

MEETING OF THE REGULATION HEARING COMMITTEE

TO THE CHAIRPERSON AND MEMBERS OF THE
COMMITTEE

MEMBERSHIP OF THE COMMITTEE

Cr A G Neill (Chairperson)
Cr E M Sage
Cr B M Kirk

A meeting of the Committee will be held on
Friday, 28 August 2009 at 9:00 am

VENUE: Council Chamber
First Floor
Pegasus Building
Environment Canterbury
58 Kilmore Street
CHRISTCHURCH

BUSINESS: As per Order Paper attached
Agendas are available on our website three days prior to the date of the meeting -
<http://www.ecan.govt.nz/About+Us/Council+Info/Committee+Agendas.htm>

Dr B R Jenkins
CHIEF EXECUTIVE

**RECOMMENDATIONS IN REPORTS ARE NOT TO BE TAKEN
AS COUNCIL POLICY UNTIL ADOPTED BY COUNCIL**

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COMPLIANCE WITH LOCAL GOVERNMENT ACT 2002 DECISION-MAKING REQUIREMENTS

Except as below, a statement of compliance and a completed decision checklist is required for any agenda item on a council committee or the council recommending that a decision be made. This will be the responsibility of the person signing off the agenda item.

The compliance statement and checklist will not be used for:

- Recommendations that information be received or that the Council make a decision.
- Decisions taken under the Resource Management Act 1991 or the Biosecurity Act 1993 in relation to resource consents, decisions required when following the procedures set out in Schedule 1 of the Resource Management Act 1991, other permissions, submissions on plans, or references to the Environment Court.
- Decisions taken to proceed with enforcement procedures under various primary or secondary legislation or regulations, including procedures under the Resource Management Act 1991, the Biosecurity Act 1993, the Local Government Act 2002, and Environment Canterbury Bylaws.
- Administrative and personnel decisions that are entirely internal to Environment Canterbury.
- Other decisions where the procedures to be followed are set out in Legislation.

COMPLIANCE STATEMENT

The council committee (or the council) must formally certify that:

- (a) It is satisfied that it has sufficient information about the options and their benefits and costs, in terms of the region's social, economic, environmental and cultural well-being and the effects on community outcomes, bearing in mind the significance of the decisions.
- (b) It is satisfied that it knows enough about and has given adequate consideration to the views and preferences of affected and interested parties bearing in mind the significance of the decision.

INFORMATION CHECKLIST

(a)	A Statement of the Proposed Decision
(b)	A Statement of the Objective of the Proposed Decision and the Issue or Problem being addressed
(c)	A list of all reasonably practicable options, (including doing nothing).
(d)	For each option in (c): An evaluation of the Benefits and Costs, in terms of the region's social, economic, environmental and cultural well-being.
(e)	For each option in (c): A statement of the extent to which community outcomes would be promoted or achieved in an integrated and efficient manner.
(f)	For each option in (c): A statement of the Impact, if any, on Environment Canterbury's capacity to undertake its statutory responsibilities
(g)	If the Proposed Decision is a significant decision in relation to land or a body of water, a statement of how Maori values have been taken into account
(h)	A Statement of significant inconsistencies, if any, with any Existing Policy, Plan or Legislation arising from the Proposed Decision.
(i)	A statement how the views and preferences of affected or interested persons have been given adequate consideration during the definition of the problem or issue, the objective, the assessment of options and the development of the proposed decision, including the particular contribution of Maori to the decision-making process.

Notes:

The significance of proposals and decisions determines how much time, money and effort is put into exploring and evaluating options and obtaining the views of affected and interested parties. The significance of proposals and decisions is determined through reference to criteria contained in the policy on significance.

The policy on significance together with Section 76 of the Local Government Act 2002 set out the Council's requirements in relation to decisions. Some decisions can only be made through the Long-Term Council Community Plan, or after the Special Consultative Procedures set out in the Act have been used, (refer to the policy on significance and the Act).

All decisions of Environment Canterbury are subject to the decision-making requirements of section 76 of the Act unless inconsistent with specific requirements of other legislation.

ENVIRONMENT CANTERBURY

REGULATION HEARING COMMITTEE

ORDER PAPER

1. APOLOGIES
2. CONFLICTS OF INTEREST
3. MINUTES OF PREVIOUS MEETINGS
4. MATTERS ARISING
5. DEPUTATIONS AND PETITIONS

MATTERS FOR DECISION BY THE COMMITTEE

6. RESOURCE CONSENT APPLICATION FOR CONSIDERATION

7. QUESTIONS
8. EXTRAORDINARY AND URGENT BUSINESS
9. NEXT MEETING – to be confirmed
10. CLOSURE

REGULATION HEARING COMMITTEE

MINUTES OF THE MEETING HELD IN THE COUNCIL CHAMBER, FIRST FLOOR,
PEGASUS BUILDING, ENVIRONMENT CANTERBURY, 58 KILMORE STREET,
CHRISTCHURCH ON 7 AUGUST 2009 AT 1:30 P.M.

