



Notice is hereby given that a Meeting of the Regulatory and Consents Committee will be held on:

Date: Wednesday, 2 June 2021
Time: 9am
Meeting Room: Council Chamber
Venue: 20 Don Street, Invercargill

Regulatory and Consents Committee Agenda OPEN

MEMBERSHIP

Chairperson	Paul Duffy Mayor Gary Tong
Councillors	Darren Frazer Julie Keast Christine Menzies Margie Ruddenklau

IN ATTENDANCE

Group Manager, Environmental Services	Fran Mikulicic
Committee Advisor	Alyson Hamilton

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Full agendas are available on Council's Website
www.southlanddc.govt.nz

Note: The reports contained within this agenda are for consideration and should not be construed as Council policy unless and until adopted. Should Members require further information relating to any reports, please contact the relevant manager, Chairperson or Deputy Chairperson.

Health and Safety – Emergency Procedures

Toilets – The toilets are located outside of the Chamber, directly down the hall on the right.

Evacuation – Should there be an evacuation for any reason please exit down the stairwell to the assembly point, which is the entrance to the carpark on Spey Street. Please do not use the lift.

Earthquake – Drop, cover and hold applies in this situation and, if necessary, once the shaking has stopped we will evacuate down the stairwell without using the lift, meeting again in the carpark on Spey Street.

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Terms of Reference – Regulatory and Consents Committee

TYPE OF COMMITTEE	Council committee
RESPONSIBLE TO	Council
SUBCOMMITTEES	None
LEGISLATIVE BASIS	Committee constituted by Council as per schedule 7, clause 30 (1)(a), LGA 2002. Committee delegated powers by Council as per schedule 7, clause 32, LGA 2002.
MEMBERSHIP	The Regulatory and Consents Committee will comprise of six members.
FREQUENCY OF MEETINGS	Six weekly or as required
QUORUM	Three
SCOPE OF ACTIVITIES	<p>The Regulatory and Consents Committee is responsible for overseeing the delivery of regulatory services and statutory functions that fall with the scope of, but limited to, the following legislation:</p> <ul style="list-style-type: none"> • Resource Management Act 1991 • Health Act 1956 • Food Act 2014 • Dog Control Act 1996 • Sale and Supply of Alcohol Act 2012 • Heritage New Zealand Act Pouhere Taonga Act 2014 • Building Act 2004 • Freedom Camping Act 2011 • Psychoactive Substances Act 2013 • Impounding Act 1955 • Southland Land Drainage Act 1935 • Southland Land Drainage Amendment Act 1938. <p>The committee is responsible for hearing and determining regulatory matters including but not limited to:</p> <ul style="list-style-type: none"> • resource consents • public work requirements • objections against the construction of public works on private land • objections to decisions made by the committee and/or delegated staff • administration of Council bylaws • proposed variations to the District Plan.
DELEGATIONS	<p>Council delegates to the Regulatory and Consents Committee the following functions:</p> <p>Power to Act</p>

