management Act 1991 (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.
- 17. The RMA provides for financial penalties should the application not be processed within the required timeframe.
- 18. Section 34A of the RMA allows Council to delegate functions to hearing commissioners appointed by Canterbury Regional Council.
- 19. 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

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.