CONTENTS

1. APOLOGIES
2. CONFLICTS OF INTEREST
3. MINUTES OF PREVIOUS MEETINGS
4. MATTERS ARISING
5. DEPUTATIONS AND PETITIONS

MATTERS FOR DECISION BY THE COMMITTEE

6. RESOURCE CONSENT APPLICATION FOR CONSIDERATION
7. APPOINTMENT OF DECISION-MAKERS TO HEAR AND DECIDE RESOURCE CONSENT APPLICATIONS
8. QUESTIONS
9. EXTRAORDINARY AND URGENT BUSINESS
10. NEXT MEETING
11. CLOSURE

PRESENT

Councillors A G Neill (Chairperson), D P Sutherland and T K Burke.

MANAGEMENT AND STAFF PRESENT

Helen Caley (Consents Investigating Officer) and Donald Fraser (Consents Hearings Officer).

1. APOLOGIES

Cr Burke replaced Cr Oldfield.

2. CONFLICTS OF INTEREST

Nil.

3. MINUTES OF PREVIOUS MEETING

Awaiting confirmation.

4. MATTERS ARISING

Nil.

5. DEPUTATIONS AND PETITIONS

Nil.

MATTERS FOR DECISION

6. RESOURCE CONSENT APPLICATION FOR CONSIDERATION

CANTERUBRY WOOLSCOUR LIMITED – CRC073782

The Committee was advised that the application was to discharge stormwater into surface water from roofing and hardstanding areas at their woolscour plant at Washdyke, Timaru.

As background the Committee noted the following:

- The plant had been located on the site since the 1970s
- The applicant currently discharged stormwater directly into a drain and to Washdyke Creek
- The applicant had recently added a new woolshed and parking area to the site

A total of two submissions were received to the notified application from Forest and Bird Society and Fish and Game Council. Both parties had initially reserved the right to be heard, however following a meeting with the applicant on 28 June 2009, those rights to be heard were withdrawn.

In terms of the Council's PNRRP, Ms Caley said that, in her opinion, the application failed to meet the general conditions of rule WQL6. Condition 7 stated that the receiving waters outside the zone of non-compliance should meet the water quality standards. Water quality monitoring had shown that Washdyke Creek did not meet water quality standards. Ms Caley also considered that the proposed activity did not meet condition 9 as the roof water and hardstanding stormwater would mix and be treated and disposed of together. Ms Caley considered that the application should be treated as a non complying activity.

The Committee noted that part of the site was on land leased from On Track, and that the applicant could not construct the stormwater system until On Track had given permission. The applicant had advised they wished to obtain consent prior to seeking approval from them.

Ms Caley said that the applicant had considered that the classification of Washdyke Creek to be a lowland stream in the PNRRP characterised by very low water quality and susceptibility to sediment overload. Washdyke Creek flowed into the Wahdyke Lagoon. This lagoon was a nationally important wetland with a significant saltmarsh

ecosystem and important birdlife. The lagoon had been progressively decreasing in area, with coastal lagoons like this being subject to modifications of fluvial flows and land use changes that increased sediment yield.

However, it was classified as a volcanic stream in the PNRRP planning maps.

Ms Caley referred to the assessment of actual and potential effects of the proposed activity, which included effects on surface water quality. Volcanic streams should meet the 95% protection level for fresh water listed in the ANZECC guidelines. The applicant carried out three sampling tests in December 2007, July 2008 and February 2009. the 2007 test identified levels of zinc (from the galvanised roof) well above both the ANZECC and USEPA guidelines. The 2009 testing still failed to meet the 95% protection level.

Ms Caley agreed with the applicant that approximately 60-80% of sediment and other contaminants such as particulate heavy metals and hydrocarbons would be removed through settling as stormwater passed through the swale and ponds. Ms Caley recommended a condition ensuing that vegetation within the swale was tolerant of water to ensure that no ponding occurred.

The applicant had proposed a number of measures to mitigate against any effects of possible spills, particularly spills of woollscour effluent and hazardous chemicals used onsite. Ms Caley considered the measures proposed to be in line with best practice and would provide good management if spills occurred.

The applicant had proposed to carry out sampling down stream of the discharge point every months for the first two years of the consent. Ms Caley recommended monitoring for the duration of the consent.