	<p>a) maintain an oversight of the delivery of regulatory services</p> <p>b) conduct statutory hearings on regulatory matters and undertake and make decisions on those hearings (excluding matters it is legally unable to make decisions on ie - pursuant to the RMA)</p> <p>c) appoint panels for regulatory hearings</p> <p>d) hear appeals on officer's decisions to decline permission for an activity that would breach the Southland District Council Control of Alcohol Bylaw 2015</p> <p>e) approve Council's list of resource management hearing commissioners (from whom a commissioner can be selected) at regular intervals and the chief executive be authorised to appoint individual commissioners for a particular hearing</p> <p>f) make decisions on applications required under Southland District Council's Development and Financial Contribution Policy for remissions, postponements, reconsiderations and objections</p> <p>i) receive and approve Council's Annual Reports on dog control and alcohol licensing</p> <p>j) hear and determine objections to officer decisions under the Dog Control Act 1996</p> <p>k) hear objections and decide on matters under the Southland Land Drainage Act 1935 and Southland Land Drainage Amendment Act 1938.</p> <p>The Regulatory and Consents Committee shall be accountable to Council for the exercising of these powers (Local Government Act 2002, Schedule 7, Clause 32).</p> <p>Power to Recommend</p> <p>The Regulatory and Consents Committee is responsible for considering and making recommendations to Council regarding:</p> <p>a) regulatory policies and bylaws for consultation</p> <p>b) regulatory delegations</p> <p>c) regulatory fees and charges (in accordance with the Revenue and Financial Policy)</p> <p>d) assisting with the review and monitoring of the District Plan.</p>
FINANCIAL DELEGATIONS	<p>Council authorises the following delegated authority of financial powers to Council committees in regard to matters within each committee's jurisdiction.</p> <p>Contract Acceptance:</p> <ul style="list-style-type: none"> • accept or decline any contract for the purchase of goods, services, capital works or other assets where the total value of the lump sum contract does not exceed the sum allocated in the Long Term Plan/Annual Plan and the contract relates to an activity that is within the scope of activities relating to the work of the Finance and Assurance Committee • accept or decline any contract for the disposal of goods, plant or other assets other than property or land as provided for in the Long Term Plan

	<p>Budget Reallocation.</p> <p>The committee is authorised to reallocate funds from one existing budget item to another. Reallocation of this kind must not impact on current or future levels of service and must be:</p> <ul style="list-style-type: none"> • funded by way of savings on existing budget items • within the jurisdiction of the committee • consistent with the Revenue and Financing Policy.
LIMITS TO DELEGATIONS	<p>Matters that must be processed by way of recommendation to Council include:</p> <ul style="list-style-type: none"> • making operative District Plan changes • decision to notify the reviewed District Plan and make operative amendments to fees and charges relating to all activities. <p>Powers that cannot be delegated to committees as per the Local Government Act 2002 and sections 2.4 and 2.5 of this manual.</p> <p>Delegated authority is within the financial limits in section 9 of this manual.</p>
STAKEHOLDER RELATIONSHIPS	<p>This committee shall maintain relationships including, but not limited to the following organisations:</p> <ul style="list-style-type: none"> • Each of the nine community boards • Southland Museum and Art Gallery • Southland Heritage Building Preservation Trust • Emergency Management Southland • Southland Regional Heritage Committee • Public Health South • New Zealand Police • Ministry of Business, Innovation and Employment • Alcohol Regulatory and Licensing Authority. <p>The committee will also hear and receive updates to Council from these organisations, as required.</p>
CONTACT WITH MEDIA	<p>The committee chairperson is the authorised spokesperson for the committee in all matters where the committee has authority or a particular interest.</p> <p>Committee members, including the chairperson, do not have delegated authority to speak to the media and/or outside agencies on behalf of Council on matters outside of the committee’s delegations.</p> <p>The group manager, environmental services will manage the formal communications between the committee and its constituents and for the committee in the exercise of its business. Correspondence with central government, other local government agencies or other official agencies will only take place through Council staff and will be undertaken under the name of Southland District Council.</p>

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1 Apologies

At the close of the agenda no apologies had been received.

2 Leave of absence

At the close of the agenda no requests for leave of absence had been received.

3 Conflict of Interest

Committee Members are reminded of the need to be vigilant to stand aside from decision-making when a conflict arises between their role as a member and any private or other external interest they might have.

4 Public Forum

Notification to speak is required by 12noon at least one clear day before the meeting. Further information is available on www.southlanddc.govt.nz or phoning 0800 732 732.

5 Extraordinary/Urgent Items

To consider, and if thought fit, to pass a resolution to permit the committee to consider any further items which do not appear on the Agenda of this meeting and/or the meeting to be held with the public excluded.

Such resolution is required to be made pursuant to Section 46A(7) of the Local Government Official Information and Meetings Act 1987, and the Chairperson must advise:

- (i) the reason why the item was not on the Agenda, and
- (ii) the reason why the discussion of this item cannot be delayed until a subsequent meeting.