The Committee noted that the applicant would clean the swales every three months to remove large debris. The submitters had requested that only native plants be used to vegetate the stormwater pond. Whilst the applicant had agreed to this, Ms Caley considered that it did not matter whether the pond was planted with native or exotic. As a result, no condition had been recommended in this matter.

The applicant intended to replace the galvanised iron roofing over the next five years, with the replacement programme set at 1000 square metres per year. Ms Caley was satisfied that with the intention to remove all zinc discharge, any ongoing cumulative effect would be minor.

Ms Caley recommended that the application be granted subject to the conditions recommended for the duration sought of 20 years as amended in writing by the applicant.

The Committee discussed the proposed monitoring regime and considered the proposed condition requiring water sampling to be reasonable.

The Committee was satisfied that consent be granted for the 20 years sought.

The Committee was further satisfied that the proposed activity did not conflict with the provisions of the Resource Management Act given the recommended conditions.

Resolved

That the Committee acting pursuant to a delegation of the Council of 22 October 2004, having had regard to the requirements of Section 104 of the Resource Management Act 1991, grants consent, pursuant to Section 105 of the said Act, to the application subject to a duration of 20 years, for the reason stated.

Cr Sutherland/Cr Neill

7. APPOINTMENT OF DECISION-MAKERS TO HEAR AND DECIDE RESOURCE CONSENT APPLICATIONS

Due to the time constraints of Cr Burke, this item was considered at the commencement of the meeting.

7.1 CANTERBURY KENNEL ASSOCIATION – CRC991367.1

The Committee was advised that it was Council policy to appoint an external commissioner when resource consent applications were to carry out activities on land owned by the Council.

The Commissioner recommended had satisfied Council staff he met the necessary criteria, including technical ability and RMA Accreditation to carry out the duties required.

Resolved

- (a) *That the Committee appoint Dr Brent Cowie as a decision-maker to decide whether resource consent application CRC991367.1 by Canterbury Kennel Association shall be processed with or without notification with the full powers of the Council as a consent authority.*
- (b) *That the Committee appoint Barry Loe as Commissioner to hear and decide resource consent application CRC991367.1 by Canterbury Kennel Association with the full powers of the Council as a consent authority.*
- (c) *That the Committee appoint Barry Loe to deal with any preliminary matters associated with (b) with the full powers of the Council as a consent authority.*

Cr Neill / Cr Sutherland

7.2 CANTERBURY REGIONAL COUNCIL – CRC093957

The Committee was advised that it was Council policy to appoint an external commissioner when applications were lodged by the Council.

The Commissioners recommended had satisfied Council staff they had the necessary criteria, including technical ability and RMA Accreditation to carry out the duties required.

Resolved

- (a) *That the Committee appoint Dr Brent Cowie as a decision-maker to decide whether resource consent application CRC093957 by Canterbury Regional Council shall be processed with or without notification with the full powers of the Council as a consent authority.*
- (a) *That the Committee appoint Barry Loe as Commissioner to hear and decide resource consent application CRC093957 by Canterbury Regional Council with the full powers of the Council as a consent authority.*
- (b) *That the Committee appoint Barry Loe to deal with any preliminary matters associated with (a) with the full powers of the Council as a consent authority.*

Cr Burke / Cr Sutherland

7.3 JOHN CURTIS LIMITED – CRC073069

The Committee was advised that a hearing was scheduled for 10 August 2009 to hear and decide the application.

The decision-makers recommended had satisfied Council staff they had the necessary criteria to carry out the duties required.

Resolved

- (a) *That the Committee appoint Sharon McGarry and Jo Kane as Commissioners to hear and decide resource consent application CRC073069 by John Curtis Limited with the full powers of the Council as a consent authority.*
- (b) *That the Committee appoint Sharon McGarry and Jo Kane to deal with any preliminary matters associated with (a) with the full powers of the Council as a consent authority.*

Cr Burke / Cr Sutherland

7.4 KENNAWAY ESTATES LIMITED – CRC071137

The Committee was advised that a hearing was scheduled for 18 August 2009 and decision-makers were required to be appointed.

The decision-makers recommended had satisfied Council staff they had the necessary criteria to carry out the duties required.

Resolved

- (a) *That the Committee appoint John Milligan and Jane Demeter as Commissioners to hear and decide resource consent application CRC071137 by Kennaway Estates Limited with the full powers of the Council as a consent authority.*
- (b) *That the Committee appoint John Milligan and Jane Demeter to deal with any preliminary matters associated with (a) with the full powers of the Council as a consent authority.*

Cr Neill / Cr Sutherland

7.5 SELWYN DISTRICT COUNCIL – VARIOUS APPLICATIONS

Cr Sutherland took no interest in this matter.

The Committee was advised that a hearing was scheduled for 17 and 18 August 2009 to hear and decide the applications.

The decision-makers recommended had satisfied Council staff they had the necessary criteria to carry out the duties required.

Resolved

- (a) *That the Committee appoint Robert Batty and David Sutherland as Commissioners to hear and decide resource consent applications CRC011993, CRC011996, CRC012001, CRC970986, CRC972765, CRC010976 and CRC970987 by Selwyn District Council with the full powers of the Council as a consent authority.*
- (b) *That the Committee appoint Robert Batty and David Sutherland to deal with any preliminary matters associated with (a) with the full powers of the Council as a consent authority.*

Cr Burke / Cr Neill

7.6 INTERCLEAN INDUSTRIAL SERVICES LIMITED – CRC090917

Cr Neill took no interest in this matter.

Cr Burke took the chair.

The Committee was advised that a hearing was scheduled for 19 August 2009 to hear and decide the application and a decision-maker was required to be appointed.

The decision-maker recommended had satisfied Council staff he had the necessary criteria to carry out the duties required.

Resolved

- (a) *That the Committee appoint Alec Neill as Commissioner to hear and decide resource consent application CRC090917 by Interclean Industrial Services Limited with the full powers of the Council as a consent authority.*

- (b) *That the Committee appoint Alec Neill to deal with any preliminary matters associated with (a) with the full powers of the Council as a consent authority.*

Cr Burke / Cr Sutherland

7.7 LINCOLN UNIVERSITY PROPERTY JOINT VENTURE LIMITED AND NGAI TAHU PROPERTY VENTURES LIMITED – CRC092128, CRC092131, CRC092582, CRC092130

The Committee was advised that a joint hearing by Selwyn District Council and Environment Canterbury was scheduled for 28 and 29 September 2009 to hear and decide applications associated with a proposed subdivision at Lincoln.

Both Selwyn District Council and ECan proposed to appoint the same decision-makers.

The decision-makers recommended had satisfied staff they had the necessary criteria to carry out the duties required.

Resolved

- (a) *That the Committee appoint Philip Milne and Ken Gimlett as Commissioners to hear and decide resource consent applications CRC092128, CRC092131, CRC092582, CRC092130 by Lincoln University Property Joint Venture Limited and Ngai Tahu Property Joint Ventures Limited with the full powers of the Council as a consent authority.*
- (b) *That the Committee appoint Philip Milne and Ken Gimlett to deal with any preliminary matters associated with (a) with the full powers of the Council as a consent authority.*

Cr Sutherland / Cr Burke

The following matters were discussed by the Committee during consideration of item 7 including:

- The use of a consistent style/format for writing decisions
- Future appointment recommendations to this Committee include reference to timeframes incurred to date
- The commitment of decision-makers to completing the hearing, deliberations and issue of decision within acceptable statutory time-lines.

Cr Neill thanked Cr Burke for making himself available to attend RHC and assist with decision making.

8. QUESTIONS

Nil.

9. EXTRAORDINARY AND URGENT BUSINESS

Resolved

That the appointment of an external commissioner to hear and decide an objection lodged to a decision made by Environment Canterbury be considered extraordinary and urgent business.

Cr Neill/Cr Sutherland

9.1 WYLIE PARTNERSHIP – CRC1000014

The Committee was advised that a hearing would be scheduled to hear and decide an objection lodged to a decision by the Council to refuse an application under Section 88 Resource Management Act 1991.

The decision-maker recommended had satisfied Council staff he had the necessary criteria, including technical ability to carry out the duties required.

Resolved

- (a) *That the Committee appoint Dr Michael Freeman as Commissioner to hear and decide the objection lodged in respect of resource consent application CRC100014 by Wylie Partnership with the full powers of the Council as a consent authority.*
- (b) *That the Committee appoint Dr Michael Freeman to deal with any preliminary matters associated with (a) with the full powers of the Council as a consent authority.*

Cr Neill/Cr Sutherland

10. NEXT MEETING

Scheduled for 14 August 2009.

11. CLOSURE

The Chairperson closed the meeting at 2:55 pm.

CONFIRMED

DATE _____ CHAIRPERSON

6. RESOURCE CONSENT APPLICATION FOR CONSIDERATION

The following resource consent application is submitted for consideration and decision by the Committee without formal hearing.

Application	Permit No.
GW Leach	CRC093169

Recommended

That the Committee acting pursuant to a delegation of the Council of 22 October 2004, having had regard to the requirements of Section 104 of the Resource Management Act 1991, grants consent, pursuant to Section 105 of the said Act, to the application subject to the conditions and duration, and for the reasons stated.