Section 46A(7A) of the Local Government Official Information and Meetings Act 1987 (as amended) states:

"Where an item is not on the agenda for a meeting,-

- (a) that item may be discussed at that meeting if-
 - (i) that item is a minor matter relating to the general business of the local authority; and
 - (ii) the presiding member explains at the beginning of the meeting, at a time when it is open to the public, that the item will be discussed at the meeting; but
- (b) no resolution, decision or recommendation may be made in respect of that item except to refer that item to a subsequent meeting of the local authority for further **discussion."**

6 Confirmation of Minutes

6.1 Meeting minutes of Regulatory and Consents Committee, 25 March 2021



Regulatory and Consents Committee

OPEN MINUTES

Minutes of a meeting of Regulatory and Consents Committee held in the Council Chamber, 20 Don Street, Invercargill on Thursday, 25 March 2021 at 9am.

PRESENT

Chairperson	Paul Duffy
	Mayor Gary Tong
Councillors	Darren Frazer
	Christine Menzies
	Margie Ruddenklau

APOLOGIES

Councillor Julie Keast

IN ATTENDANCE

Group Manager, Environmental Services	Fran Mikulicic
Committee Advisor	Alyson Hamilton

1 Apologies

There was an apology from Councillor Keast.

Moved Cr Frazer, seconded Mayor Tong and resolved:

That the Regulatory and Consents Committee accept the apology.

2 Leave of absence

There were no requests for leave of absence.

3 Conflict of Interest

There were no conflicts of interest declared.

4 Public Forum

Katy Allan accompanied by seven supporters addressed the Committee meeting raising concerns regarding AB Lime Limited applying to Environment Southland and Southland District Council for a 35-year resource consent to take a limitless amount of waste to its Kings Bend landfill and tabled a list of potential issues that could be caused by the extension of the resource consent.

Ms Allan advised of long term environmental effects this will have on neighbouring property owners and the surrounding area.

Chairperson Duffy thanked Ms Allan along with her supporters for their attendance at the meeting and presentation to the committee.

5 Extraordinary/Urgent Items

There were no Extraordinary/Urgent items.

6 Confirmation of Minutes

Resolution

Moved Mayor Tong, seconded Cr Menzies and resolved:

That the minutes of Regulatory and Consents Committee meeting held on 10 December 2020 be confirmed as a true and correct record of that meeting.

Reports

7.1 Presentation - Te Puka o Te Waka Rakiura Museum

Record No: R/21/1/3061

Roving Museums Officer – Johanna Massey was in attendance for this item.

Resolution

Moved Cr Frazer, seconded Cr Menzies and resolved:

That the Regulatory and Consents Committee:

- a) **Receives the report titled “Presentation - Te Puka o Te Waka Rakiura Museum”** dated 9 March 2021.

7.2 Earthquake Prone Priority Area

Record No: R/21/1/2483

Building Compliance Team Leader – Simon Tonkin was in attendance for this item.

Mr Tonkin advised the purpose of this report is for the Regulatory and Consents committee to consider and discuss the submissions to the earthquake-prone buildings consultation and to make a recommendation to Council on the priority areas.

Resolution

Moved Cr Frazer, seconded Cr Menzies and resolved:

That the Regulatory and Consents Committee:

- a) **Receives the report titled “Earthquake Prone Priority Area” dated** 16 March 2021.
- b) Determines that this matter or decision be recognised as not significant in terms of Section 76 of the Local Government Act 2002.
- c) Determines that it has complied with the decision-making provisions of the Local Government Act 2002 to the extent necessary in relation to this decision; and in accordance with Section 79 of the act determines that it does not require further information, further assessment of options or further analysis of costs and benefits or advantages and disadvantages prior to deciding on this matter.
- d) Considers the submissions, including the additional verbal information, received on 10 December 2020.
- e) Recommends to Council that the following four areas are included as priority areas:
 - Otautau - 126-176 Main Street from the Alderly Street intersection to the Chester Street intersection

- Riverton - 96 - 176 Palmerston Street from Jetty Street to in part just past Princess Street
 - Winton - 102 – 304 Great North Road from Bute Street Intersection to George Street Intersection
 - Wyndham - Balaclava Street from Redan Street towards Scutari Street not including numbers 12, 42, 44, 61 and 63 Balaclava Street.
- f) Recommends to Council that Tuatapere - 1-5 Orawia Road and 57-77 Main Road is not included as a priority area.

7.3 Resource Consent 360/10/20/120 - NJ and VC Hamilton Family Trust - objection pursuant to section 357A and 357C of the Resource Management Act

Record No: R/21/2/8047

Planner Resource Management – Howard Alchin was in attendance for this item.

Mr Alchin advised the purpose of the report is for the Regulatory and Consents committee to consider an objection pursuant to sections 357A and 357C of the Resource Management Act 1991 (RMA). The objection was received from NJ and VC Hamilton Family Trust (the applicant) and relates to the term of the consent.

The committee noted the applicant has also requested that the application fee to lodge the objection be waived.

Resolution

Moved Cr Ruddenklau, seconded Cr Menzies and resolved:

That the Regulatory and Consents Committee:

- a) **Receives the report titled “Resource Consent 360/10/20/120 - NJ and VC Hamilton Family Trust - objection pursuant to section 357A and 357C of the Resource Management Act” dated 15 March 2021.**
- b) Determines that this matter or decision be recognised as not significant in terms of Section 76 of the Local Government Act 2002.
- c) Determines that it has complied with the decision-making provisions of the Local Government Act 2002 to the extent necessary in relation to this decision; and in accordance with Section 79 of the act determines that it does not require further information, further assessment of options or further analysis of costs and benefits or advantages and disadvantages prior to a decision on this matter.
- d) Agrees to increase the term of resource consent 360/10/20/120 - NJ and VC Hamilton Family Trust from two years to five years from the date of this hearing with the consent now expiring on 25 March 2026.
- e) Declines the request for the waiver of the \$500 application fee.

The meeting concluded at 9.47am.

CONFIRMED AS A TRUE AND CORRECT RECORD AT A
MEETING OF THE REGULATORY AND CONSENTS
COMMITTEE HELD ON THURSDAY, 25 MARCH 2021.

DATE:.....

CHAIRPERSON:.....

Regulatory and Consents Committee to be appointed to a hearings panel

Record No: R/21/5/23903

Author: Marcus Roy, Team Leader Resource Management

Approved by: Fran Mikulicic, Group Manager Environmental Services

Decision

Recommendation

Information

Purpose

- 1 This report seeks to identify a member of the Regulatory and Consents Committee who would be appointed to a hearings panel for a resource consent under the Operative Southland District Plan 2018.

Executive summary

- 2 Fulton Hogan have applied for a resource consent to extract gravel from a site near Fairlight. This application was limited notified by Southland District Council (SDC) staff and two submissions were received in opposition.
- 3 Resource consent was also sought from Environment Southland (ES) for air discharge and cleanfill. This application was also limited notified with two submissions received in opposition (one common submitter between the two notifications).
- 4 In order to effectively manage the hearings and minimise costs, it has been determined that a joint hearing combining the consents for SDC and ES would be beneficial to all parties.

Recommendation

That the Regulatory and Consents Committee:

- a) **Receives the report titled “Regulatory and Consents Committee to be appointed to a hearings panel” dated 21 May 2021.**
- b) Determines that this matter or decision be recognised as not significant in terms of Section 76 of the Local Government Act 2002.
- c) Determines that it has complied with the decision-making provisions of the Local Government Act 2002 to the extent necessary in relation to this decision; and in accordance with Section 79 of the act determines that it does not require further information, further assessment of options or further analysis of costs and benefits or advantages and disadvantages prior to making a decision on this matter.
- d) Appoints one member of the Regulatory and Consents Committee who is an accredited decision maker to sit on a hearings panel for this application.

Background

- 5 Fulton Hogan is seeking consent to establish a commercial gravel quarry at 1195 Kingston Garston Highway, Fairlight. The application seeks to extract an unspecified volume of gravel over a 25 year timeframe. The consent seeks to also deposit “cleanfill” into the quarry in order to reinstate it back into farmland. An additional five years, on top of the 25 year timeframe, is sought for the cleanfilling and reinstatement of the site.
- 6 Resource consent is required under the Operative Southland District Plan 2018 for this activity and written approvals from potentially affected parties were not obtained. Accordingly, the application was limited notified to potentially affected parties and two submissions in opposition were received.
- 7 Resource consent was also sought from Environment Southland for a discharge of dust to air and to discharge cleanfill. This application was also limited notified and two submissions in opposition were received.
- 8 An adjoining land owner has submitted in opposition to both consent applications.
- 9 Given that the two applications to SDC and Environment Southland are considering the same information for the one activity it makes sense, and it is best practice under the RMA to hold a joint hearing and determine the matters together.
- 10 As there has not been a joint hearing with both agencies for some time, staff discussions between Environment Southland and SDC have agreed that the best way to progress this matter is to get an independent commissioner appointed to chair a hearings panel and each organisation put forward one accredited decision maker to form a three-person hearing panel.
- 11 The benefits of having an independent commissioner is that they can help guide the decision making and also mentor less experienced panel members during the decision-making process.
- 12 An indicative joint hearing date is pencilled in for 16 July 2021.

ISSUES

- 13 Southland District Council should appoint one of the Regulatory and Consents Committee to the panel
- 14 Any committee member chosen to be on the joint hearing panel needs to:
 - currently hold the “making good decisions” accreditation
 - not hold a conflict of interest
 - be available for the day of the hearing and also a visit to the site prior to the hearing
 - be astute and able to support the commissioner during the hearing and decision writing.

Factors to consider

Legal and statutory requirements

- 15 To be on a hearing panel the committee member must hold a “making good decisions” accreditation. No other legal or statutory requirements exist.

Community views

- 16 Appointing a committee member to a hearings panel does not need any public consideration or community views.
- 17 The applications to the respective agencies have been limited notified in accordance with section 95B of the Resource Management Act 1991. Accordingly, only parties who are potentially affected by the proposal were given the opportunity to submit. The notification decision on the processing pathway has already been made and does not form part of this report.

Costs and funding

- 18 All cost associated with the hearing will be on-charged to the applicant in accordance with Council’s schedule of fees and charges.

Policy implications

- 19 No policy implications exist. A decision on the application will be made by the panel under the relevant section of the Resource Management Act.

Analysis

Options considered

- 20 Two options exist, either appoint a committee member to the panel or not appoint a committee member to the panel.

Analysis of options

Option 1 – Appoint a committee member

<i>Advantages</i>	<i>Disadvantages</i>
<ul style="list-style-type: none"> a committee member is involved in the resource consent decision making knowledge and experience is gained by the committee member which will transfer to other RMA decision making tasks in the future. 	<ul style="list-style-type: none"> a time commitment will be required

Option 2 – **Don’t appoint a committee member**

<i>Advantages</i>	<i>Disadvantages</i>
<ul style="list-style-type: none"> no time commitment for our committee. 	<ul style="list-style-type: none"> no knowledge or experience is gained from sitting on a hearing panel with an independent chair.

Assessment of significance

- 21 This decision is not deemed significant.

Recommended option

- 22 Option 1, appoint a committee member to sit on the joint panel.

Next steps

- 23 Confirm the hearing date, convene the hearing panel and circulate the information and reports under section 42A of the RMA

Attachments

There are no attachments for this report.

Resource consent RMA/2020/53219 - N J Hogg - Objection pursuant to Section 357b of the Resource Management Act 1991

Record No: R/21/5/22436

Author: Scott Dickson, Resource Management Planner

Approved by: Fran Mikulicic, Group Manager Environmental Services

Decision

Recommendation

Information

Purpose

- 1 The purpose of this report is for the Regulatory and Consents Committee to determine an objection pursuant to Section 357b of the Resource Management Act 1991 (RMA). The objection was received from N J Hogg (the applicant) and relates to costs associated with Resource consent RMA/2020/53219 (Resource consent 20/219).

Executive summary

- 2 Resource consent 20/219 sought Council approval to subdivide an existing Record of Title into five allotments. The application proposed the creation of four allotments each with an area of 500m², along with a balance allotment with an area of 2,012m².
- 3 The applicant was advised by Council on 17 November 2020 that, due to the density proposed and the sensitivity of the receiving environment, Council considered that the adverse effects associated with the proposal were more than minor and that the application would be declined should it proceed. Council advised the applicant of a willingness to reassess the application, should the proposal be restructured with the density decreased. On the basis that this would constitute a material change to the proposal, Council advised that a restructured application would need to be resubmitted as a new application. The applicant formally advised Council of his desire to withdraw resource consent 20/219 on 1 December 2020.
- 4 An itemised invoice for costs was sent to the applicant on 10 February 2021. In accordance with Council's Schedule of Fees and Charges (effective 1 July 2020), all costs associated with processing an application for resource consent are borne by the applicant, irrespective of the outcome. Total fees associated with this application amounted to \$5,975.66, inclusive of the \$800 lodgement fee. The applicant formally objected to the processing costs on 24 February 2021, in accordance with Section 357b of the RMA. The applicant stated that the costs were excessive but did not provide any clarification as to why or specify a proposed deduction.
- 5 This report considers the objection and recommends that no deduction to the costs be given.

Recommendation

That the Regulatory and Consents Committee:

- a) **Receives the report titled “Resource consent RMA/2020/53219 - N J Hogg - Objection pursuant to Section 357b of the Resource Management Act 1991” dated 17 May 2021.**
- b) Determines that this matter or decision be recognised as not significant in terms of Section 76 of the Local Government Act 2002.
- c) Determines that it has complied with the decision-making provisions of the Local Government Act 2002 to the extent necessary in relation to this decision; and in accordance with Section 79 of the act determines that it does not require further information, further assessment of options or further analysis of costs and benefits or advantages and disadvantages prior to making a decision on this matter.
- d) Declines the request for a deduction of costs associated with Resource Consent 20/219.

Background

- 6 Resource consent 20/219 was lodged with Council on 1 October 2020, seeking approval from Council to subdivide an existing Record of Title into five allotments. Resource consent 20/219 proposed the creation of four allotments each with an area of 500m², along with a balance allotment with an area of 2,012m². Council anticipated that all resulting allotments were intended for future residential purposes.
- 7 The subject site is located at 39 Colac Bay Road, Colac Bay – Tihaka. The site is presently comprised of four parcels with a total area of 4,048m². The four parcels are held in a single Record of Title and accordingly cannot be disposed of separately. The site is located in the urban zone, as defined by the Southland District Plan (the District Plan).
- 8 Subdivision is an anticipated activity in the urban zone, however the onus is on the applicant to demonstrate that a proposal for subdivision is appropriate. Resource consent 20/219 failed to comply with controlled activity status, and accordingly was assessed as a discretionary activity under the District Plan.
- 9 Although situated in the urban zone, the subject site is not serviced with reticulated water or sewer services. The application proposed that each allotment treat and dispose of wastewater on-site. Easements were proposed to enable stormwater to drain from each allotment, into an existing open drain along Colac Bay Road.
- 10 In this instance, Council were of the view that the application proposed a density of development that contradicted relevant policies and objectives of the District Plan, and further that the proposal would fail to maintain or enhance the existing amenity values of the area. Policy URB.3 of the District Plan specifically states that “Subdivision, land use and development within the urban zone should be sympathetic to amenity values and the character of residential areas and enhance this where possible”. In considering this, it was noted that the surrounding environment is typically characterised by allotments that are larger than 1,000m² in area.

- 11 The applicant provided a site and soil assessment that identified significant limitations with the subject site. The application itself stated that “The proposed allotments are subject to severe limitations for domestic wastewater treatment with multiple risks which must be addressed through appropriate system design”. Internal Council staff and external experts were of the opinion that the application did not satisfactorily address the manner in which wastewater and stormwater would be addressed.
- 12 David Rider of RDA Consulting reviewed the site and soil assessment and noted the small nature of the allotments and the environmental limitations associated with the site. Mr Rider stated that the proposed approach for managing wastewater on-site coupled with the size of the allotments and limitations of the site, would result in a very high risk of wastewater contamination of groundwater, and transport to nearby waterways. Mr Rider further noted that the disposal of wastewater to ground would not comply with Southland Regional Council requirements, or the relevant New Zealand Standard for the on-site disposal of wastewater. Mr Rider provided conditions of consent to assist with mitigation of potential effects, though it should be noted that tertiary treatment would be required, along with resource consent for discharge of wastewater to ground from Southland Regional Council.
- 13 Council’s programme manager, Joe Findley, reviewed the proposal and reiterated Mr Rider’s thoughts, stating that “The proposed subdivision with intensive, on-site wastewater disposal coupled with subsoil drainage for the site, has the potential to discharge contamination into the Council stormwater network which would create future compliance issues between Council and Environment Southland”.
- 14 Noting the comments of Mr Rider and Mr Findley, Council considered that the proposal had the potential to generate adverse effects on the environment that were more than minor, and accordingly advised that it was not appropriate for approval. Proposed mitigation measures required a significant amount of engineering work and ongoing monitoring, with potential risk to Council. The density of the allotments proposed contributed to the aforementioned issues.
- 15 Council advised the applicant that the application in its current form was to be declined, and asked if the applicant would like to withdraw the application. The alternative would involve staff spending additional time writing a decision letter, and accordingly increasing costs for the applicant. Council advised that a reduction to the proposed number of allotments would be considered a material change to the application and would need to be lodged with Council as a new application.
- 16 Council received written confirmation that the applicant was withdrawing the application on 1 December 2020.
- 17 The applicant was charged for all time Council staff and external consultants spent working on the application. The nature of the site and complexity of the application resulted in Mr Rider and Mr Findley spending 11.5 hours and 6 hours on the application respectively. Consultant planner Chris Pearse-Smith spent 12.75 hours on the application.
- 18 In accordance with Council’s Schedule of Fees and Charges and Section 36 (1) (b) of the RMA, all costs associated with the processing of an application for resource consent are chargeable to the applicant. Staff and consultant time are charged at an hourly rate, ensuring the total costs are based entirely on the time spent processing the application. The outcome of the application does not influence the manner in which the applicant is charged.

- 19 The applicant was invoiced a total of \$5,175.66 for the processing of the application. This was exclusive of the \$800 lodgement and processing fee. A copy of the resource management costing sheet is included as Attachment A.
- 20 The applicant formally advised Council on 24 February 2021 that he was disputing the costs. The applicant stated that both he and his consultants felt that the amount charged was excessive. No further elaboration on this was provided. No specific deduction in costs was proposed by the applicant.
- 21 A subsequent application has been lodged with a lower density proposed. The application is currently on hold as similar issues remain.

ISSUES

- 22 The key matters for the committee to consider when making a decision on this objection are:
- a) Section 36 of the RMA enables Council to fix charges in relation to applications for resource consent.
 - b) Council's approved Schedule of Fees and Charges for 2020/2021 charges resource management staff at \$160 per hour, strategic water and waste staff at \$120 per hour, and strategic transport staff at \$120.00 per hour. Council engaged external consultants to assist with the processing of this resource consent. Consultant time was charged appropriately.
 - c) Council's Schedule of Fees and Charges does not stipulate that costs should be reduced if an application is ultimately withdrawn. All costs are borne by the applicant irrespective of the outcome of the application.
 - d) The total time spent processing this application is, in my opinion, a fair reflection of the nature and complexity of the application.
 - e) Time spent by Council's manager environmental planning and I, was almost entirely omitted from the amount charged.
 - f) This objection relates entirely to the costs associated with the application. The applicant outlined displeasure with the outcome of the process, however this is not the subject of this objection.
 - g) It should be noted that the applicant voluntarily withdrew the application. Had Council declined the application, any further time spent outlining the reasons for this would have been added to the total cost, resulting in a greater charge for the applicant. Council is not required to provide a refund in relation to the statutory timeframe where no decision is made on an application.
 - h) The applicant has stated that he disputes the invoice but has not elaborated further or proposed a suggested deduction to the total cost.
 - i) Approval of this objection has the potential to set a precedent for future cost objections.
- 23 Overall in consideration of the above objection, I don't consider that the overall charges were excessive. Attachment A confirms that a significant amount of time spent on the application resulted from limitations relating to the site and complexities associated with managing wastewater and stormwater.

Factors to consider

Legal and statutory requirements

- 24 Section 36 (1) (b) of the RMA enables Council to fix charges payable by applicants for the carrying out of any 1 or more of its functions in relation to the receiving, processing and granting of resource consents.

Community views

- 25 There is the potential for community interest in the outcome of an objection of this nature, as it could potentially influence the likelihood of future objections being approved.

Costs and funding

- 26 The costs associated with this application reflect the time spent by Council processing the application. The applicant voluntarily withdrew the application, and accordingly there is no obligation for Council to provide a refund in relation to the statutory timeframe to process an application.

Policy implications

- 27 There are no direct policy implications, though it is noted that there is potential for a precedent to be set in relation to costs associated with future applications.

Analysis

Options Considered

- 28 There are two options for the Committee to consider:
- a) Option 1 – reject the objection to the costs associated with the processing of resource consent 20/291.
 - b) Option 2 – approve the objection and provide a reduction to the costs. Noting that no reduction amount has been proposed, the nature of the reduction should be reflective of what the committee considers appropriate.

Analysis of options

Option 1 – Reject the objection to the costs associated with the processing of resource consent 20/291.

<i>Advantages</i>	<i>Disadvantages</i>
<ul style="list-style-type: none"> • the costs will stand as appropriate • maintains the integrity of Council’s Schedule of Fees and Charges • sets a guideline for future applicants, that all costs associated with an application for resource consent will be borne by the applicant • emphasises that the onus is on the applicant to satisfactorily address all potential adverse 	<ul style="list-style-type: none"> • potential to discourage future applications for subdivision • potential for there to be a perception that Council is placing undue financial constraint on the applicant.

<p>environmental effects that may result from a resource consent application</p> <ul style="list-style-type: none"> emphasises that the outcome of an application is not of relevance to the costs chargeable to the applicant. 	
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Option 2 – Approve the objection and provide a reduction to the costs. Noting that no reduction amount has been proposed, the nature of the reduction should be reflective of what the committee considers appropriate.

<i>Advantages</i>	<i>Disadvantages</i>
<ul style="list-style-type: none"> benefits will sit entirely with the applicant and will be financial in nature. 	<ul style="list-style-type: none"> consultant charges to Council will not change. Such costs would need to be covered in part by the resource management department budget, and ultimately the ratepayers potential to establish a precedent that will encourage similar objections in the future potential to establish a precedent that could see future applicants receive an undue discount in relation to processing costs.

Assessment of significance

- 29 The objection sits under the Resource Management Act 1991 and is therefore not considered significant in terms of the Local Government Act 2002.

Recommended option

- 30 That the committee resolves to reject the objection to the processing costs associated with resource consent 20/219.

Next Steps

- 31 Should the committee determine to object the rejection, the applicant will be required to pay all costs associated with resource consent 20/219.

Attachments

- A Resource Management Costing Sheet [↓](#)

Resource Management

Costing Sheet - Non-Notified Application (all costs are inclusive of GST)

Name	Address	Consent No(s)
Nathan Hogg	39 Colac Bay Road, Colac Bay, Tihaka	360/10/20/219
	Hours	Total
Consultant Planner		\$1906.16
SDC Planner and Administration		\$320.00
SDC Water and Waste referral (6 hours)	6 hours @ \$120.00	\$720.00
SDC Rooding Engineer (1 hour)	1 hour @ \$120.00	\$120.00
RDA – Site and Soil Report Review		\$2909.50
	Total	\$5975.66
	Less Deposit	\$800.00
	Invoice	\$5175.66